

Child Support for Adult Children and Children with a Disability: The Impact of ODSP, the Disability Tax Credit, RDSP and RESP¹

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OVERVIEW

In Ontario, there is a tangled web of public benefits, tax credits and investment tools available to adults living with disabilities. It is no wonder then, that the family law bar continues to grapple with issues of child support for those who attain the age of majority yet are unable to withdraw from parental support due to disability. In his October 7, 2019 newsletter, *Epstein's This Week in Family Law*³, the late Philip Epstein commented on *Morden v. Kelly*⁴, a decision by Madam Justice Catrina Braid of the Ontario Superior Court of Justice. In that decision, Justice Braid was addressing support for a 25-year-old child born with serious cognitive and physiological disabilities, including severe autism, cerebral palsy and significant developmental delay. At the end of his commentary, Mr. Epstein noted, “*I was not aware of the Passport Funding program in Ontario and I suspect similar programs exist in most of Canada. This is an important program designed to help families who have children with developmental issues. In these days of harsh government cut backs for the under privileged, I can only hope that the Passport Funding program continues.*”

Often, there is a lack of information and understanding about the various funding options and programs available to families, as evidenced by Mr. Epstein's comments about Passport Funding. Indeed, the case law that examines the issue of determining support for an adult “child” with a disability continues to develop. The approach, however, compels family law lawyers and judges to consider the child's needs and means, including provincial and federal sources of income.

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³ Epstein's This Week in Family Law, Fam. L. Nws. 2019-40 (October 7, 2019).

⁴ *Morden v. Kelly*, 2019 ONSC 4620, 2019 CarswellOnt 14239 (Ont. S.C.J.), additional reasons 2019 CarswellOnt 16724 (Ont. S.C.J.) [*Morden*].

In this article, we provide a summary of the primary types of public benefits, tax credits and social assistance programs available to the family when supporting an adult “child” with a disability. In particular, we discuss the Ontario Disability Support Program (“ODSP”), the Federal Disability Tax Credit (“DTC”), Registered Disability Savings Plan (“RDSP” - as distinguished from the Registered Education Savings Plan, “RESP”), and Ontario’s Passport Funding.

Throughout Part II of this article, we provide examples of information and disclosure requests that we think are necessary and useful for family law litigants, as they attempt to resolve child support issues related to the breakdown of their relationship.⁵ This information will help parents and lawyers to effectively advocate for the appropriate amount of support on behalf of the adult “child” living with a disability.⁶

PART I: CHILD SUPPORT FOR AN ADULT “CHILD” WITH A DISABILITY

(a) General Principles and Recent Changes to ODSP Rules

In January 2017, amendments to the *Ontario Disability Support Program Act, 1997*⁷ and the *Ontario Disability Support Program General Regulation*⁸ came into effect, exempting child support payments as income, such that the receipt of child support no longer impacts a person’s eligibility for ODSP, regardless of age. The child support may be paid to the recipient of ODSP, or a person on their behalf, such as a parent, without any corresponding “claw back” from the ODSP entitlement.

At Appendix A to our article, we provide a chart that outlines which provinces and territories exempt child support as income from government social assistance and/or disability benefits, versus those that are subject to a “claw back” mechanism. Currently, nine provinces and territories exempt child support as income from government benefits.⁹ The exemption of child support as income

⁵ See this article by John McGarrity, “The Child Support Obligations of Separated Parents of Disabled Adult Children in the Province of Ontario” (2021), 30 Can.-Fam.L.Q. 321.

⁶ See, for example, Bala and Faour, “When Does Childhood End? Canada’s Lengthening Obligation to Support Adult Children” (2014), 33 Can.Fam.L.Q. 69.

⁷ *Ontario Disability Support Program Act, 1997*, SO 1997, c 25, Sched B, [ODSPA].

⁸ *Ontario Regulation 222/98: GENERAL* under ODSPA [O Reg 222/98].

⁹ See for example, a New Brunswick Court of Appeal decision, *C.M. v. G.M.*, 2020 NBCA 17, 2020 CarswellNB 136, 2020 CarswellNB 137, 38 R.F.L. (8th) 303 (N.B. C.A.), affirming 2019 NBQB 182, 2019 CarswellNB 425 (N.B. Q.B.), whereby the Court awarded Table support (as referenced in the *Federal Child Support Guidelines* (the “Guidelines”), SOR/97-175, as amended) to the mother recipient for an adult child with disabilities, notwithstanding that the provincial government would claw back the child support dollar for dollar from her social assistance. However, since that decision,

for individuals receiving government disability benefits is helpful to bring uniformity across the provinces in how support for adult “children” with a disability is determined, but more importantly ensures financial security for individuals living with a disability and improved access to costly disability supports and services.

When determining support for an adult “child” with a disability, entitlement must first be established. Namely, we must determine whether the child can withdraw from parental charge (as discussed in more detail below). If the child cannot withdraw from parental charge, then the analysis under section 3(2) of the Guidelines is undertaken to determine the amount of child support.

Section 3(2) of the Guidelines provides:

Unless otherwise provided under these Guidelines, where a child to whom a child support order relates is the age of majority or over, the amount of the child support order is

- (a) *The amount determined by applying these Guidelines as if the child were under the age of majority; or*
- (b) *If the court considers that **approach** to be inappropriate, the amount that it considers appropriate, having regard to the condition, means, needs and other circumstances of the child and the financial ability of each spouse to contribute to the support of the child. [emphasis added].*

As stated by the Ontario Court of Appeal in *Senos v. Karcz*:

The factors to be considered in determining whether the Guidelines approach is “inappropriate” and the “appropriate” level of support are the conditions, means, needs and other circumstances of the child and the financial ability of both parents to contribute. Only after examining all the circumstances of the case should a court find the table amount to be inappropriate and craft a more suitable support award.”¹⁰

Where the adult “child” is a recipient of disability benefits, the majority of cases in Ontario employ a “tailor made” approach to formulating child support under s. 3(2)(b), including considering the child’s budget and needs, and revenue sources available to the child.

effective October 1, 2021, child support payments will no longer affect the amount of social assistance received by a family or individual in New Brunswick — see, New Brunswick Canada, News Release (September 27, 2021), “Changes to social assistance programs increase financial support to social assistance recipients”, online at <https://www2.gnb.ca/content/gnb/en/departments/social_development/news/news_release.2021.09.0666.html>

¹⁰ See, *Senos v. Karcz*, 2014 ONCA 459, 2014 CarswellOnt 7900, 120 O.R. (3d) 321 (Ont. C.A.), reversing 2013 ONSC 259, 2013 CarswellOnt 1970 (Ont. Div. Ct.) [*Senos*] at para. 37, additional reasons 2014 CarswellOnt 14447 (Ont. C.A.), citing *Francis v. Baker*, 1999 CarswellOnt 2734, 1999 CarswellOnt 2948 (S.C.C.); see also more recently after the ODSP “clawback” legislative change, *Laramie v. Laramie*, 2018 ONSC 4740, 2018 CarswellOnt 13078 (Ont. S.C.J.) [*Laramie*] at para. 77, citing *Lewi v. Lewi*, 2006 CarswellOnt 2892 (Ont. C.A.), additional reasons 2006 CarswellOnt 3214 (Ont. C.A.) [*Lew*].

