

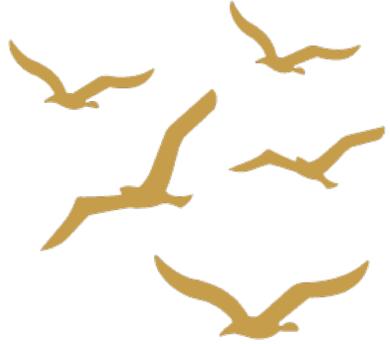
# Family Law 2025: A Year in Review

## Key Cases, Resources & Trends in Family Law

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# 2025: Family Law- A Year in Review

- This presentation looks at what 2025 actually *did* to Canadian family law—not just what changed on paper, but how courts are deciding cases and what that means for day-to-day practice.

The unifying themes this year are:

- A deeper commitment to child-centred and trauma-informed analysis
- Judicial skepticism of formalistic tests that ignore power imbalance
- Continued pressure to resolve disputes earlier and outside court
- Incremental but important refinements to the cornerstone: parenting, support, and property



# Legislative Change

If we zoom out, 2025 was not about sweeping legislative overhaul—although we have seen movement, including

**NWT (not yet in force): Bill 23: An Act to Amend the Children’s Law Act and Bill 24: An Act to Amend the Family Law Act:**

- Align with Divorce Act (2021): terminology (parenting time, “Decision-making responsibility” “contact: (non-parents)
- Describe new duties for parents, legal advisors, and the courts:
  - Encourage and inform the use dispute resolution processes and services
  - Update- gender-neutral pronouns and terms

**Yukon (received royal assent May 1, 2025, but not yet in force): *The Inclusive Yukon Families Act***

- Recognize diverse family structures and more inclusive parentage recognition. Provides new legal pathways for parentage recognition, especially for families formed through assisted reproduction, surrogacy and reproductive material donation.

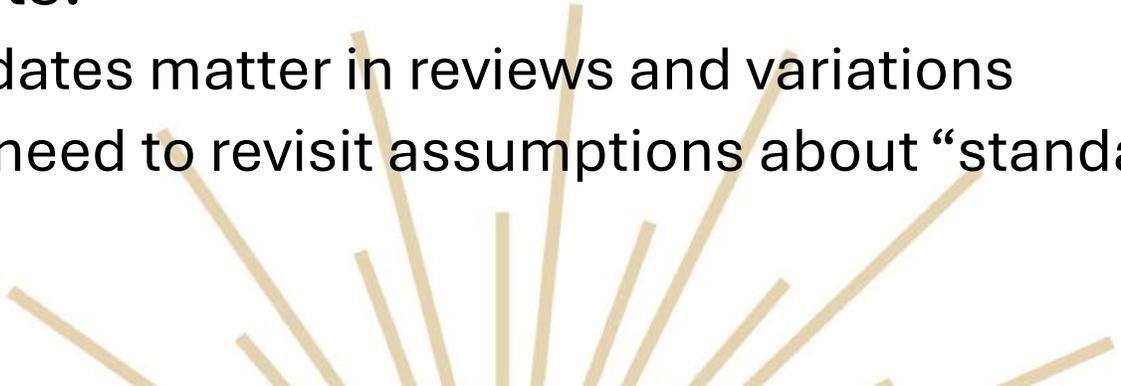
**BC: Family Law Act Modernization project-** In Phase 2 of multi-year review to modernize the law and address gaps, including with respect to: Family violence, Children’s views , Parenting arrangements, Parentage, and Indigenous engagement





# 2025 Federal Child Support Tables



- The updated tables, effective October 1, 2025, reflect broader tax changes, including increases to the basic personal amount.
  - For many lower- to mid-income payors, base child support amounts decrease slightly.
  - This impacts:
    - Table updates matter in reviews and variations
    - Lawyers need to revisit assumptions about “standard” amounts- correct Table?
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# 2025 Key Themes

Instead, the key themes were about **how evolving legal frameworks and how courts are applying existing law.**

Three big patterns emerge:

- First, **context matters more than ever**—especially where there is migration, family violence, or unequal bargaining power. Courts are less willing to accept surface-level narratives about consent or shared intention.
  - Second, there is an unmistakable **shift away from adversarial escalation**. Courts and governments across Canada are trying to find ways to keep families out of full litigation unless absolutely necessary.
  - Third, family violence continues to reshape doctrine—not only in parenting, but in jurisdiction, remedies, and civil liability. We are watching the legal system struggle, sometimes awkwardly, to respond to coercive control and the true impacts of FV.
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*The Supreme Court of Canada*

# 2025: Supreme Court of Canada (decision pending): *Ahluwalia v. Ahluwalia*

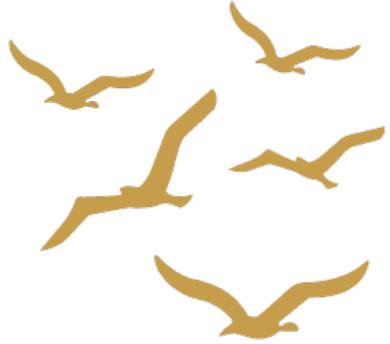
*Ahluwalia* sits at the intersection of family law and tort law, but its implications extend well beyond civil damages. Heard February 2025)

The case will determine whether a distinct "tort of family violence" should be recognized, potentially shifting away from the Ontario Court of Appeal's 2023 ruling that existing torts (like assault or battery) are sufficient.

- **Case Background:** At trial, the judge recognized a new "tort of family violence" to capture the cumulative harm of coercive control—something traditional torts struggle to address-- awarding \$150,000 in damages.
- **Appeal Result:** The Ontario Court of Appeal (ONCA) reversed that move, holding that existing torts are sufficient and that creating a new tort was unnecessary and potentially disruptive, and reducing damages to \$100,000, though it confirmed that abuse, including coercive control, must be recognized in family law.
- **SCC:** The SCC, in its upcoming decision, will decide if the law requires a specific tort to cover the patterns of abuse within relationships.

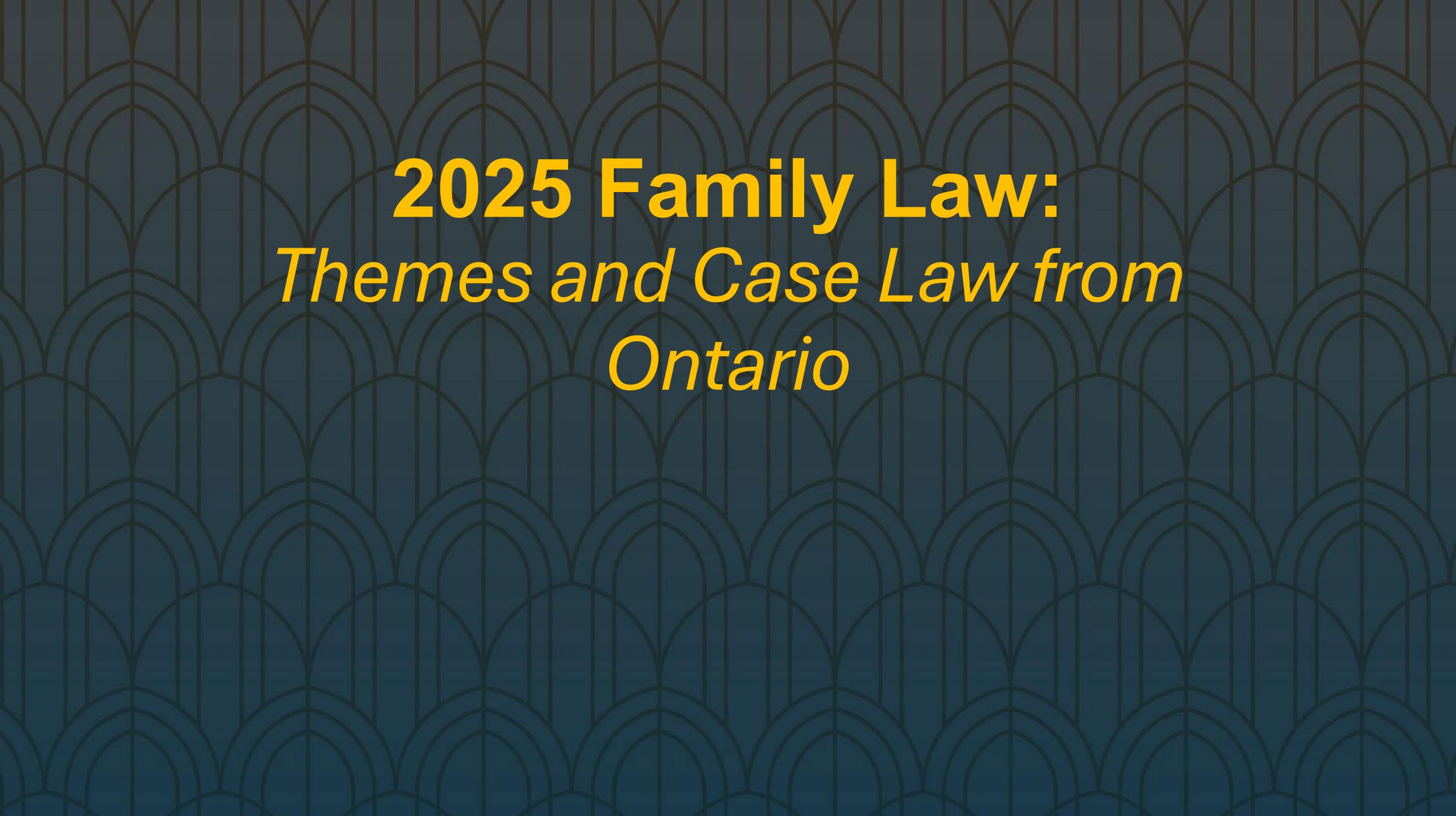
This will influence how courts conceptualize coercive control; How damages and remedies are framed; How settlement leverage shifts in high-conflict cases. If the SCC recognizes the limits of existing torts, we may see pressure for new remedial frameworks—whether judicial or legislative.

