



1980

c 515 Unified Family Court Act

Ontario

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CHAPTER 515

Unified Family Court Act

1. In this Act,

Interpretation

- (a) "county court" includes a district court;
- (b) "Court" means the Unified Family Court;
- (c) "Judge" means a judge who may preside over the Court;
- (d) "judicial district" means the Judicial District of Hamilton-Wentworth. 1976, c. 85, s. 1.

2. There shall be a court of record in and for the Judicial District of Hamilton-Wentworth called the "Unified Family Court". 1976, c. 85, s. 2.

Court established

3.—(1) The Unified Family Court shall be presided over by a judge of a county court who is a local judge of the Supreme Court and a judge of a surrogate court and who is authorized under subsection (2) to exercise the jurisdiction of a judge of a provincial court (family division). 1976, c. 85, s. 3 (1); 1977, c. 4, s. 1 (1).

Presiding judges

(2) The Lieutenant Governor in Council may authorize a judge of a county court who is a local judge of the Supreme Court and a judge of a surrogate court to exercise the jurisdiction of a judge of a provincial court (family division). 1976, c. 85, s. 3 (2); 1977, c. 4, s. 1 (2).

Authority for family court matters

(3) All the jurisdiction of the Supreme Court or a judge thereof set out in the Schedule, other than by way of appeal, may be exercised by a local judge of the Supreme Court who is a Judge who may preside over the Unified Family Court. 1976, c. 85, s. 3 (3); 1977, c. 4, s. 1 (3).

Jurisdiction of local judge of Supreme Court

(4) A Judge shall exercise his jurisdiction as a local judge of the Supreme Court, a judge of a county court, a judge of a provincial court (family division) or a judge of a surrogate court in the matters in which the Supreme Court, a county court, a provincial court (family division) or a surrogate court or a judge thereof has jurisdiction set out in the Schedule. 1976, c. 85, s. 3 (4); 1977, c. 4, s. 1 (4, 5).

Exercise of existing jurisdiction

Ex officio
justice of
the peace

(5) A Judge is *ex officio* a justice of the peace. 1976, c. 85, s. 3 (5).

Amendment
by
proclamation

(6) The words underlined in subsections (1), (2) and (4) are repealed on a day to be named by proclamation of the Lieutenant Governor. 1977, c. 4, s. 1 (6).

Proceedings
in Unified
Family Court

4.—(1) Proceedings taken in a court or before a judge in the judicial district in the matters set out in the Schedule, other than by way of appeal, shall be commenced and styled in the Unified Family Court and the jurisdiction of the court or judge shall be exercised in the Unified Family Court. 1976, c. 85, s. 4 (1); 1977, c. 4, s. 2.

Assigned
jurisdiction

(2) The Unified Family Court has and may exercise such other jurisdiction as is conferred upon it by or under any Act.

Parents
patriae
powers

(3) The Court has and may exercise the same *parents patriae* powers as the Supreme Court in respect of any matter before it.

Jurisdiction
exercised by
Judges

(4) The jurisdiction of the Court shall be exercised by a Judge. 1976, c. 85, s. 4 (2-4).

Consent to
jurisdiction

5. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the Judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the Court may, by leave of the Judge and with the consent of the parties, determine and dispose of the combined matters. 1976, c. 85, s. 5.

Variation
of orders
under
R.S.O. 1980,
c. 152

6.—(1) The jurisdiction of the Court under Parts I to IV of the *Family Law Reform Act* to rehear applications applies notwithstanding that the original order was made by a judge of the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1977, c. 4, s. 3 (1).

Repeal of
subs. (1)

(2) Subsection (1) is repealed on a day to be named by proclamation of the Lieutenant Governor.

Court
offices

7.—(1) The Court shall have an office and hold sittings in the judicial district.

No jury

(2) All proceedings commenced in or transferred to the Court shall be heard and determined without a jury. 1976, c. 85, s. 6.

8.—(1) In all proceedings in which jurisdiction may be exercised in the Court, the Court has the same powers and duties as the Supreme Court to conduct its proceedings, grant remedies and enforce its judgments, orders and other process.

Powers

(2) Sections 27, 34, 36, 38, 79, 80 and 122 of the *Judicature Act* apply to the Court and to Judges presiding in the Court, with necessary modifications. 1976, c. 85, s. 7.

Application of R.S.O. 1980, c. 223

9.—(1) Proceedings under section 4 may be commenced in the Court where the applicant or the respondent resides in the judicial district.

Place where proceedings commenced

(2) A Judge may, upon application, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court where, in the opinion of the Judge, there is a preponderance of convenience for the matter to be dealt with by that court.

Transfer to other court

(3) A judge of a court having jurisdiction in a matter referred to in section 4 in a county or district other than the judicial district may, upon application, order that the proceeding in the matter be transferred to the Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that Court.

Transfer from other court

(4) A judge making an order under subsection (2) or (3) may give such directions for the transfer and order such costs as he considers appropriate. 1976, c. 85, s. 8.

Directions and costs

10. The Court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding Judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public. 1976, c. 85, s. 9.

Closed hearings

11.—(1) Where a proceeding is commenced in the Court in a matter respecting which jurisdiction may not be exercised in the Court, the Court may order by and to whom the costs of the proceeding shall be paid.