Accordingly, when determining support for a disabled adult “child” a 3 (THREE) step analysis is required:

1. Can the adult “child” withdraw from parental charge?¹¹
2. Determine the amount under the Guidelines as if the child were under the age of majority¹².
3. If the presumptive Guidelines approach is inappropriate, determine an amount that is appropriate considering the *condition, means, needs and other circumstances* of the child and the financial ability of each spouse to contribute to the support of the child¹³ - what is referred to as the “tailor made” approach.

Step 1: Can the Adult “Child” Withdraw from Parental Charge?

If the parents cannot agree that their child over the age of majority¹⁴ remains entitled to support, the first step in the analysis is to determine entitlement, which is a fact driven analysis in each case. The onus of proof in establishing entitlement to support is on the party seeking to obtain support.¹⁵

In that regard, if the child’s parents were married, the court looks to whether the child remains a “child of the marriage”¹⁶ for support purposes under section 2(1) of the *Divorce Act*. A “child of the marriage” under section 2(1)(b) of the *Divorce Act* means, “a child of two spouses or former spouses, who, at the material time, . . . is the age of majority or over and under their charge but **unable, by reason of illness, disability or other cause to withdraw from their charge or to obtain the necessities of life**”.

Following the constitutional challenge in *Coates v. Watson*,¹⁷ to section 31 of the *Family Law Act*¹⁸, a section which had excluded entitlement to child support for disabled adult children of *unmarried* parents, the *Family Law Act* was amended in 2017.¹⁹ That amendment extends the *Family Law Act* support obligations to disabled adult children in the same way as the *Divorce Act*. While

¹¹ Section 2(1)(b) of the *Divorce Act*, RSC, 1985, c 3 (2nd Supp); section 31(1)(c) of the *Family Law Act*, RSO 1990, c F3.

¹² Section 3(2)(2) of the Guidelines.

¹³ Section 3(2)(b) of the Guidelines. The Applicable Table under section 3 is the table for the province in which that spouse habitually resides (s. 3 of the Guidelines).

¹⁴ The age of majority varies across Canada, as follows: age 18 in 6 provinces (AB, MB, ON, PEI, QC, SK); and age 19 in 4 provinces (BC, NB, NS, NL) and all 3 territories (YT, NWT, Nunavut).

¹⁵ *Laramie*, *supra* at para. 40.

¹⁶ See *Rebenchuk v. Rebenchuk*, 2007 CarswellMan 59, 35 R.F.L. (6th) 239 (Man. C.A.) for an analysis of adult “children of the marriage”. See also, Bala and Faour, “When Does Childhood End? Canada’s Lengthening Obligation to Support Adult Children” (2014), 33 Can.Fam.L.Q. 69, *supra*.

¹⁷ *Coates v. Watson*, 2017 ONCJ 454, 2017 CarswellOnt 10653 (Ont. C.J.).

¹⁸ *Family Law Act*, RSO 1990, c F3.

¹⁹ *Family Law Act*, c 34, Sched 15, s 1.

section 31(1) of the *Family Law Act* is similar to the wording in section 2(1) of the *Divorce Act*, it makes no reference to the child being *unable to obtain the necessities of life*. Instead, section 31(1)(c) states that, “every parent has an obligation to provide support, to the extent that the parent is capable of doing so, for his or her unmarried child who. . . is **unable by reason of illness, disability or other cause to withdraw from the charge of his or her parents**”.

Evidence of the child’s disability, along with their needs and skills (including life skills), is necessary to establish entitlement to support. Such evidence usually includes without limitation²⁰:

- clinical and therapeutic assessments and reports, including vocational assessments where applicable
- high school report cards (students are permitted under the *Education Act* to stay in school until age 21, including students identified as exceptional pupils and receiving special education programs and services²¹),
- Identification Placement Review Committee (“IPRC”) forms and documentation
- Individual Education Plans (“IEP”s)
- behaviour plans
- current programs of study and education plans.

While in some instances evidence of disability may include consideration of the “child’s” capacity to withdraw from parental charge, capacity in this context should be distinguished from the issue of decision-making capacity and the entitlement to child support for two important reasons. First, the fact that a person lives with a disability should not mean that we presume incapacity for decision-making. In fact, we recognize a presumption of capacity in Ontario²², regardless of medical condition or disability. Second, evidence of capacity or incapacity to manage property or otherwise make decisions about one’s own personal care or finances should not be construed to mean that parents do not have support obligations. Given the vast array of disabilities, a child may require additional supports when it comes to activities of daily living, pursuing education and securing employment well beyond the age of majority, quite apart from decision-making ability. Put another way, an individual with a disability may be capable of making decisions for themselves, but without the means to withdraw from parental charge and still be entitled to support. To the extent that supports for decision-making may be required (for instance, incorporating a Microboard²³

²⁰ See, for example, *Laramie, supra* at paras. 46-47.

²¹ *Education Act*, R.S.O. 1990, c. E.2 at s. 33.

²² *Substitute Decisions Act*, 1992, SO 1992, c 30 at s 2.

²³ A Microboard is comprised of a small group of family and friends who join together with a person with disabilities to create an incorporated not-for-profit organization. Through incorporation, a Microboard formalizes a personal network, ensuring that an individual with disability is supported throughout their lifetime, not only by family members, but by their communities. Microboards provide additional informal supports to people with disabilities, and enhance and facilitate future planning and financial security. For more

or hiring an independent facilitator²⁴), such costs can be factored into the determination of child support.

Step 2: Is the Guidelines Approach Inappropriate?

