

Season 2, Episode 4:

A Career in Family Law

(with Dara Khoeum)

Guide

Learning objectives

- To introduce students to the fundamental elements of family law in Ontario, including parenting time, decision-making responsibility, child support, spousal support, and property division
- To examine how family law disputes are often resolved through negotiation, mediation, collaborative processes, or court proceedings
- To explore the legal differences between married and common-law partners, particularly in relation to divorce and property division
- To reflect on the emotional and human dimensions of family law practice, including the lawyer–client relationship and the skills required to balance empathy with effective advocacy
- To encourage critical thinking about fairness, access to justice, and possible reforms in Ontario family law.

Materials

- Copies of the handout below
- Device to listen to the **“Law Syrup” podcast episode**



- Access to the following online resources:
 - CLEO’s Steps to Justice: **Family Law**

Teaching and learning strategies

- **Group discussion:** Have students read the handout and listen to the podcast episode. In pairs or small groups, have them complete the discussion and reflection questions. Reconvene as a class to share insights about common misconceptions, the shift toward out-of-court resolution, and the emotional realities of family law practice described in the episode.
- **Case scenario exercise:** Assign one of the provided separation scenarios (married couple with children, common-law property dispute, or potential spousal support claim). In small groups, have students identify the legal issues involved and discuss how Ontario law would likely address them. Encourage students to connect their reasoning to themes raised in the episode, such as negotiation, entitlement, and access to justice.
- **Policy brainstorm:** In groups, ask students to propose at least three changes that could improve access to justice in family law. Students should consider such barriers

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as cost, delay, emotional strain, and lack of legal information. Afterward, compare their ideas to solutions discussed in the handout and podcast episode.

- **Structured debate:** Hold a debate on the question “Should Ontario family law provide common-law partners with the same property division rights as married spouses?” Divide students into two teams and allow preparation time. After opening statements and rebuttals, hold a class discussion on fairness, legal status, and the role of formal marriage in determining legal rights.
- **Reflection exercise:** Have students complete the sentence stems: “I used to think family law was...” “Now I understand that family law...” Students may write a brief paragraph or share reflections in pairs, connecting their responses directly to what they heard in the episode.

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Handout

What does a family lawyer do?

Family lawyers work with people during some of the hardest moments of their lives. Most of their clients are going through separation or divorce. Many are worried about their children, their home, or how they will manage financially.

Family law in Ontario usually involves:

- Children
 - Parenting time (how much time a child spends with each parent)
 - Decision-making responsibility (who makes important decisions about a child’s health, education, and religion)
 - Child support
 - (Older terms like “custody” and “access” are no longer used in the federal *Divorce Act*.)
- Money
 - Child support
 - Spousal support
 - Division of property
 - The family home
 - Pensions or businesses

It's not just about court

Many people think family lawyers spend their time arguing in court. That's not usually true.

Most family law cases are resolved through:

- Negotiation
- Mediation
- Collaborative family law
- Arbitration

Ontario courts now require people starting a family case to confirm that they have considered out-of-court options, if appropriate.

Court is sometimes necessary. But often, the goal is resolution, not battling.

Why is family law so complex?

Parenting and money are often connected.

For example:

- The amount of time a child spends with each parent can affect child support.
- Who stays in the home can affect property division.
- Career sacrifices made during the relationship can affect spousal support.

Family lawyers often work on parenting and financial issues at the same time. They are:

- Legal advisors
- Negotiators
- Problem-solvers
- And often emotional supports for clients

It is legal work, but it is also deeply human work.

Discussion questions

- There is a strong shift toward resolving family law disputes outside of court through negotiation, mediation, or other processes. In your view, what are the potential benefits and drawbacks of encouraging families to resolve conflicts outside the courtroom, especially in cases involving high conflict or children?
- Family lawyers often work on parenting arrangements and financial issues at the same time, such as support and division of property. Why do you think Ontario family law treats these issues as interconnected?

Marriage vs. common law: what's the difference?

Many people believe that living together for a long time creates the same rights as marriage. In Ontario, that is not fully true.

Let's break it down.

What is a legal marriage?

In Ontario:

- You must be 18 to marry without parental consent.
- You can marry at 16 or 17 with written parental consent.
- A legal ceremony and marriage licence are required.

Marriage creates a clear legal status. That status matters if the relationship ends.

Married spouses have:

- the right to apply for divorce
- automatic property division rules under Ontario's *Family Law Act*
- equalization of net family property (a sharing of the increase in wealth during the marriage)

It does not matter:

- how long the marriage lasted
- who earned more money

Marriage automatically creates economic rights and obligations.

