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## **COVID-19: Scheduling of Family Matters in the Ontario Court of Justice (September 18, 2020)**

*\*This Notice supersedes previously announced notices.*

**Effective Date: September 18, 2020**

- [1. INTRODUCTION](#)
- [2. RE-OPENING OF FAMILY COURT SITES \(PHASE ONE AND PHASE TWO COURT LOCATIONS\)](#)
- [3. VIRTUAL COURTS](#)
- [4. SCHEDULING OF FAMILY MATTERS IN THE ONTARIO COURT OF JUSTICE:](#)
  - [i. LIMITATION AND PROCEDURAL TIME PERIODS RESUMES](#)
  - [ii. APPLICATIONS AND MOTIONS TO CHANGE](#)
  - [iii. FIRST APPEARANCE COURT/FIRST COURT DATE – Family Law Rule 40\(4\):](#)
  - [iv. FAMILY RESPONSIBILITY OFFICE \(FRO\) MATTERS](#)
  - [v. IN-PERSON HEARINGS](#)
  - [vi. URGENT MATTERS, CASE CONFERENCES AND OTHER FAMILY LAW MATTERS](#)
  - [vii. OTHER FAMILY LAW MATTERS ADMINISTRATIVELY ADJOURNED SINCE MARCH 16, 2020](#)
- [5. WITNESSES](#)
- [6. FILING OPTIONS](#)
- [7. PRE-COURT DISCUSSIONS](#)
- [8. LEGAL RESOURCES](#)
- [9. MEDIATION SERVICES](#)

### **1. INTRODUCTION**

This Notice sets out how family law proceedings in the Ontario Court of Justice are scheduled and conducted, as of September 28, 2020.

As of September 28, 2020, the Ontario Court of Justice will begin to resume hearing Applications, Motions to Change, and Family Responsibility Office (FRO) matters.

The resumption of these matters is in addition to the family law matters that the Ontario Court of Justice is currently hearing.

As part of the Ministry of the Attorney General's Phase Two re-opening plan, family law matters in additional courthouses and courtrooms are expected to resume on September 14, 2020.

In order to protect the health and safety of all court users and to help contain the spread of COVID-19, **we continue to ask members of the legal profession and the public to NOT attend courthouses in person at this time unless you have been scheduled to appear in court or if you are unable to electronically file family court documents relating to a scheduled family law matter.**

**Under no circumstances should you come into a courthouse if you have been advised by public health officials, your doctor or the Ontario Ministry of Health (MOH) website**

**(<https://www.ontario.ca/page/2019-novel-coronavirus>) to self-isolate.** If you are unable to come to court because you have been told to self-isolate, contact the courthouse by email: [Courthouse email addresses](#) or by telephone: [Court Addresses and Phone Numbers](#)

Please continue to check the court's website for updates (<https://www.ontariocourts.ca/ocj/>). The Court will provide additional information about the scheduling and conduct of all court proceedings, including the Court's ongoing work to make more services available using remote technology. Court operations will continue to expand as the Ministry facilitates the opening of additional courthouses and courtrooms in accordance with its recovery plan. The Court will continue working actively with all justice partners to implement a fair and orderly return to operations. As we do so, the health and safety of all court users remains our paramount concern.

## **2. RE-OPENING OF FAMILY COURT SITES (PHASE ONE AND PHASE TWO COURT LOCATIONS)**

The Ministry of the Attorney General, which is responsible for courts administration and courthouse facilities, established an incremental plan to prepare courthouses and courtrooms to facilitate the return to full court operations across Ontario. The Ministry's first phase of the plan (Phase One) was implemented on Monday July 6, 2020. The second phase of the plan (Phase Two) is expected to occur on September 14, 2020. Court operations will continue to expand with additional courthouses and

courthouses added as the Ministry continues to implement its plan, with a targeted completion date of November 1, 2020.

As part of the return to operations plan, the Ministry is implementing health and safety measures in each courthouse. More information about the precautionary health and safety measures at courthouses implemented by the Ministry is available on the following website: [COVID-19: Reopening courtrooms](#).