Once entitlement is found, the court will next determine the amount under the Guidelines as if the child was under the age of majority, that is, by calculating the applicable Table amount and adding any contribution to section 7 (special and/or extraordinary) expenses which is determined to be appropriate.²⁵ This approach applies to children of both married and unmarried parents.²⁶

If that approach is inappropriate based on the particular facts of the case, the court considers an amount that is appropriate having regard to the *condition, means, needs and other circumstances of the child and the financial ability of each spouse to contribute to the support of the child*.²⁷ The term “inappropriate” in the context of section 3(1) of the Guidelines means “unsuitable” rather than “inadequate”.²⁸ As the Court said in *Coates v. Watson*,

*There is a broad discretion with the trial judge to determine whether or not the standard Guidelines approach should be resorted to. However, section 3 creates a presumption in favour of the Table amount being ordered, and the party seeking to deviate from that approach bears the onus of rebutting the presumption. That party is not required to call evidence to rebut the presumption. They may do so by simply questioning the other party's evidence.*²⁹

In many cases³⁰, an adult “child’s” receipt of government benefits is generally sufficient to displace the application of the Guidelines in favour of the

information, please see PooranLaw, (December 14, 2018), “Microboards: A Primer”, online at < <https://pooranlaw.com/microboards-a-primer/> > .

²⁴ Independent facilitation is an ongoing process that guides and support individuals with developmental disabilities and their families in planning for the individuals’ future. For more information, see P4P Planning Network, “Independent Facilitation: A Powerful Tool for Change”, online at < <https://www.planningnetwork.ca/resources/independent-facilitation-a-powerful-tool-for-change> > .

²⁵ See *Coates v. Watson*, 2018 ONCJ 605, 2018 CarswellOnt 15002 (Ont. C.J.); see *Blonski v. Blonski*, 2010 ONSC 2552, 2010 CarswellOnt 2768 (Ont. S.C.J.).

²⁶ See, for example, *Coates v. Watson*, 2018 ONCJ 605, 2018 CarswellOnt 15002 (Ont. C.J.) at para. 74 whereby the child’s parents were not married, and Sullivan J. applied s. 3(2)(b) of the Guidelines.

²⁷ See, s. 3(2) of the Guidelines, and for example, *Coates v. Watson*, 2018 ONCJ 605, 2018 CarswellOnt 15002 (Ont. C.J.); *Brown v. Rowe*, 2016 ONSC 5153, 2016 CarswellOnt 13082 (Ont. S.C.J.); *Currie v. Currie*, 2015 ONCJ 728, 2015 CarswellOnt 19457 (Ont. C.J.); *Laramie, supra*; *Lewi, supra*; *MacEachern v. Bell*, 2019 ONSC 4720, 2019 CarswellOnt 13505, 33 R.F.L. (8th) 68 (Ont. S.C.J.); and *Senos, supra*.

²⁸ See *Coates v. Watson*, 2018 ONCJ 605, 2018 CarswellOnt 15002 (Ont. C.J.) citing Justice Chappel in *Aubert v. Cipriani*, 2015 ONSC 6103, 2015 CarswellOnt 14929 (Ont. S.C.J.).

²⁹ *Ibid* at para. 23.

“tailor made” approach. This would be the case even if the “child” is living at home with a parent, given that the Table amount plus contribution to section 7, special and/or extraordinary expenses assumes that the child has no significant income of their own, which is often the case for most minor children. In that regard, the court will consider a budget for the child, the parent’s means/ability to pay and the child’s sources of revenue, availability and cost of residential facilities and treatment programs, if applicable, and other government funded supports.

Step 3: The “Tailor Made” Approach: Factoring Public Benefits into Child Support Calculations

The receipt of government benefits and social assistance is an important consideration but certainly does not displace the parents’ obligations to support their child and does not in and of itself disentitle a child to support. In Ontario, in particular,

*The Ontario Disability Support Program Act, 1997, S.O. 1997, c. 25, Sched. B. enshrines the objective of creating a **shared responsibility between government and families in meeting the needs of adults with disabilities**. The receipt of ODSP benefits does not in and of itself lead to disentitlement to child support.³¹*

Accordingly, courts may find it appropriate to use the child’s budget to calculate total expenses, less the government funding and then allocate a proportionate share of the balance of the expenses between the parents, depending on each parent’s ability to pay.³²

In the 2019 Ontario decision, *Morden v. Kelly*, referenced above, the child, C.K., was born with serious cognitive and physiological disabilities including severe autism, cerebral palsy, significant developmental delay and epilepsy. He required the constant presence of a caregiver. The proceedings involved a motion to change the final court order in relation to child support as between C.K.’s parents. At the time of the final court order, C.K. was in his mother’s care but as he grew older, his mother was no longer able to care for him, and he moved in with his father. At the time of the hearing, C.K. was 25 years old and was on a wait list to move into residential care. In this case, the parents agreed that C.K.

³⁰ See *Morden, supra*; see also, *Kollmuss v. Kollmuss*, 2015 BCSC 1101, 2015 CarswellBC 1781 (B.C. S.C.), for a decision by the British Columbia Supreme Court that stated that receipt of disability benefits by the adult child is often considered sufficient to trigger a s. 3(2)(b) analysis (at para. 38). See also a more recent decision, *Martin v. Martin*, 2021 BCSC 1515, 2021 CarswellBC 3274 (B.C. S.C.), by the same court, which followed the approach under s. 3(2)(b), but stated that a full consideration of the factors in s. 3(2)(b), as well as the broader objectives of the Child Support Guidelines, should be considered (see para. 47).

³¹ *Morden, supra*, at para. 51; see also, *Senos, supra*; *Chittle v. Chittle*, 2019 ONSC 1433, 2019 CarswellOnt 4145 (Ont. S.C.J.).

³² See *Morden, supra*.

remained entitled to child support, noting that C.K. was “permanently disabled” and was “completely dependent” on his parents to take care of his physical, emotional, health and financial needs. Turning to the primary issue as to the calculation of support for C.K., the court provided an extensive summary of the law regarding these considerations. The court affirmed that C.K.’s receipt of ODSP was an important consideration and did not displace the parents’ obligations to support their child from a family law perspective. *In this case, Justice Braid calculated C.K.’s total expenses, less the government funding (ODSP and Passport), and then allocated a proportionate sharing of the balance of his expenses between the parents.*

Given the cost of supporting a child with a disability, to the extent possible, and considering the child’s specific needs, parents should maximize the entitlement to government benefits. For instance, Passport Funding, which we address in further detail below, provides funding for what are commonly considered special expenses, such as respite assistance to families supporting a child with a developmental disability, along with funding that can be used for the child’s activities including a support worker for the child.