What is common law in Ontario?

There is no ceremony. No marriage licence.

In Ontario, a couple is generally considered “common-law” for family law purposes if they:

- have lived together in a marriage-like relationship for at least 3 years, or
- have a child together and a relationship of some permanence

(Note that the Canada Revenue Agency has a **different timeline for living common law**, but this is for tax purposes, not family law.)

Common-law partners may have rights to:

- child support
- spousal support

But here is the key difference: there is no automatic property division.

When a common-law relationship ends:

- Each person usually keeps the property in their own name.
- There is no automatic equalization.

A partner may try to make a trust claim in court, but that is more complex and not automatic.

Common-law partners also cannot “divorce” because there was no legal marriage.

Why this matters

Two couples could live together for 20 years. One is married. One is common-law. If both relationships end, the legal outcomes could look very different, especially regarding property.

That surprises many people.

Discussion questions

- Based on the differences described above, do you think Ontario law draws a fair distinction between married and common-law couples when it comes to property and relationship breakdown?
- Should the law focus more on how a relationship functions, rather than whether there was a formal marriage?

How does divorce work in Ontario?

Divorce only applies to legally married spouses. Common-law couples do not divorce; they separate.

Step 1: Separation

You do not need a court order to separate. You do not need to move out.

But at least one spouse must:

- decide the relationship is over, and
- act in a way that reflects that decision

This could include:

- living separate lives under the same roof
- sleeping in separate rooms
- no longer presenting as a couple

Step 2: The one-year rule

Most divorces are based on “marriage breakdown.” This usually requires living separate and apart for one year.

During that year:

- Parenting arrangements are often negotiated.
- Financial issues are addressed.
- Interim support may be arranged.

The legal work often happens before the divorce is finalized.

Step 3: Applying for divorce

After one year of separation:

- A divorce application can be filed in court.
- Even if everything is agreed upon, it can take several months to receive the divorce order and certificate.

Divorce itself is governed by the federal *Divorce Act*. But parenting, support, and property issues are often handled under Ontario law at the same time.

Discussion questions

- Do you think the one-year waiting period helps couples resolve issues thoughtfully, or does it cause unnecessary delay?
- Should living under the same roof prevent someone from being legally separated?

What is spousal support?

Spousal support is money paid by one spouse to the other after separation. It is meant to address economic imbalance caused by the relationship or its breakdown. Unlike child support, it is not automatic.

Step 1: Proving entitlement

A person must first show they are entitled to support.

There are three main bases:

- Contractual: the spouses agreed in a marriage contract or separation agreement.
- Compensatory: one spouse sacrificed career or income for the relationship. Example: staying home to raise children.
- Needs-based: a spouse cannot reasonably support themselves due to illness, disability, or limited job prospects.

Only after entitlement is established does the court look at amount and duration.

Step 2: How much and for how long?

Courts consider:

- length of the relationship
- ages of the spouses
- roles during the relationship Income and earning capacity
- presence of children

Support may be:

- time-limited
- indefinite (especially in long relationships)

The “Rule of 65” may apply when age of recipient + length of relationship = 65 or more. This can support an indefinite range under the guidelines.

The Spousal Support Advisory Guidelines

These **guidelines**:

- are not law
- but are widely used in Canada

They help estimate:

- a range for monthly payments
- a range for duration

Most Ontario family lawyers use software such as **DivorceMate** to calculate guideline ranges.

Child support is more strictly governed by legislated tables. Spousal support is more flexible and negotiated.

Discussion questions:

- Spousal support is not automatic and requires a spouse to first prove entitlement on a contractual, compensatory, or needs-based basis. Do you think this entitlement-first approach leads to fair outcomes, or does it create barriers for spouses who may be financially vulnerable after separation?
- The Spousal Support Advisory Guidelines are not law but are widely used by courts and lawyers to determine the amount and duration of spousal support. In your view, does relying on non-binding guidelines promote consistency and fairness, or does it risk limiting judicial discretion in individual cases?

Common misconceptions about family law

⊘ **“You have to move out to be separated.”**

Not true. You can be separated while living in the same home, as long as you are no longer functioning as a couple.

⊘ **“Divorce ends everything immediately.”**

Also not true. Most legal work happens before the divorce order is granted. Separation and divorce are different.

⊘ **“Family law is just fighting over money.”**

Family law often involves:

- international child relocation issues
- pension division Tax consequences
- overlap with criminal law
- emergency parenting decisions

It is legally complex. But it is also about helping people stabilize their lives during major change.