On July 6, 2020, the Ministry of the Attorney General determined that the following court locations were part of their Phase One plan for re-opening of in-person family matters, unless ordered otherwise:

<b>Ontario Court of Justice Courthouses Phase One (July 6, 2020)</b>	
<b>Region</b>	<b>Courthouses</b>
Central West	Brampton, Brantford, Milton, Orangeville
Northeast	North Bay, Sault Ste Marie, Sudbury
Northwest	Thunder Bay
Toronto	311 Jarvis Street, 47 Sheppard Avenue East
West	Chatham, Guelph, Owen Sound, Sarnia, Windsor

The Court is expected to resume hearing in-person family law matters, as permitted by this Directive, in the following court locations on September 14, 2020:

<b>Ontario Court of Justice Courthouses Phase Two (September 14, 2020)</b>	
<b>Region</b>	<b>Courthouses</b>
Northeast	Cochrane, Gore Bay, Haileybury, Parry Sound, Timmins
Northwest	Dryden, Fort Frances, Kenora
West	Goderich, Stratford, Walkerton, Woodstock

Persons attending court must ensure that they arrive for court early because of the extra screening requirements in order to be in court for their scheduled appearance. Because of the restrictions on the

number of people who may be in the courthouse, unless essential, family members or supporters should not attend court with people who have scheduled appearances in court.

### **3. VIRTUAL COURTS**

Virtual courts (by teleconference or videoconference) remain essential to the reopening of courts and will continue as currently scheduled. Matters may be heard either in-person, by teleconference or videoconference (virtual courts) or a combination of in-person and virtual court appearances. A judge will determine how a matter will be heard.

### **4. SCHEDULING OF FAMILY MATTERS IN THE ONTARIO COURT OF JUSTICE: i. LIMITATION AND PROCEDURAL TIME PERIODS RESUMES**

The Ontario government has announced that all limitation and procedural time periods that were previously suspended pursuant to [O. Reg. 73/20](#) will resume running on Monday, September 14, 2020. For further information, please see the government's [news release](#) and [O. Reg. 457/20](#).

Therefore, the times prescribed in the Family Law Rules to take any step in a family law proceeding will resume on September 14, 2020. If you do not take the steps needed in your case, your case may go ahead without you.

#### **ii. APPLICATIONS AND MOTIONS TO CHANGE**

As of September 28, 2020, the Ontario Court of Justice will begin to hear Applications and Motions to Change. These matters include:

- a. Applications and Motions to Change which were filed prior to March 16, 2020 and assigned a First Appearance or First Court date which has been presumptively adjourned since March 16, 2020;
- b. New Applications and Motions to Change filed after March 16, 2020 and not assigned a First Appearance or First Court date; and
- c. New Applications and Motions to Change filed after September 28, 2020.

The court will make efforts to schedule older matters before new matters.

#### **iii. FIRST APPEARANCE COURT/FIRST COURT DATE – *Family Law Rule 40(4)*:**

Since March 16, 2020, First Appearance Court/First Court Dates have been adjourned.

**a) First Appearance Court/First Court Date Before a Clerk**

To ensure that there are no further delays to hear Applications and Motions to Change, from September 28, 2020 until November 27, 2020, all First Appearance Court/First Court Dates scheduled to proceed before a clerk, as per rule 40(4) of the *Family Law Rules*, will be waived. During this time period, in those court locations where the first court date is before a clerk, your first appearance in court will be a remote appearance before a judge for an initial case conference.

Between September 28, 2020 and November 27, 2020, all parties will be required to electronically submit a waiver form regarding the First Appearance Court/First Court Date before a clerk with the Confirmation forms (form 17F). The waiver form can be found here: Ontario Court of Justice First Appearance Court Waiver. In addition to the waiver, all documents for the case conference must be served and filed, as required by the *Family Law Rules*.

**Beginning November 30, 2020, First Appearance Court/First Court Date before a clerk will no longer be waived. These appearances before a clerk will resume and they will be held remotely.**

**b) First Appearance Court/First Court Date Before a Judge**

To ensure that there are no further delays to hear Applications and Motions to Change, beginning September 28, 2020, all First Appearance Court/First Court Dates scheduled to proceed before a judge will resume. In those court locations where the first court date is before a judge, your first appearance in court will be held remotely.

**iv. FAMILY RESPONSIBILITY OFFICE (FRO) MATTERS**

Beginning September 28, 2020, the Ontario Court of Justice will resume hearing Family Responsibility Office (FRO) matters. FRO matters will be heard remotely unless otherwise directed by a judge. The scheduling of FRO matters will be determined by individual court locations.

