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Marriage and Divorce

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All Women. One Family Law.
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Education for Women
Women's Right to Know

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Marriage and Divorce

This booklet is meant to give you a basic understanding of legal issues. It is not a substitute for individual legal advice and assistance. If you are dealing with family law issues, get legal advice as soon as possible to protect your rights. For more information about how to find and pay for a family law lawyer, see our booklet on "Finding Help with your Family Law Problem" on our website at www.onefamilylaw.ca.

Who can marry?

You must be at least 18 years old to get married in Ontario. You can marry a man or a woman.

There are two kinds of legal marriage ceremonies. You can have a religious ceremony performed by a religious

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organization listed in the *Marriage Act* or a civil ceremony. Civil ceremonies are performed by a judge, justice of the peace, city clerk or someone else licenced to perform marriages.

What are the rules about marriage in Ontario?

Not everyone is allowed to marry. Here are some examples of the rules about getting married in Ontario:

- You must be at least 18 years old to marry in Ontario. If you are 16 or 17 years old, you can only get married if you have written permission from your parents. Children under 16 cannot marry in Ontario, even with permission from their parents.

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- If you are already married, you cannot marry another person. It is against the law in Canada to have more than one spouse. This is called **polygamy**.
- If you have been married in the past, you must prove that you are divorced from your first spouse. If you were divorced outside Canada, you will need to prove that your divorce was legal in that country.
- If you and your partner are too closely related, by blood or adoption, you will not be able to marry. You cannot marry your parent, grandparent, child, grandchild, brother or sister, half-brother or half-sister.
- If you or your partner cannot understand what it means to get married, the marriage is not legal.
- If you are forced into the marriage, it is not legal in Canada.

Are marriages from other countries legal in Canada?

Most of the time, legal marriages performed outside Canada will be recognized here. However, polygamy is not legal in Canada. If you were married in a country where polygamy is legal, you may have some rights under family law. This means that if your relationship ends, you will have some rights to child support, spousal support and property division.

If you are unsure about the status of your marriage, get legal advice.

Getting a divorce in Canada

There is one law about divorce for everyone in Canada. It is called the *Divorce Act*. No matter where you live in Canada, the law

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and the process of getting a divorce are the same.

You must apply for a divorce in family court. Either you or your spouse can file the application or both of you can file a joint application. Your application can ask for just a divorce, or it can ask the court to decide about custody, support and how to divide property. These are called claims for **corollary relief**.

When you apply for a divorce, you must show that your marriage has broken down. There are three ways to do this. The most common way is when you and your spouse have been living separate and apart for at least one year before you applied for a divorce. You can live “separate and apart” in the same house if you no longer behave as though you are married.

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It is also possible to get a divorce if one of you has committed adultery or your spouse has been so physically or mentally cruel that you can no longer live together.

Are divorces from other countries legal in Canada?

Ontario accepts that divorces from other countries are legal if you or your spouse lived in that country for at least one year before you applied for a divorce. If neither of you lived in the country for a year, your divorce may still be legal if the person who applied can prove that they have a “real and substantial connection” with that place.

For example, if you were originally from the country that granted the divorce and had returned there when your relationship ended, the court could say that you had a “real and substantial connection” to that country.

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If you were divorced in another country, you must have a certified copy of the divorce order. If it is not in English or French, you must also have a copy that has been translated by a certified translator. You also need a letter from an Ontario lawyer stating that your divorce should be recognized under Canadian law.

Removing religious barriers to remarriage

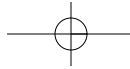
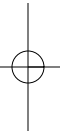
Some religions do not recognize civil divorce and may say that you cannot participate in the religious community. They may also say that you cannot get remarried in a religious ceremony. In these cases, Canadian family law cannot help you remarry within your religion. You do have the right to remarry in a civil ceremony.

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Canadian family law cannot force your husband to grant you a religious divorce. Canadian law does say that spouses cannot use religious divorce to try to get their way in family law negotiations. If your ex-spouse tries to stop you from getting remarried within your faith community, the court may refuse to deal with his family law application or may decide that he cannot defend himself in the family proceeding. The court can also overrule a divorce settlement if it learns that your spouse got what he wanted in the divorce by threatening to stop you from getting remarried in your religious community.



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If you are a francophone woman living in Ontario, you have the right to access French language services in family law court proceedings. For more information regarding your rights, contact a lawyer, a community legal clinic, or the support line Femaide at 1-877-336-2433, TTY 1-866-860-7082.

You can find more information on how to access services in French on our website at www.onefamilylaw.ca or www.undroitdefamille.ca.

Family Law Topics Available*

1. Alternative Dispute Resolution and Family Law (ENG 001)
2. Child Protection and Family Law (ST 002)
3. Child Support (ST 003)
4. Criminal and Family Law (ST 004)
5. Child Custody and Access (ST 005)
6. Domestic Contracts (ENG 006)
7. Family Law Arbitration (ENG 007)
8. Family Law Issues for Immigrant, Refugee and Non-status Women (ST 008)
9. Finding Help with your Family Law Problem (ST 009)
10. How Property is Divided in Family Law (ENG 010)
- 11. Marriage and Divorce (ST 011)**
12. Spousal Support (ST 012)

** This booklet is available in multiple formats. Please see www.onefamilylaw.ca for more information. You can also find additional materials on the website to help you understand your family law rights.*

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ending violence against women