While not a public benefit, extended health plan coverage should be considered as well. Coverage may vary depending on the age and circumstances of the child, and while certain therapies for individuals with disabilities may be covered, including speech and language pathology, occupational therapy, psychology, etc., Applied Behaviour Analysis (ABA) is yet to be recognized as a regulated health profession in Ontario, despite its effective and common use for individuals with autism spectrum disorder (ASD) and other developmental disabilities. Accordingly, ABA therapy is not covered under most extended health plans and can be very expensive for families depending on the level of intensity of service that their child requires. If a child over the age of majority is still receiving and/or requires ABA therapy, evidence of the child’s clinical needs for the duration and intensity of behaviour therapy (hours weekly) is necessary when determining the appropriate amount of support. For example, the Ontario Autism Program is only available to children under the age of 18 so any therapies that a child over 18 requires will need to be paid out of pocket.

PART II: PUBLIC BENEFITS, TAX CREDITS & SOCIAL PROGRAMS

(a) Social Assistance in Ontario

(i) Program Eligibility

Ontario Disability Support Program (“ODSP”) is the provincial social assistance program that provides income & employment supports to low-income residents living with a disability³³. In order to qualify for ODSP benefits, an applicant needs to meet the following criteria:

³³ Note: The Ontario Works social assistance program is available to low-income residents

- Age 18 to 65 years (though applications can be submitted 6 months prior to the intended recipient's 18th birthday)
- Resident in Ontario
- Financially eligible and medically eligible for benefits³⁴

For the purposes of ODSP, the definition of disability is a substantial physical or mental impairment that is expected to last one year or more, and which affects the person's ability to care for themselves, take part in community life, or work.³⁵ A disability need not be permanent or life-long in order to meet the test for ODSP eligibility. Note that someone who has been found eligible for DSO-funded services (explained below) is automatically **medically** eligible for ODSP.³⁶

(ii) *Benefits*

The main benefit of ODSP is the monthly income support. The maximum that a single recipient can currently expect to receive is \$1,169 per month (divided into a basic needs amount of \$672 and a maximum shelter amount of \$497).³⁷ In addition to the income support, there are a variety of other benefits available for the recipient and their dependents, including:

- o dental coverage
- o vision care
- o hearing assessments and aids
- o prescription drug coverage
- o medical transportation costs and medical supplies
- o special diet allowance (up to \$250 per month)
- o disability-related items/services (assistive devices, mobility devices, guide dogs)
- o employment incentives (for instance, the cost of training programs, childcare, and other work-related expenses)
- o housing-related benefits (for home repairs, or to help people stay in their home or move to a new home)

(iii) *Income and Asset Rules*

In order to qualify and remain eligible for ODSP benefits, a recipient must stay within their income and asset limits each month. Certain forms of income are deducted dollar-for-dollar from an ODSP cheque, including spousal support, some benefits payable under the Canada Pension Plan, Workplace Safety and Insurance Board benefits, and other income replacement benefits.³⁸ However, as

of Ontario who may be unemployed or earning only minimal employment income for reasons that do not relate to disability.

³⁴ *ODSPA, supra* at ss 5(1).

³⁵ *Ibid.*, at ss 4(1).

³⁶ *O Reg 222/98, supra* at ss.4.(1)3.

³⁷ *Ibid.*, at ss 30 and 31.

set out above, child support payments are fully exempt as income, as are withdrawals from an RDSP (more on this below).³⁹

For its part, employment income is deducted at a rate of 50% after the first \$200 (net) earned in a given month.⁴⁰ In addition, recipients are allowed to receive gifts and voluntary payments totalling \$10,000 per 12-month period (including income from trusts), in addition to unlimited payments received for disability-related needs, including supports, services and assistive devices. The asset limit for a single person is \$40,000.⁴¹ However, there are a number of assets that the ODSP recipient is allowed to own in their name, which do not count towards their asset limit. These include⁴²:

- One principal residence
- One vehicle
- An RDSP or RESP
- An inheritance trust up to a maximum amount of \$100,000
- A Henson Trust (no matter the value; ODSP does not consider this type of trust as belonging to the ODSP recipient, as the trustees have absolute discretion with respect to management of the asset and payments from the trust).⁴³

To the extent that estate planning becomes part of separation discussions, parents need to keep in mind ODSP's rules about both income and assets, to ensure that their child's ODSP benefits are not interrupted or terminated. *In particular, parents will need to be careful about leaving direct gifts to family members on ODSP and instead explore some key estate planning tools, including the use of formal trusts to hold liquid assets and/or real property.*

(iv) ODSP Recipient Living with Family

It is common for an individual that is living with their family not to receive the full ODSP benefit rate of \$1,169 per month and to receive instead the board and lodge rate by default. This is because ODSP's internal policy directive classifies recipients who receive meals and lodging from a single source to be boarders, rather than renters.⁴⁴

However, it is often the case that adults are unable to live independently because of their disability. While the term "board and lodging" is not defined under the *Ontario Disability Support Program Act, 1997* or related Regulations, to properly classify these situations requires going beyond the mere fact that an individual receives lodging and some food from their parent; the recipient's

³⁸ *Ibid.*, s. 37.

³⁹ *Ibid.*, ss. 43.(1) 35 and 43.(1). 15.4-15.6

⁴⁰ *Ibid.*, s. 38.

⁴¹ *Ibid.*, ss. 27. (1).

⁴² *Ibid.*, ss. 28. (1); see also ODSP Policy Directives 4.1, 4.7 and 4.8.

⁴³ ODSP Policy Directive 4.7.

⁴⁴ ODSP Policy Directive 6.3.

individual circumstances must be considered.⁴⁵ The Social Benefits Tribunal (“SBT”) has commented that “at first blush,” section 33 of Ontario Regulation 222/98, which outlines the board and lodge rates, appears to discriminate against some ODSP recipients based on the very nature of their disability, by denying those recipients the additional monetary benefits afforded to “renters.”⁴⁶

This board and lodge issue opens the door for appeals to the SBT and to the Human Rights Tribunal of Ontario. Parents should consider advocating with their local ODSP offices for the full benefit rate, which will likely involve entering into a cost sharing agreement with their adult child. Needless to say, the additional \$273 per month can significantly improve the quality of life of their adult child with a disability. Moreover, parents may consider taking their child’s monthly payment towards the expenses of the home and contributing to an RDSP and/or purchasing a life insurance policy for themselves that will in turn fund the child’s Henson Trust after the parent’s passing.

(v) ODSP Trusteeship

In cases where an ODSP recipient is unable to manage their monthly benefits without assistance, an ODSP trustee can be appointed through a fairly informal process with the local office. In this way, parents can receive and manage ODSP funds for the benefit of their adult child. There is no requirement that the parent produce a Power of Attorney or Guardianship Order in order to be named trustee. Rather, the ODSP office simply needs to be satisfied that the recipient is “using or is likely to use his or her income support in a way that is not for the benefit of himself.”⁴⁷ This can usually be accomplished by providing a recent assessment or attending the ODSP office for an interview with the adult child. The following information will help counsel and family law litigants to determine the appropriate amount of support for an adult “child” living with a disability. We suggest including these documents in your requests for disclosure.