**More broadly, the case reflects a 2025 theme: the law is still catching up to lived experiences of family violence.**



# ***Dunmore v. Mehralian* (2025 SCC 20)**

- *Dunmore* is arguably the most important family law decision of 2025.
- A landmark decision adopted a trauma-informed, child-centered approach for determining jurisdiction in parenting disputes, especially concerning domestic violence survivors.
  - This decision ensures that courts must consider the full social context—including gender dynamics, migration, and abuse—when determining jurisdiction in parenting cases. By affirming the jurisdiction of Ontario courts to preside over transnational cases, particularly those involving coercive control and gender-based violence, the decision protects survivors from being forced to litigate in jurisdictions where they may face danger, discrimination, or systemic barriers.
  - The Court’s approach reinforces Canada’s commitment to the BIOC as a paramount.
  - Beyond its trauma-informed approach to the “habitual residence” test, the Court’s acknowledgement of the obstacles survivors face in family law proceedings should serve as a template for comprehensive, contextualised legal analysis in cases involving the safety of women and children.



**2025 Family Law:**  
*Themes and Case Law from  
Ontario*

# AFCC-O Parenting Guide and Parenting Plan Template

- How are the Ontario Courts responding to the AFCC-O Parenting Guide and Parenting Plan Template?
- Questions:
- What is the AFCC-O Parenting Guide and Parenting Plan Template?
  - This is a Guide and Template created by a team of experts to help parents and professionals create parenting plans with the least amount of conflict:
- How did it come about?
- Does it have credibility? How has the Court reacted to it or adopted it?
- How useful is it among family law lawyers and mediators?
- How does it actually work using the example of a 4 year old and a 7 year old?