**v. IN-PERSON HEARINGS**

**Only** the following matters will be heard at the Phase One and Phase Two court locations by **in-person hearings**, unless ordered otherwise:

***Child, Youth and Family Services Act (CYFSA) trials and summary judgment motions;***

- a. ***Family Law Act (FLA) and/or Children's Law Reform Act (CLRA) urgent trials and focused hearings***, as determined by the judiciary;
- b. ***Child, Youth and Family Services Act (CYFSA) Settlement Conferences, Trial Management Conferences and/or combined Settlement/Trial Management Conferences***;
- c. ***Family Law Act (FLA) and/or Children's Law Reform Act (CLRA) Settlement Conferences and/or Trial Management Conferences***.

**vi. URGENT MATTERS, CASE CONFERENCES AND OTHER FAMILY LAW MATTERS**

The OCJ continues to hear urgent matters, case conferences in previously adjourned matters and, subject to local direction, other family law matters, including certain in-chambers requests.

Urgent matters include:

- *Child, Youth and Family Services Act*: place of safety hearings (s. 90); temporary care and custody hearings (s. 94), restraining orders (s. 137), status review hearings (s. 113), and secure treatment orders (s. 161);
- Domestic matters: urgent custody/access motions; motions for restraining orders; Hague applications and non-Hague abduction cases; and
- *Family Responsibility and Support Arrears Enforcement Act*: refraining motions (s. 35).

Family court matters will proceed on a prioritized basis.

Only a judge will decide if a matter is ready to proceed. This may require a remote court appearance before a judge. If a remote court appearance is necessary, you will receive notice of this by the court.

While court operations expanded as part of Phase 1, the number of courtrooms that are open, and the number of people who can attend inside the courtroom or courthouse, remains restricted.

Because of the restrictions on courthouse and courtroom attendance and considering the ongoing public health guidelines and other restrictions, it is essential that all parties and counsel take reasonable steps to ensure that matters scheduled for a court appearance are ready to proceed.

## **vii. OTHER FAMILY LAW MATTERS ADMINISTRATIVELY ADJOURNED SINCE MARCH 16, 2020**

Beginning September 28, 2020, family law matters will no longer be administratively adjourned because of COVID-19.

Parties and counsel whose matters have been administratively adjourned and have not proceeded to a hearing before a judge since March 16, 2020 must participate remotely in the next scheduled appearance date set by the court unless otherwise ordered by a judge. If a party and/or counsel do not participate in the remote scheduled hearing or do not seek an order granting a further adjournment of the matter, the matter may be dismissed without further notice.

## **5. WITNESSES**

All witnesses subpoenaed or ordered to attend court for a hearing scheduled after July 6, 2020 must continue to attend court on the scheduled date, unless there is a court order that permits the witness to attend remotely.

If you are a witness and have any questions or concerns about your subpoena or about an upcoming court date, please contact the person listed on the subpoena or on the correspondence you received with your subpoena. If there is no contact information on your subpoena, contact the courthouse by email: [Courthouse email addresses](#) or by telephone: [Court Addresses and Phone Numbers](#)

## **6. FILING OPTIONS**

Effective August 6, 2020, documents and requests may be submitted in three ways:

- 1) electronically using the Family Submissions Online;
- 2) electronically using email to the appropriate courthouse; or
- 3) in-person at the courthouse.

### **Family Submissions Online**

The Family Submissions Online portal provides a simple method to electronically submit court documents, at every step in a case, in any new or existing family proceeding in the Ontario Court of

Justice. Note, however, that there are limitations to documents that may be filed at this time. Please check [www.ontario.ca/familyclaims](http://www.ontario.ca/familyclaims) to ensure that your documents may be filed using the portal.

If the court clerk accepts the document for filing or issuance, they are considered filed as per the date indicated on the document.

Counsel and parties must keep any document that was originally signed, certified or commissioned in paper format until the court finally disposes of the matter or if a notice of appeal is not served in the case, the time for serving the notice has expired.

When a document has been filed electronically, it is not necessary to file a paper copy.

### **Email Filing**

If you cannot file a document using Family Submissions Online, documents and requests may be emailed to the appropriate courthouse.

#### **Email filing requirements continue to include the following:**

1. The list of email addresses for each court may be found here <https://www.ontariocourts.ca/ocj/covid-19/courthouse-email-addresses/>.
2. In order to ensure your request is received and processed by the appropriate court office, the **subject line** should include the following information:
  - I. LEVEL OF COURT (OCJ)
  - II. TYPE OF MATTER (Family, CYFSA)
  - III. FILE NUMBER (Indicate NEW if no court file number exists)
  - IV. TYPE OF DOCUMENT (Motion, Application, Case Conference, Settlement Conference, Trial Management Conference, Combined Conference, Trial Record, Focused Hearing, Other Request)
3. The **body of the email** should include the following information if applicable:
  - i. court file number (if it is an existing file)
  - ii. short title of proceeding
  - iii. list of documents attached (note: attachments cannot exceed 35MB)



- iv. type of request
- v. confirmation of service, setting out when and how any other party was served.
- vi. name, role (i.e. legal representative, party, etc.,) and contact information of person submitting the request (email and phone number)

When a document has been filed electronically, it is not necessary to file a paper copy.