Discussion questions:

- Should individuals be legally considered separated even if they continue living under the same roof? What factors should matter most in determining whether a relationship has truly ended, and why?
- Many people think family law is only about fighting over money or children. After reading this material, what surprised you most about what family law can involve, and why do you think people often misunderstand what family lawyers do?

Exercises

Exercise 1: Reflection exercise: Before and after listening

In the episode, the Dara describes what it's actually like to work in family law, including the emotional realities, the negotiation process, and the complexity of parenting and financial issues.

Take a few quiet minutes to reflect.

Complete the following sentence stems:

- I used to think family law was...
- Now I understand that family law...

You may want to consider:

- Whether you assumed family law was mostly courtroom conflict
- What you learned about mediation and negotiation
- How parenting and money issues are often connected
- The emotional impact this work can have on lawyers and clients
- The legal differences between marriage and common-law relationships

Optional extension: Did anything Dara said surprise you? Why?

Think about what you've learned about family law practice and relationship breakdown in Ontario. Complete the following sentence stems:

- I used to think family law was...
- Now I understand that family law...

Prompt: You may want to reflect on how your assumptions about divorce, separation, or family lawyers have changed. Consider what

you learned about out-of-court dispute resolution, the emotional realities of family law practice, or how legal outcomes can differ depending on marital status.

Exercise 2: Group activity: Applying what you heard

In small groups, choose one of the following situations.

As you work, try to connect your analysis to ideas raised in the podcast episode, especially about negotiation, emotional dynamics, and access to justice.

Feel free to use the [family law section CLEO's \(Community Legal Education Ontario\) Steps to Justice website](#) to help answer any legal questions you may have.

Scenario A

A married couple separates after 12 years. They have two children. They disagree about parenting time and whether one spouse should receive spousal support.

Discuss:

- What legal issues arise? (Parenting time? Decision-making responsibility? Child support? Spousal support? Property division?)
- How might Ontario law approach these issues?
- Based on the episode, would this case likely go straight to court or start with negotiation or mediation? Why?

Scenario B

A long-term common-law couple separates. One partner believes they are automatically entitled to half the value of the home, even though it is in the other partner's name.

Discuss:

- Is property automatically divided for common-law partners in Ontario?
- Why might this situation surprise people?
- How does this connect to what you learned in the episode about common misconceptions?

In small groups, choose one of the following situations:

- A married couple separates after 12 years, with two children, and disagrees about parenting time and spousal support.
- A long-term common-law couple separates, and one partner believes they are entitled to half the value of the family home.
- A recently separated spouse needs financial support but is unsure whether they are legally entitled to spousal support.

Scenario C

A recently separated spouse left the workforce for several years to raise children. They now need financial support but are unsure whether they are legally entitled to spousal support.

Discuss:

- What does “entitlement” mean in spousal support law?
- Could compensatory support apply here?
- How might the Spousal Support Advisory Guidelines be used?
- What role might negotiation play before going to court?

Exercise 3: Policy brainstorm: Access to justice

In the episode, the guest touches on the emotional and financial strain of family law disputes.

Family law can be:

- expensive
- slow
- emotionally exhausting
- hard to navigate without legal help

In groups, brainstorm at least three changes that could improve access to justice in Ontario and Canadian family law.

Consider:

- cost barriers
- court delays
- emotional stress
- lack of clear legal information
- differences between married and common-law rights

Your proposals can operate at:

- the provincial level (the *Family Law Act*)
- the federal level (the *Divorce Act*)

After brainstorming, compare your ideas to approaches discussed in the episode and handout, such as:

- greater use of mediation
- simplified court processes
- public legal education
- encouraging negotiated settlements

Be prepared to explain: Why would your idea make the system fairer or more accessible?

Exercise 4: Structured debate: Marriage vs. common-law property rights

In the episode and handout, you learned that married spouses in Ontario have automatic property division rights, but common-law partners do not.

Hold a structured debate on this question:

Should Ontario family law give common-law partners the same automatic property division rights as married spouses?

Step 1: Divide into two teams

- Team A: In favour
- Team B: Opposed

Step 2: Preparation (10–15 minutes)

Using:

- the handout
- what you learned from the episode
- real-world fairness concerns
- access to justice considerations

Think about:

- personal autonomy
- protection of vulnerable partners
- whether formal marriage should carry different legal consequences
- the potential impact on courts and families

Step 3: Debate structure

- Team A opening (5 minutes)
- Team B opening (5 minutes)
- Rebuttals (3 minutes each)
- Open class discussion (10 minutes)

Optional written reflection

After the debate, reflect individually:

- Which arguments were most persuasive?
- Did your view change?
- How should the law balance fairness, choice, and predictability?