Suggested Disclosure to Request

- ✓ Clinical assessments and reports
- ✓ ODSP approval letter (look for any applicable medical review dates)
- ✓ ODSP benefit statements
- ✓ Bank account statements (where ODSP is deposited by recipient or trustee)
- ✓ Any documentation between ODSP and a parent regarding trusteeship

(b) Disability Tax Credit

The DTC is a federal designation that identifies a person as having a disability under the Canada Revenue Agency (CRA) tax regime. Note that the DTC test for disability is a higher bar than the ODSP test; generally, a person

⁴⁵ SBT 1408-09495 (February 20, 2015), at para 16.

⁴⁶ SBT 1302-01315 (January 23, 2014), at para 19.

⁴⁷ ODSP Policy Directive 10.2.

must have an “impairment that is severe, prolonged and restricts basic activities of daily living”.⁴⁸ *A medical professional must complete the DTC application form (T2201)*.⁴⁹

With the DTC, an individual will be eligible to open an RDSP (more on this below) and qualify for a number of benefits, including:

- o Child Disability Benefit — a monthly benefit of up to \$236 per month, which is a supplement to the Canada Child Tax Benefit;
- o Child Care Expenses — up to \$11,000 in expenses may be claimed for dependent children with disabilities;
- o Home Buyers Tax Credit - \$750 available to eligible individuals or supporting family members to purchase a home;
- o Home Accessibility Credit — up to \$10,000 available for renovations to make a home more accessible;
- o Attendant Care Expenses of up to \$10,000 may be claimed.

While there is no age restriction on who may be eligible for the DTC, it may be necessary to re-qualify in the future if the DTC carries an expiration date. There is also a prescribed appeal process for those who are denied the DTC, whether upon the initial application, or subsequent re-applications.

Suggested Disclosure to Request

- √ Confirmation letter(s) from the Canada Revenue Agency (“CRA”) approving the DTC, with any applicable expiration periods
- √ Copy of the diagnosing clinician’s letter(s) and any updated renewal forms for the DTC
- √ Parent’s tax returns filed by parent (to determine whether the DTC is being claimed)
- √ Child’s tax returns from age 17 onward (tax returns must be filed for the child in order to maximize government contributions to the RDSP)

(c) Savings Tools: the RDSP vs RESP

(i) Overview

The Registered Disability Savings Plan (“RDSP”) is a federal long-term savings plan designed for persons with disabilities. While the RDSP can provide a steady income supplement to an adult child, it is important to note that the plan cannot be accessed without substantial penalties until 10 years after the last government contribution is made. The early withdrawal penalty can be as much as three times the amount of the withdrawal, up to the total amount of government contributions made to the RDSP in the previous 10 years. For most people, that means that the RDSP is not accessible until the year in which they

⁴⁸ *Income Tax Act*, RSC, 1985, c 1 (5th Supp), ss 118.3 (1).

⁴⁹ “Medical Professional” may include an audiologist, dentist, medical doctor, medical practitioner, nurse, nurse practitioner, occupational therapist, optometrist, pharmacist, physiotherapist, psychologist or speech-language pathologist; *Ibid.*, ss. 118.4 (2).

turn 59. In considering an adequate amount of child support then, the RDSP should not be a significant factor until later in that child's life. Moreover, some courts have found that payments into an RDSP are elective and as such, contributions may not appropriately be considered section 7 expenses.⁵⁰

The RDSP represents an important savings tool for adults who are not tied to the labour force and therefore cannot count on RRSPs or CPP retirement benefits in their later years. The RDSP is quite different from a Registered Education Savings Plan ("RESP"). An RESP is meant to provide support for post-secondary education and does not carry significant early withdrawal penalties. Some parents may already have a RESP opened for their adult child and later come to recognize that post-secondary education will be unlikely. In those circumstances, the accumulated growth in the RESP can be transferred on tax-deferred basis to an RDSP, with the capital returning to the subscriber and government contributions returning to the government.⁵¹

(d) Contributions and ODSP Rules

The RDSP has a lifetime personal contribution limit of \$200,000, with government contributions available each year, whether or not personal contributions are made to the plan. Through its grants and bonds, the government may contribute up to \$90,000 over a person's lifetime. For those opening up an RDSP for the first time, retroactive grants and bonds may be available up to ten years prior. A financial advisor should be consulted to discuss optimal personal contributions as well as available government grants and bonds. Grants match personal contributions while bonds are based on family income (or the income of the person with a disability, once they are 19 years or older).

The RDSP is an exempt asset for ODSP purposes, meaning that it does not count towards the person's maximum limit of \$40,000. Moreover, withdrawals from the RDSP are considered fully exempt as income for any purpose⁵².

(e) DTC and Plan Holder Status

To open an RDSP, the person must have the DTC, be a Canadian resident and have a valid Social Insurance Number. If the person loses DTC eligibility in a given year, the RDSP can remain open, but they would not receive government contributions until such time as they re-qualify for the DTC. If an adult child with a disability is unable to sign the paperwork or manage the RDSP themselves due to lack of capacity, then a spouse, common law partner or parent can become the plan holder. A guardian or attorney for property may also be the

⁵⁰ *Blonski v. Blonski*, 2010 ONSC 2552, 2010 CarswellOnt 2768 (Ont. S.C.J.).

⁵¹ Government of Canada, (January 13, 2020), "RDSP Bulletin No. 4R1", online at <https://www.canada.ca/en/revenue-agency/services/tax/registered-plans-administrators/bulletins/rdsp-bulletin-no-4.html>.

⁵² O Reg 222/98, *supra*s. 43(1) 15.6; ODSP Policy Directive 4.10.

plan holder. For separating parents, we therefore recommend specifying in the separation agreement who the plan holder will be.

Regardless of who actually manages the account, the beneficiary can only be the person with a disability. Importantly, if the person with a disability passes away, the RDSP forms part of their estate, not the estate of the parent or plan holder. This is different from a RESP, where the owner of the account is usually the parent. If the child passes away without a will, then the RDSP funds will be passed out according to Ontario's intestacy laws.⁵³

If you act for the parent who solely contributes to the RDSP after separation and the child predeceases the parents, it is prudent to obtain financial and tax planning advice and negotiate whether the non-contributing parent will reimburse your client from the funds paid out of the RDSP upon the child's death. If this is agreed upon, incorporate these terms into the separation agreement and include a dispute resolution process for the disbursement of the fund.

