Separating in Ontario: what to do first

Separation is a date, not a filing. In Ontario you are separated from the day you begin living separate and apart with no reasonable prospect of getting back together, and you can be separated while still living in the same house. That date matters, because most of the arithmetic that follows counts from it. The first few weeks are mostly about gathering paper and not making anything worse.

> Write down your date of separation and keep it somewhere safe. It is the valuation date for dividing property, it starts the six-year clock on an equalization claim under section 7(3) of the Family Law Act, and for a common-law spouse it starts a two-year clock on a spousal support claim. Almost every deadline in family law counts from that one date.

1 The first two weeks

- [ ] **Write down the date of separation** and what happened on it. If the two of you disagree about the date later, contemporaneous notes are worth a great deal.
- [ ] **Do not move out of the family home without advice.** If you are married, both spouses have an equal right to possession of the matrimonial home under section 19 of the Family Law Act, whoever is on title. Moving out does not end that right, but it can complicate parenting arrangements and it is hard to reverse.
- [ ] **Take stock of joint accounts and joint credit,** and get advice before you move money or close anything. Emptying a joint account is one of the fastest ways to lose credibility with a judge.
- [ ] **Change the passwords on your personal email, banking, and phone.** Do not access the other person's accounts, even if you know the password and always have.
- [ ] **Photograph or scan the important papers while you still have easy access to them.** Tax returns, statements, deeds, insurance policies, passports.
- [ ] **Update your will and your powers of attorney.** Separating does not change your will by itself. Under section 17 of the Succession Law Reform Act, in force since January 1, 2022, a married spouse is treated as having predeceased you only once there is a separation agreement, a court order, a family arbitration award, or three years of living separate and apart, and only if you are still separated when you die. It does not touch a power of attorney, a beneficiary designation, or a common-law partner.
- [ ] **Check the beneficiary designations** on life insurance, RRSPs, TFSAs, and pensions, and get advice before changing any of them, because some are locked in by a court order or an agreement.
- [ ] **Tell your employer's benefits administrator nothing yet,** but find out whether your spouse and children stay covered and for how long.

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2 Documents to gather

Put these in one folder, paper or digital. Almost every one of them will be asked for, and gathering them early is the cheapest work in the whole file.

- ☐ **Marriage certificate,** and any cohabitation agreement, marriage contract, or previous separation agreement.
- ☐ **The date you began living together, the date of marriage, and the date of separation.**
- ☐ **The last three years of income tax returns and notices of assessment** for both of you, if you have access to both.
- ☐ **Recent pay stubs, the most recent T4, and details of any bonus, commission, or overtime.**
- ☐ **Statements for every bank account, credit card, line of credit, and loan,** both at the date of separation and current.
- ☐ **RRSP, TFSA, investment account, and pension statements,** including the pension plan's own valuation if you can get it.
- ☐ **Mortgage statement, property tax bill, and the municipal assessment** for every property either of you owns.
- ☐ **The same set of statements as at the date of marriage,** because what each of you brought into the marriage is deducted from your net family property. This is the set people cannot find later.
- ☐ **Corporate financial statements and the minute book** if either of you owns or controls a business.
- ☐ **Life and disability insurance policies,** with current values and named beneficiaries.
- ☐ **Any existing court order or agreement** about parenting, support, or property.

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3 Financial disclosure

Disclosure is mandatory, it is mutual, and it is not optional because you think the other side already knows. An agreement built on incomplete disclosure can be set aside years later.

- [ ] **Expect to complete a sworn financial statement.** In Ontario that is Form 13 where only support is in issue and Form 13.1 where property is also in issue. It lists income, expenses, assets, and debts, and it is sworn.
- [ ] **Value everything as at the date of separation** for the property calculation, and also give current values. The date of separation is the valuation date.
- [ ] **List the debts as well as the assets,** at both the date of marriage and the date of separation.
- [ ] **If you are self-employed or own a corporation,** expect to produce business financial statements, and expect the other side to ask whether your declared income reflects what the business can actually pay.
- [ ] **Do not leave anything out, including assets outside Canada.** Incomplete disclosure delays the case, costs money, and can reopen a settled deal.

4 Children and parenting

Ontario stopped using the words custody and access in March 2021. The Divorce Act and Ontario's Children's Law Reform Act now speak of decision-making responsibility, which is the authority to make major decisions about health, education, and religion, and parenting time, which is the time a child spends in each parent's care.