# AFCC-O Parenting Guide and Parenting Plan Template: Advisory or Not?

- ***Dupont-Goode v. Ashmeade, 2024 ONSC 7092***: the presiding Justice accepted the AFCC-O Parenting Plan Guide as **independent and objective evidence of what was in the best interests of two children, ages 5 & 7, stating:**

*[30] In assessing these factors, the only evidence was from the parties. There was no independent and objective evidence from the Ontario Children's Lawyer or other parenting assessor, nor was there expert evidence...*

***[31] In the absence of such evidence, I refer to the AFCC-Ontario Parenting Plan Guide, ("Guide") as independent and objective evidence of what is best for children.***

*...The AFCCO-O Guide **summarizes basic social science knowledge** about the effects of parental separation on children, provides suggestions and guidance to help improve communications and cooperation between separated parents and offers valuable guidance about formulating parenting arrangements that meet the needs of children.*

## AFCC-O Parenting Guide and Parenting Plan Template: Advisory or Not? CON'T

- ***Dupuis v. Dupuis***, 2024 ONSC 4836, the presiding Judge combined information from the AFCC-O Parenting Guide with the evidence tendered, noting that the Guide supports the fact that younger children benefit from having a “home base” and consistency in their routines. Therefore, the best parenting schedule was one where there was a primary parent.
- ***Tremblay-Chartier v. Blanchette***, 2025 ONSC 6273, on appeal of an interim parenting Order, the Divisional Court dismissed the motions Judge parenting Order. Among other reasons, the Div. Court found that the motions Judge had not given reasons to depart from the recommendations in the AFCC Parenting Guide.

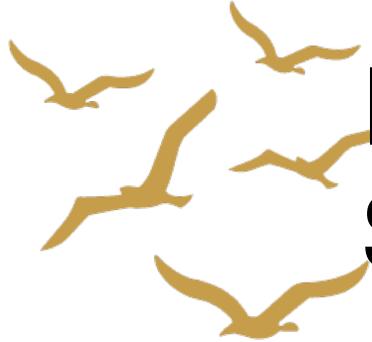
# Non Disparagement Clauses in Parenting Plans

- Cases where the Court is imposing **non disparagement clauses to prevent one parent from being critical of the other parent**, especially in front of their children:
- ***Clarke v. Denyes*, [2025 ONSC 1894 \(CanLII\)](#)**, Mathen J. imposed the following:
  - “Neither parent shall denigrate or be critical of the other parent either overtly or covertly, **in any communication with the children or with others when the children are present or nearby, regardless of whether or not it appears the children can hear the comments. The parents shall advise others to maintain the same standard and to refrain from criticizing the other parent in front of [the child(ren)]**”:
- ***R.L. v. B.M.*, [2025 ONSC 189 \(CanLII\)](#)**, Tobin J. imposed the following:
  - “Neither parent is to disparage, slander, or speak negatively about the other parent **on social media, or in the presence of the child, nor allow others to do so.**”



## Protecting Children’s Privacy in Court proceedings: Anonymization

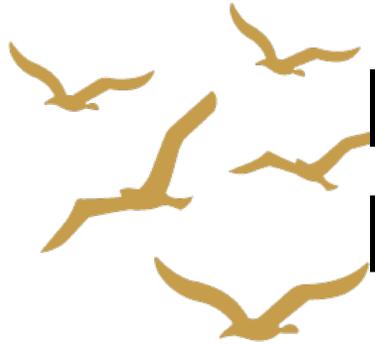
- Cases where the Court is **protecting children’s privacy**, in family proceedings and yet balancing the open court principle. While initialization is a common way to anonymize a decision, it is not the only way.
- In ***Kirby v. Woods*** (2025) ONCA 437, Justice Madsen anonymized the case by using an “online random last name generator” for the title of proceedings and using “Parent 1” and “Parent 2” to refer to the parties in the decision. This approach protected the child’s privacy, while remaining memorable for purposes of precedent.



# Imputing Income to a Parent for Child Support

- As a general rule, separated parents have an obligation to financially support their children and they cannot avoid that obligation by a self-induced reduction of income. **Imputing income is one method by which the Court gives effect to the joint and ongoing obligation of parents to support their children.** In order to meet this obligation, the parties must earn what they are capable of earning.