Suggested Disclosure to Request

- ✓ RDSP account statements
- ✓ RESP account statements
- ✓ Guardianship Order or Continuing Power of Attorney for Property

(i) DSO & Passport Funding

The Ministry of Children, Community and Social Services ("MCCSS") offers various initiatives that provide funding for services and supports for adults with developmental disabilities. Developmental Services Ontario ("DSO") is the gateway to access funding, services and supports to facilitate community involvement, respite for family members and options for housing. One of the most well-known funding sources is Passport, which is administered through various agencies across the province. Passport dollars can be used for various activities and supports, for instance:

- Community events and social activities
- Programs, classes and supports aimed at developing independence, social and life skills
- Pre-employment and employment supports
- Transportation costs
- Support workers to assist with community engagement
- Respite for caregivers
- Person-directed planning with independent facilitators⁵⁴

Passport funding is often administered by a parent on behalf of an adult child with an intellectual disability and therefore, these dollars should be considered when budgeting for the needs of that child. Passport funding typically

⁵³ *Succession Law Reform Act*, RSO 1990 c S 26.

⁵⁴ For more information about Passport, see: <https://www.dsontario.ca/passport-program>.

covers what would generally fall within a child’s special and/or extraordinary expenses.⁵⁵ Its impact on the overall child support to be paid will vary depending on whether the Table amount plus s. 7 expenses is paid, or a tailor made/budget analysis is used, incorporating all of the child’s expenses.

Complications can arise when one parent is the Person Managing Funds (“PMF”) for Passport purposes and the other parent wishes to engage Passport dollars for respite, community and social activities while their child is in their care. If the DSO agency will only permit one PMF, this will have to be negotiated or litigated by the parents as to who manages the funds and the allocation of Passport funds between them when the child is in their care. This is particularly important for respite since the range of pay for respite workers varies. Passport does not have stringent requirements for who qualifies as a respite worker (unlike other government-funded programs for respite, such as the LHIN⁵⁶) and each parent may employ their own workers.

Suggested Disclosure to Request

- ✓ Passport Service Agreement, including designation of the PMF
- ✓ DSO application and approval letter(s) with any corresponding assessments

2. MOVING FORWARD

We encourage family law lawyers to engage the appropriate estate, tax and financial planning professionals when addressing support for a disabled adult “child”. Family law lawyers also need an understanding of the government benefits, programs, credits and subsidies that are available. It goes without saying that supporting a child with a disability is costly for families. While we hope that parents and caregivers can agree on when support remains appropriate for their child living with a disability, that is not always the case. Entitlement is the starting point in the analysis. Next, to determine whether the Guidelines approach is appropriate, a careful consideration of the adult “child’s” needs and means is required, taking into account the particular nature of their disability while respecting and supporting their decision-making capacity to the fullest extent possible.

A “tailor made” approach appropriately considers the unique needs of each individual living with a disability, even if it is challenging for counsel seeking

⁵⁵ *McAdam Estate v. McAdam*, 2006 CarswellOnt 1031, 27 R.F.L. (6th) 173 (Ont. S.C.J.), additional reasons 2006 CarswellOnt 2343 (Ont. S.C.J.); *Liscio v. Avram*, 2009 CarswellOnt 4882, 75 R.F.L. (6th) 176 (Ont. S.C.J.); *C.M. v. G.M.*, 2020 NBCA 17, 2020 CarswellNB 136, 2020 CarswellNB 137, 38 R.F.L. (8th) 303 (N.B. C.A.), affirming 2019 NBQB 182, 2019 CarswellNB 425 (N.B. Q.B.); *Kollmuss v. Kollmuss*, 2015 BCSC 1101, 2015 CarswellBC 1781 (B.C. S.C.).

⁵⁶ The Local Health Integration Networks are Ontario’s gateway to publicly-funded health programs and services, including mental health and addiction service agencies, community health centres, and long-term care homes.

precedent. The approach compels family law counsel to conduct due diligence with their client to understand the condition, means, needs and other circumstances of the child and determine what information is necessary to establish the appropriate level of support, including considering each parent's financial ability to contribute to the child's support.

APPENDIX A: IMPACT OF CHILD SUPPORT ON DISABILITY BENEFITS

PROVINCE	CHILD SUPPORT - EXEMPT AS INCOME	CHILD SUPPORT DEDUCTED
Alberta	<ul style="list-style-type: none"> Assured Income for the Severely Handicapped (AISH): income for the benefit of a dependent child” under a “child support agreement” and “The Child, Youth and Family Enhancement Act” are not considered income by AISH⁵⁷ 	
British Columbia	<ul style="list-style-type: none"> Child support payments are exempt as income for families receiving income and disability assistance effective Sept. 1, 2015⁵⁸ 	
Manitoba		<ul style="list-style-type: none"> Employment and Income Assistance — EIA - Manitoba is in the process of developing a new income support program for Manitobans with severe and prolonged disabilities that is distinct from Employment and Income Assistance.⁵⁹ Currently, child support payments are assessed against eligibility for EIA and applied against monthly budgets⁶⁰

⁵⁷ < <http://www.humanservices.alberta.ca/AWOnline/AISH/7222.html> > and is fully exempt; Child support for the benefit of an AISH client over age 18 is fully exempt < http://www.humanservices.alberta.ca/AWOnline/documents/Income%20Type%20Exemption%20Table_May%202021.pdf > — on page 8.

⁵⁸ < <https://news.gov.bc.ca/releases/2015SDSI0008-000201> > .

⁵⁹ < <https://www.gov.mb.ca/fs/disability-income-program-consultations.html> > .

⁶⁰ EIA also provides a benefit to help with the cost of living with a disability in the community (Income Assistance for Persons with Disabilities). “Ongoing unearned income (e.g., child maintenance, Canada Pension Plan Retirement or Disability, Employment Insurance, etc.) received by participants in the current calendar month is to

PROVINCE	CHILD SUPPORT - EXEMPT AS INCOME	CHILD SUPPORT DEDUCTED
New Brunswick	<ul style="list-style-type: none"> Child support payments no longer affect the amount of social assistance received by a family or individual in New Brunswick (effective October 1st, 2021)⁶¹ 	
Nova Scotia	<ul style="list-style-type: none"> Disability support program — child support is exempt as income⁶² 	
Newfoundland and Labrador	<ul style="list-style-type: none"> NL does not have a social assistance program specifically for people with disabilities but has other programs through which people with disabilities can receive extra funding (in addition to the welfare amount.⁶³ Effective June 1, 2019, child support benefits are exempt from Income Support eligibility (payments predating June 1, 2019 are not exempt). As child support 	

be applied against EIA financial eligibility for the following benefit month.” “For convenience in this section, both spousal maintenance and child support are referred to as “maintenance”.” “Participants who have a maintenance agreement or order, or who may be required to seek maintenance, must have their maintenance status assessed using the EIA Family Maintenance Plan.” “If participants choose not to assign their maintenance, the amount of maintenance payments set out in agreements or orders that is received during the current calendar month is assessed against financial benefits for the following benefit month”. “In addition to maintenance payments that are being applied against the EIA participant’s monthly budgets, or that are assigned via MEP, lump-sum maintenance payments (e.g., for maintenance arrears owing) may also be received by the participant. These amounts are to be viewed as an available financial resource that must be assessed against the household’s ongoing financial eligibility following standing unearned income policy” (https://www.gov.mb.ca/fs/eia_manual/15.html).