- [ ] **Write down the schedule as it actually runs now,** week by week, before anyone proposes a new one.
- [ ] **Decide who makes which major decisions.** Decision-making can be split by topic, so one parent can have the final say on health care while schooling is decided jointly.
- [ ] **Put it in a parenting plan.** A plan covers the regular schedule, holidays, birthdays, school breaks and summer, how you share school and medical information, how you communicate, and how you will resolve a disagreement before anyone files anything.
- [ ] **Work out child support using the Federal Child Support Guidelines.** The table amount depends on the paying parent's gross income and the number of children. The tables were updated effective October 1, 2025, the first revision since 2017, so use the current tables and not an old chart.
- [ ] **List the section 7 expenses separately.** Those are the special or extraordinary expenses under section 7 of the Guidelines: child care needed so a parent can work or study, health and dental costs insurance does not cover, post-secondary education, and extraordinary school or extracurricular expenses. Parents usually share them in proportion to their incomes, on top of the table amount.
- [ ] **If either of you is thinking about moving,** get advice first. A parent who wants to relocate with a child generally has to give the other parent at least 60 days' written notice.
- [ ] **Keep the children out of the negotiation.** Do not use them as messengers and do not discuss the settlement with them.

5 Deadlines that do not wait

- [ ] **Equalization of net family property.** Under section 7(3) of the Family Law Act a married spouse must bring the claim before the earliest of two years after the marriage is ended by a divorce or a judgment of nullity, six years after the day the spouses separated, or six months after the first spouse's death.
- [ ] **Spousal support has no deadline, and delay still costs you.** Section 16(1)(c) of the Limitations Act, 2002 removes any limitation period on a claim for support under the Family Law Act. That is not a reason to wait. A court asks why the claim was not brought sooner, and a long gap makes need harder to prove and back support harder to recover.
- [ ] **Common-law property claims do expire.** Living together does not create a right to equalization in Ontario. A common-law partner claims through unjust enrichment and trust principles instead. A claim for money is generally caught by the two-year basic limitation period in the Limitations Act, 2002, while a claim for a constructive trust over land gets ten years under the Real Property Limitations Act (McConnell v. Huxtable, 2014 ONCA 86). Which one applies turns on what you are asking for, so get advice early.
- [ ] **Who counts as a common-law spouse for support.** Under section 29 of the Family Law Act, two people who have lived together continuously for at least three years, or who are in a relationship of some permanence and have a child together.
- [ ] **Support enforcement.** Support orders made by Ontario courts are filed automatically with the Family Responsibility Office, which collects from the paying parent. FRO enforces the order as written, so if the amount is wrong the order has to change, not the arrangement.

6

What not to do

Every item here is something people do in the first month and regret in the sixth.

- [ ] **Do not sign anything without independent legal advice,** including a separation agreement the other side has already had drafted.
- [ ] **Do not sell, mortgage, or refinance the matrimonial home.** Under section 21 of the Family Law Act a married spouse cannot dispose of or encumber an interest in the matrimonial home without the other spouse's consent or a court order.
- [ ] **Do not hide, move, or spend down assets.** It is found, and it costs far more than it saves.
- [ ] **Do not make an informal side deal to reduce support and leave the order alone.** A handshake reduction does not bind the court, arrears keep accruing under the order as written, and the bill arrives later with interest.
- [ ] **Do not post about it.** Social media, group chats, and messages to family are all producible, and they are read out loud.
- [ ] **Do not change the locks, cut off the other person's phone, or cancel their access to money** without advice.
- [ ] **Do not stop seeing the children to avoid conflict.** A gap in parenting time becomes the status quo, and the status quo is what a court looks at.

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DATES AND NOTES

Date of separation: ______________________

Plenty of separating couples work out the schedule and the money between themselves, and when they can, that is usually the best outcome for everyone in the house. A lawyer earns their fee at three points: when the two of you cannot agree, when one income is hard to pin down, and when an agreement has to hold up years from now under pressure. If you want to know where you stand before you sign anything, Telesh Law Firm Professional Corporation can tell you, in the language you are most comfortable speaking.

CURRENT AS AT AUGUST 2026

> This checklist is general information, not legal advice, and does not create a solicitor-client relationship. It is current as at its publication date and is not revised as the law changes. For advice on your specific situation, book a consultation at teleshlawfirm.ca or call 416-639-0887.