See: *Drygala v. Pauli* [2002 CanLII 41868 \(ON CA\)](#), *Homsi v. Zaya*, [2009 ONCA 322 \(CanLII\)](#), *Lo v. Lo*, [2011 ONSC 7663](#); *Charron v. Carriere*, [2016 ONSC 4719](#), *Whelan v. O'Connor*, [2006 CanLII 13554 \(ON SC\)](#).



# Imputing Income and the Effects of Family Violence

- In *Kohli v. Thom*, 2025 ONCA 200, the Court found that the mother had been subjected to significant physical and emotional violence throughout the parties' relationship. She was not working at the time of separation and had the care of the parties' young child. Still, the trial judge imputed minimum wage income to her of \$31,000 per annum, for spousal support purposes.
- On appeal, the Court of Appeal reversed the trial judge's decision and declined to impute any income. The Court stated that:

*In this case, [the trial judge] thought **the emotional and psychological consequences of the family violence did not affect the appellant's ability to work full-time at a minimum wage job.** The error was that he failed to engage with that possibility in any way in his reasons.*



# Other types of Income cases affecting Child Support

- RRSP income is presumptively part of a party's income for child support purposes because it is included as part of total income on the T1 tax form. Additionally, the clear wording of the *Federal Child Support Guidelines* (“*Guidelines*”) includes RRSP withdrawals.
- In *J.M.M. v. C.R.M.* (2025) ONSC 3067 (CanLII), Justice Chappel observed that:
  - If the RRSP withdrawals are fairly regular and appear to have been used to cover ordinary living expenses for the party's lifestyle choices, they are more likely to be included as income for the purposes of determining support... **The reason for the RRSP withdrawal is an important factor in determining whether it should be included in income.**
- Two exceptions that may justify **excluding RRSP withdrawals from income** for child support are: 1) the use of RRSP withdrawals to pay for legal fees, to pay off debt; and 2) the use of RRSP withdrawals to make ends meet when a party is not receiving proper support.



## Section 7 Expenses are often a source of dispute in calculating child support obligations

- In 2025 the Ontario Courts grappled with Section 7 Expenses. The cost of competitive sports may not be necessary or reasonable, post separation, especially where the child enjoyed the sport or activity at a lower-cost prior to separation.
- In ***Ginese v. Fadel (2024)***, [2024 ONSC 3011 \(CanLII\)](#), the children were heavily involved in extracurricular activities while the parties were still together. The father continued the same activities the children were already engaged for three years post separation. The cost ranged from \$5,729 to \$8,035. Justice Audet found that the mother was required to pay her proportionate share of the children's extracurricular activities for those years.
- However, in 2022, the father, without notifying or consulting with the mother, enrolled one of the children in a more expensive dance program, increasing from \$2,693 in 2021, to \$12,254 in 2022, and \$14,444 in 2023. Her Honour found that these increased costs, post separation, were not necessary or reasonable.



# Property

- One of the most significant property/ equalization cases in Ontario, is the appeal of ***Lang-Newlands v. Newlands***, 2024 ONSC 6285. This appeal has recently been heard by the appellate Court on January 13, 2026. No decision has been released yet.
  - Discretionary trust– excluded or included property.
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*Canadian Case Law and  
Trends on Family Law:  
Cross Canada*

# Meaning of “Spouse” in the Northwest Territories

- *Estate of Bourque*, 2025 NWTSC 70 (CanLII):
  - Estate law case, but relied on family law jurisprudence (Ontario) and will impact the family law interpretation.
- Can a couple be “spouses” in law without ever truly living under the same roof?
  - NWT (and NU) definition of spouse includes: *has lived together in a conjugal relationship outside marriage with another person, if (i) they have so lived for a period of at least two years*
- Drawing on Ontario’s conjugal-relationship jurisprudence, the Supreme Court of the Northwest Territories held that spousal status turns on the totality of the relationship. Rigid adherence to legislative cohabitation requirements may give way to decades of shared life, finances, and public commitment bear the hallmarks of a marriage-like union. Courts may look beyond formal living arrangements to give effect to the substantive reality of the relationship.

