

FAMILY LAW REFORM

YOUR NEW RIGHTS

The new Family Law Reform has many interesting updated concepts and replaces some of the outmoded legislation overdue for revision.

Mr. Craig Perkins, counsel, Policy Development Division for the Ministry of the Attorney General was partially responsible for much of the initial research; he feels the new laws are a step in the right direction. All laws are written for the welfare of the majority of citizens and the new family laws are intended to encourage and strengthen the role of the family in society.

Our life styles, our needs and attitudes have changed and our tolerance and acceptance to change is more liberal than ever before.

We are aware that the inequalities which existed under the old laws have been revised to allow all to stand tall in their own niche in society.

The Family Law Reform Act protects spouses when there is a marriage break down and encourages them to take a realistic view toward a civilized divorce and helps avoid the situation where the children become the scapegoats.

At first glance one would think the New Law Reform Act is very negative with no positive approach toward a once in a life time marriage. For all the good one-time marriages no law is required. But, when statistics show one in every four marriages end in divorce it becomes apparent that new legislation was imminent and more assistance needed for those heading for a marriage breakdown.

An excellent booklet is available from the Ministry of the Attorney General entitled "Family Law Reform, Your New Rights". The information in this booklet would be of assistance for a Branch program, especially if you are preparing one for the International Year of the Child on Children's Rights.

WHO IS A SPOUSE?

A person who is married.

A person whose marriage can be annulled (example) one spouse who is already married to someone else.

A person whose marriage is polygamous (example) if they came from a country who recognizes polygamy all these parties will have rights under the new Ontario law.

Persons who live together as husband and wife continuously for five years.

Persons who have had a relationship of some permanence and may have had a child of their union.

SUPPORT OBLIGATION IN MARRIAGE BREAKDOWN.

Under the old law, married women seemed to have had little status, always regarded as dependent on their husbands. However, the new law applies equally to married men and married women. Not only the husband but the wife can sue for injuries or property and a wife can conduct legal proceedings for maintenance.

Under the old law only wives could claim support or oblige a spouse to pay her debts or that of the children; men did not have these rights. This was the theory, not always the reality.

The old law left the wife with practically nothing when the marriage terminated. If she had spent her married years managing the family home and caring for the children this was not taken into consideration. If he was the wage earner, the husband kept the property and earnings when the marriage terminated. Even if the wife had earnings which were spent on the family vacations or consumables, she still forfeited a part of the family property.

Under the new law the wife's contribution will not be taken for granted but will be recognized as an asset. The wife's managerial skills allow the husband the freedom to function in his chosen occupation away from home, so both spouses have contributed to the family welfare. In the event of a marriage breakdown the law presumes both spouses have an equal right to share in any property regardless of which spouse owns it.

The equality of rights for both spouses have not defined and in many cases under the old law there was discrimination against the man, in fact the law was unduly rigid and inflexible. The father was obliged to support the child even if the woman was able to contribute and only the woman could claim support. Now each spouse has an obligation to provide support for himself or herself and for the other spouse in accordance to need to the extent of the individual's capabilities. An attempt is now being made toward more effective enforcement of the law.

Alimony is abolished in the new act, at least for term. Reference is made to "support rights" of husbands and wives, providing a far more complete and effective support system than under the old law of alimony.