⁶¹ New Brunswick Canada, News Release (September 27, 2021), “Changes to social assistance programs increase financial support to social assistance recipients”, online at < https://www2.gnb.ca/content/gnb/en/departments/social_development/news/news_release.2021.09.0666.html

⁶² < https://novascotia.ca/coms/disabilities/documents/spd_public_policy.pdf >, page 28.

⁶³ < <https://www.gov.nl.ca/hcs/personsdisabilities> > .

PROVINCE	CHILD SUPPORT - EXEMPT AS INCOME	CHILD SUPPORT DEDUCTED
	<p>became exempt effective June 1, 2019, income support benefits will not be adjusted for delinquent child support payments issued for June 1 onward</p> <ul style="list-style-type: none"> Funds collected with a covering period before June 1, 2019 are considered non-exempt income and must be deducted from Income Support eligibility⁶⁴ 	
Northwest Territories	<ul style="list-style-type: none"> Income Assistance Program (program provides assistance with shelter and utilities based on actual amounts). Allowances for people with disabilities is available. Excluded income includes child support — these monies are not counted and are exempt⁶⁵ 	
Nunavut		<ul style="list-style-type: none"> Income Assistance Program (no separate program for people with disabilities). Eligibility determined by an income assistance worker. Unclear whether child support would be exempt or clawed back⁶⁶
Ontario	<ul style="list-style-type: none"> In January 2017, amendments to the <i>Ontario Disability Support Program Act, 1997</i> and the <i>Ontario Disability Support Program General</i> 	

⁶⁴ < <https://www.gov.nl.ca/ipgs/files-policymanual/policymanual-pdf-is-assess-support-pay.pdf>. >

⁶⁵ < https://www.ece.gov.nt.ca/sites/ece/files/resources/income_assistance_handbook_-_aug_2019.pdf. >

⁶⁶ < <https://www.justice.gov.nt.ca/en/files/legislation/social-assistance/social-assistance.r1.pdf>. >

PROVINCE	CHILD SUPPORT - EXEMPT AS INCOME	CHILD SUPPORT DEDUCTED
	<p><i>Regulation</i> came into effect, exempting child support payments as income, such that the receipt of child support no longer impacts a person's eligibility for ODSP, regardless of age. The child support may be paid to the recipient of ODSP, or a person on their behalf, such as a parent, without any corresponding "claw back" from the ODSP entitlement⁶⁷</p>	
<p>Prince Edward Island</p>	<ul style="list-style-type: none"> Effective in approx. October 2018, the PEI government made significant changes to social assistance to empower Islanders and help them improve their lives, including that child support payments are not counted as income so they won't lower social assistance benefits⁶⁸ 	
<p>Quebec</p>	<ul style="list-style-type: none"> Social Solidarity Program for a "single adult or for families in which one or more adults have severely limited capacity for employment"⁶⁹ The social assistance program (which is different from the social solidarity program) requires recipients to seek child support which is partially exempt. However, it states that "parental 	

⁶⁷ *Ontario Disability Support Program Act, 1997*, SO 1997, c 25, Sched B, [ODSPA]; *Ontario Regulation 222/98: GENERAL* under ODSPA [O Reg 222/98].

⁶⁸ < <https://www.princeedwardisland.ca/en/information/family-and-human-services/social-assistance-renewal> > .

⁶⁹ < <https://www.quebec.ca/en/family-and-support-for-individuals/social-assistance-social-solidarity> > .

PROVINCE	CHILD SUPPORT - EXEMPT AS INCOME	CHILD SUPPORT DEDUCTED
	contribution does not apply to the Social Solidarity Program ⁷⁰	
Saskatchewan		<ul style="list-style-type: none"> • SAID — Saskatchewan Assured Income for Disability — child support payments “deducted in total” from benefits⁷¹
Yukon		<ul style="list-style-type: none"> • Social assistance program that applies to people with disabilities who may qualify for supplementary allowance, but no separate disability social assistance program⁷² • Section 8(1)(h) of the Social Assistance Act states that child support is considered income, therefore not exempt⁷³

⁷⁰ < <https://www.quebec.ca/en/family-and-support-for-individuals/social-assistance-social-solidarity/calculating-basic-benefit/calculation-benefit> > .

⁷¹ see page 14 of the SAID Guidebook 2020: < <http://www.saskdisc.ca/wp-content/uploads//DISC-SAID-Guidebook-April-2020.pdf> > .

⁷² < <https://yukon.ca/en/legal-and-social-supports/supports-adults-and-seniors/apply-allowance-supplement-your-social> > .

⁷³ < https://laws.yukon.ca/cms/images/LEGISLATION/regs/oic2012_083.pdf > .

APPENDIX B: TOOLS & RESOURCES

Our law firm, PooranLaw, is led by a group of like-minded lawyers who have devoted the majority of their personal and professional lives to promoting inclusion, enhancing the lives of people with disabilities and working to improve the greater social good. Our varied practice areas include family law, estate planning and social and public benefits law, which includes challenges to ODSP benefit rates (i.e., the board and lodge classification).

In partnership with Community Living Ontario, PooranLaw publishes an estate planning guide with information on a variety of topics including ODSP, DTC, RDSP. Our most recent edition of the *Inspiring Possibilities Estate Planning Guide* is available for download here:

<https://communitylivingontario.ca/en/estate-guide>

We have also built a network of trusted professionals and agencies that support our clients' needs. See for instance:

- Ability Tax and Trust Advisors for tax advice, DTC appeals (<http://www.abilitytax.ca/>)
- Partners for Planning — planning support, independent facilitation (<http://www.partnersforplanning.ca/>)
- Local Community Legal Clinics — for legal advice regarding ODSP and social assistance programs. Please note that legal clinics only provide services to individuals/families considered low-income (<https://www.legalaid.on.ca/legal-clinics/>).