### **In-person Filing**

**If you are unable to file documents in a family court matter by the Family Submissions Online portal or by email**, contact your local courthouse to determine the other options that are available or attend your local courthouse. Note that entry into the courthouse will be controlled and court counters are only open between 9 a.m. to 11:00 a.m. and 2:00 p.m. to 4:00 p.m. Contact information for all courts in Ontario is available on the Ministry of the Attorney General

website: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/)

### **IMPORTANT INFORMATION REGARDING FILING**

As per previous Notices regarding the Scheduling of Family Matters in the Ontario Court of Justice, the following expectations continue to be in place:

Parties shall not assume that the judge hearing a matter will have access to the entire court file.

By submitting documents by Family Submissions Online or email to the court, the party/legal representative agrees to accept email communication from the court with respect to the proceeding.

A formal affidavit of service does not need to be filed. However, members of the legal profession/ parties should retain a copy of any relevant affidavit(s) of service and/or related documents (e.g. email confirmations) and be prepared to produce it to the Court on request.

Materials sent by email must indicate when and how service on any other party was made. Legal representatives or parties should retain a copy of the relevant affidavit of service and/or related documents (e.g. email confirmations) and be prepared to produce it to the Court on request.

The materials should also include any prior orders or endorsements that were issued and that are relevant to the matter.

Where it is not possible to electronically file a sworn affidavit, affidavits may be delivered unsworn but the affiant must be available to participate in any telephone or videoconference hearing to swear or affirm the contents of the affidavit.

Requests for other family matters will be determined by a judge. Where a court attendance is required, contact your local courthouses to make arrangements for your attendance.

If a judge declared that your matter will be held after the court fully reopens, the documents which you submitted to the court may not be processed until regular court operations resume.

These instructions are subject to direction from a judicial official.

## **7. PRE-COURT DISCUSSIONS**

As per previous Notices regarding the *Scheduling of Family Matters in the Ontario Court of Justice*, the following expectations continue to be in place:

Parties should make reasonable efforts to communicate prior to a hearing to attempt to resolve the issues. If a contested hearing is necessary, parties should determine the issues that remain in dispute. The parties should make efforts to narrow the issues as much as possible and discuss the nature of any evidence to be heard and how it will be presented.

## **8. LEGAL RESOURCES**

### ***Legal Aid Ontario***

People who would have received in-person legal aid services through the Family Law Information Centres will be able to continue to get help from LAO over the phone by calling **1-800-668-8258**.

### ***Law Society of Ontario emergency family referral line during COVID-19***

The Law Society of Ontario continues to support a telephone line to assist people who are self-represented (SRLs) and trying to determine whether or not their family court matter meets the criteria to be heard by the court on an 'urgent' basis and, if so, how to proceed in making their request. The emergency service will connect SRLs with family lawyers, working on a pro bono basis, who will provide

30 minutes of legal advice specific to determining whether or not their family court matter is urgent and referrals to other available legal services.

SRLs may contact the law society by phone at the following numbers to access the service: Toll-free: 1-800-268-7568; General: 416-947-3310.

### ***Law Society of Ontario Referral Service***

The Law Society of Ontario's Referral Service will give you the name of a lawyer within or near your community, who will provide a free consultation of up to 30 minutes to help you determine your rights and options. You can start the online process of obtaining a lawyer referral at <http://www.findlegalhelp.ca/>, 24 hours per day.

### ***A Guide for Self-represented Family Litigants during COVID-19***

The Ontario Court of Justice has prepared a guide for self-represented family litigants during COVID-

19. You may find it here: [Guide for Self-represented Family Litigants during COVID-19](#)

## **9. MEDIATION SERVICES**

The Ministry of the Attorney General provides mediation services. Free online mediation is available for anyone at first appearance, on a conference, motion or trial. Free intakes for 6-hour mediations are also by Zoom, along with the subsidized mediations. You may also wish to contact the mediation services for information about resources that are available in your location, including virtual mandatory information sessions.

You can find them here: [Ministry of the Attorney General – Mediators by Court Location](#)