# BC: *Florescu v. Lodato* (2025 BCSC 1950)

- *Florescu* is a BC Supreme Court case that complements *Dunmore* in practice.
- In this case, the parties faced the very real concern of having their matters split between Italy and British Columbia, leading to multiple proceedings and the potential for conflicting decisions (*para.* 12).
- What's striking is not a new legal test, but the practical consequences: duplication of costs, inconsistent orders, and enormous strain on families.
- The case underscores that jurisdiction fights are not abstract. Delay and indecision can result in fragmented litigation that is difficult—sometimes impossible—to unwind. The case attracted international attention.
- **Take away:** Nunavut has significant migration to and from the Territory. Jurisdictional issues can ensue and be challenging.

# BCCA: *Mills v. O'Connor* (Property Tracing)

- **Speaker notes:**  
Property law continues to generate litigation, and *Mills* tackles one of the hardest issues: tracing excluded property.
- The Court acknowledges the conceptual difficulty:
  - Excluded property can lose its character through commingling, reinvestment, or conversion.
- *Mills* does not create a bright-line rule, but it pushes toward clearer reasoning and evidentiary discipline.
- **Practically**, it reinforces the importance of:
  - Financial records
  - Expert evidence
  - Early advice about the risks of commingling

# **BCCA: *Sandhu v. Mangat* (2025 BCCA 34)**

- **BC Court Of Appeal**  
*Sandhu* addresses the expanding role of parenting coordinators.
- The Court of Appeal clarifies:
  - The limits of a parenting coordinator's authority
  - How section 7 expense allocation fits within that framework
- **The message is clear:**
  - ADR professionals are valuable, but they cannot displace statutory responsibilities or judicial oversight.
- This case reinforces the need for **careful drafting** in orders and agreements that appoint parenting coordinators.
- **Take away:** if acting as a dispute resolution professional (mediator, arbitrator or PC) make sure your authority is clear.



# BC Early Resolution Expansion (Nov 2025)

One of the most practical developments in 2025 is the expansion of BC's early resolution model.

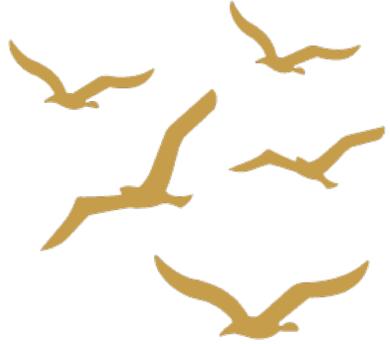
As of November 1, 2025, more registries require:

- Needs assessment
- Information sessions- referrals to address both legal and non-legal needs
- At least one attempt at consensual dispute resolution

The data from Surrey and Victoria suggests many families resolve issues **without ever filing**-- about 60% of families participating in these services do not proceed to court with unresolved issues.

This is not just procedural tinkering—it is a cultural shift toward front-end problem solving.

**Take away:** early dispute resolution and interventions truly help families— as lawyers we can facilitate this.



# ***Resource for Drafting Orders: BC Provincial Court Picklists***

- The BC Provincial Court Picklists were updated in 2025. **These can be a useful tool to lawyers in drafting order terms, even outside BC.**

Picklists are lists of standard terms for court orders:

- **Family orders picklist FLA (December 2025)**
- [FAMILY Picklist FLA Public WORD](#)
- [FAMILY Picklist FLA Public PDF](#)
  
- **Family orders picklist CFCSA (June 2025)**
- [FAMILY Picklist CFCSA, Public WORD](#)
- [FAMILY Picklist CFCSA, Public PDF](#)

# Key Takeaways for Practice in Nunavut

- 2025 reinforced that **context is critical**—especially where children, violence, and migration intersect— a KEY ISSUE in Nunavut.
- Courts are increasingly skeptical of rigid tests that ignore lived realities.
- Procedure matters: early resolution models are reshaping how—and whether—cases reach court.
- And while the fundamentals of family law remain stable, the way they are applied continues to evolve.

If you look to how the law is unfolding in other Canadian jurisdictions and lean into the interpretations, drafting, and advisory strategies to these trends, you'll be well-positioned as the family law continues to evolve in Nunavut.

# Questions?

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