APPENDIX C: RELEVANT CASE LAW

1. <i>Aubert v. Ciprian</i> , 2015 ONSC 6103, 2015 CarswellOnt 14929 (Ont. S.C.J.).
2. <i>Blonski v. Blonsk</i> , 2010 ONSC 2552, 2010 CarswellOnt 2768 (Ont. S.C.J.).
3. <i>Brown v. Rowe</i> , 2016 ONSC 5153, 2016 CarswellOnt 13082 (Ont. S.C.J.).
4. <i>Chittle v. Chittle</i> , 2019 ONSC 1433, 2019 CarswellOnt 4145 (Ont. S.C.J.).
5. <i>C.M. v. G.M.</i> , 2020 NBCA 17, 2020 CarswellNB 136, 2020 CarswellNB 137, 38 R.F.L. (8th) 303 (N.B. C.A.), affirming 2019 NBQB 182, 2019 CarswellNB 425 (N.B. Q.B.).
6. <i>Cossette v. Cossette</i> , 2003 CarswellOnt 4142 (Ont. S.C.J.).
7. <i>Currie v. Currie</i> , 2015 ONCJ 728, 2015 CarswellOnt 19457 (Ont. C.J.).
8. <i>Coates v. Watson</i> , 2017 ONCJ 454, 2017 CarswellOnt 10653 (Ont. C.J.) (constitutional question).
9. <i>Coates v. Watson</i> , 2018 ONCJ 605, 2018 CarswellOnt 15002 (Ont. C.J.) (child support).
10. <i>Ethier v. Skrudland</i> , 2011 SKCA 17, 2011 CarswellSask 90 (Sask. C.A.)
11. <i>Geran v. Geran</i> , 2011 CarswellSask 333, 97 R.F.L. (6th) 68 (Sask. C.A.)
12. <i>Hunchak v. Anton</i> , 2016 CarswellSask 185, 77 R.F.L. (7th) 77 (Sask. C.A.)
13. <i>Kollmuss v. Kollmuss</i> , 2015 BCSC 1101, 2015 CarswellBC 1781 (B.C. S.C.).
14. <i>Laramie v. Laramie</i> , 2018 ONSC 4740, 2018 CarswellOnt 13078 (Ont. S.C.J.).
15. <i>Lewi v. Lew</i> , 2006 CarswellOnt 2892, 80 O.R. (3d) 321, 267 D.L.R. (4th) 193 (Ont. C.A.), additional reasons 2006 CarswellOnt 3214 (Ont. C.A.).
16. <i>Liscio v. Avram</i> , 2009 CarswellOnt 4882, 75 R.F.L. (6th) 176 (Ont. S.C.J.).
17. <i>Lu v. Sun</i> , 2005 CarswellNS 338, 17 R.F.L. (6th) 57 (N.S. C.A.), leave to appeal refused 2005 CarswellNS 580, 2005 CarswellNS 581 (S.C.C.)
18. <i>Martin v. Martin</i> , 2021 BCSC 2015, 2021 CarswellBC 3274 (B.C. S.C.).
19. <i>McAdam Estate v. McAdam</i> , 2006 CarswellOnt 1031, 27 R.F.L. (6th) 173 (Ont. S.C.J.), additional reasons 2006 CarswellOnt 2343 (Ont. S.C.J.).
20. <i>McClement v. McClement</i> , 2017 CarswellBC 3334, 4 R.F.L. (8th) 267 (B.C. C.A.)
21. <i>Morden v. Kelly</i> , 2019 ONSC 4620, 2019 CarswellOnt 14239 (Ont. S.C.J.), additional reasons 2019 CarswellOnt 16724 (Ont. S.C.J.).
22. <i>N. (W.P.) v. N. (B.J.)</i> , 2005 CarswellBC 10, 10 R.F.L. (6th) 440 (B.C. C.A.)
23. <i>Ontario (Director of Disability Support Program) v. Ansell</i> , 2011 ONCA 309, 2011 CarswellOnt 2658 (Ont. C.A.), affirming 2010 ONSC 686, 2010 CarswellOnt 10729 (Ont. Div. Ct.).
24. <i>Perino v. Perino</i> , 2012 ONSC 328, 2012 CarswellOnt 6099 (Ont. S.C.J.), affirmed 2012 ONCA 899, 2012 CarswellOnt 16432 (Ont. C.A.).

25. <i>Rebenchuk v. Rebenchuk</i> , 2007 CarswellMan 59, 35 R.F.L. (6th) 239 (Man. C.A.)
26. <i>Rémillard v. Rémillard</i> , 2014 MBCA 101, 2014 CarswellMan 661, 379 D.L.R. (4th) 325 (Man. C.A.), additional reasons 2015 CarswellMan 227 (Man. C.A.).
27. <i>Scott v. Scott</i> , 2004 NBCA 99, 2004 CarswellNB 587, 2004 CarswellNB 588 (N.B. C.A.)
28. <i>Senos v. Karcz</i> , 2014 ONCA 459, 2014 CarswellOnt 7900, 120 O.R. (3d) 321 (Ont. C.A.), reversing 2013 ONSC 259, 2013 CarswellOnt 1970 (Ont. Div. Ct.), additional reasons 2014 CarswellOnt 14447 (Ont. C.A.).
29. <i>Turner v. Ansell</i> , 2012 ONSC 2598, 2012 CarswellOnt 5498 (Ont. S.C.J.)
30. <i>Weber v. Weber</i> , 2020 ONSC 4098, 2020 CarswellOnt 9229 (Ont. S.C.J.), additional reasons 2020 CarswellOnt 16549 (Ont. S.C.J.)
31. <i>Wetsch v. Kusk</i> , 2017 CarswellSask 483, 1 R.F.L. (8th) 290 (Sask. C.A.), leave to appeal refused <i>Holli Anne Kuski v. Travis John Wetsch</i> , 2018 CarswellSask 291, 2018 CarswellSask 292 (S.C.C.)

APPENDIX D: LEGISLATION

<i>Divorce Act</i> , RSC, 1985, c 3 (2nd Supp).
<i>Education Act</i> , R.S.O. 1990, c. E.2 at s. 33.
<i>Family Law Act</i> , RSO 1990, c F3.
<i>Federal Child Support Guidelines</i> , SOR/97-175, as amended.
<i>Income Tax Act</i> , RSC, 1985, c 1 (5th Supp).
<i>Ontario Disability Support Program Act</i> , 1997, SO 1997, c 25, Sched B.
<i>Ontario Regulation 222/98: GENERAL under ODSPA.</i>
<i>Substitute Decisions Act</i> , 1992, SO 1992, c 30.
<i>Succession Law Reform Act</i> , RSO 1990.