Costs where no jurisdiction

- References (2) The Court may direct a reference to any officer of the Court in accordance with the rules of the Court. 1976, c. 85, s. 10.
- Contempt **12.**—(1) The Court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed six months.
- Conditions of sentence (2) The imposition of a penalty under subsection (1) may be made conditional upon default in the performance of an undertaking and an order for imprisonment may provide for the imprisonment to be served intermittently. 1976, c. 85, s. 11.
- Where Judge leaves office **13.** Where a Judge ceases to hold office, he may within eight weeks give judgment or make an order or decision in a proceeding previously heard by him as if he had continued in office. 1976, c. 85, s. 12.
- Status of orders **14.** Any order or judgment of a Judge sitting in the Unified Family Court made in the exercise of his jurisdiction as a local judge of the Supreme Court or a judge of the county court is an order of the Supreme Court or the county court, respectively, for all purposes. 1976, c. 85, s. 13.
- Appeals **15.**—(1) Subject to subsection (2), any provision for an appeal from an order or decision made under the statutory provisions set out in the Schedule applies to the order or decision when made in the exercise of the jurisdiction by a Judge presiding over the Unified Family Court.
- Idem (2) Any provision for an appeal to a county court or a judge thereof from an order or decision made under the statutory provisions set out in the Schedule shall be deemed to provide for an appeal to a judge of the Supreme Court in accordance with the rules of that court and, on the appeal, the court may set aside the order and direct any other order to be entered or may direct a new trial and may make such other order as to costs and otherwise as appears just.
- Idem (3) Where no provision is made for an appeal from an order or decision of a Judge presiding over the Unified Family Court, an appeal lies,
- (a) to the Court of Appeal from a final order or decision;

(b) to a judge of the Supreme Court from an interlocutory order or decision,

in accordance with the rules of the Supreme Court. 1976, c. 85, s. 14.

16. A Judge presiding over the Unified Family Court has all the powers of a magistrate under the *Criminal Code* (Canada) for the purposes of proceedings under the *Criminal Code* (Canada) and the Court, Criminal jurisdiction R.S.C. 1970. c. C-34

(a) is a juvenile court for the purpose of dealing with juvenile delinquents under the *Juvenile Delinquents Act* (Canada) and has all the powers vested in a juvenile court under that Act; and R.S.O. 1980. c. J-3

(b) has power to try any child charged with an offence against the laws of Ontario. 1976, c. 85, s. 15.

17. A clerk of the Court and such officers and employees as are considered necessary shall be appointed for the Court under the *Public Service Act*. 1976, c. 85, s. 16. Clerks, officers and employees R.S.O. 1980. c. 418

18. A conciliation service may be established, maintained and operated as part of the Court. 1976, c. 85, s. 17 (2). Conciliation service

19. Every probation officer appointed for the Court has, while acting in the discharge of his duties, all the powers of a police constable. 1976, c. 85, s. 18. Powers of probation officers

20. Every Judge shall take and sign the following oath of office before commencing his duties: Oath of office

I,, swear (or solemnly affirm) that I will truly and faithfully execute the duties, powers and trusts of a Judge presiding over the Unified Family Court, to the best of my skill and knowledge.

So help me God. (Omit this line in an affirmation).

1976, c. 85, s. 19.

21.—(1) The Lieutenant Governor in Council may make rules regulating any matters relating to the practice and procedure of the Court, including, without limiting the generality of the foregoing, Rules of the Court

(a) regulating the duties of officers of the Court;

- (b) regulating the costs of proceedings in the Court;
- (c) providing for the taxation of costs and prescribing tariffs therefor;
- (d) prescribing the seal of the Court;
- (e) designating referees and providing for references to referees and appeals therefrom;
- (f) prescribing and regulating the proceedings under any Act that confers jurisdiction upon the Court or a judge sitting therein;
- (g) governing the deposit in or payment or transfer into or out of the Court of any money or property or the dealing therewith;
- (h) allowing for service out of Ontario.

Idem

(2) Where provisions in respect of practice or procedure are contained in any Act, rules may be made adding to or modifying such provisions to any extent that is considered necessary for the equitable despatch of the business of the Court unless that power is expressly excluded. 1976, c. 85, s. 20.

Regulations

22. The Lieutenant Governor in Council may make regulations,

- (a) specifying the returns to be made by the Court;
- (b) providing for the safekeeping, inspection and destruction of books, documents and papers of the Court;
- (c) providing for a system of recording and transcribing evidence before the Court;
- (d) providing for the appointment and employment of stenographic reporters to record evidence before the Court and fixing their fees, expenses and other forms of remuneration;
- (e) prescribing the functions of and providing for the management of a detention and observation home and a conciliation service under this Act;
- (f) prescribing the duties of the officers and employees on the staff of the Court or of any class of such officers or employees;

- (g) providing for a system of statistical records relating to the Court;
- (h) requiring the payment of fees in respect of proceedings in the Court and prescribing the amounts thereof. 1976, c. 85, s. 21.

23.—(1) Where a proceeding is commenced in the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth before the 5th day of February, 1977 and no evidence has been heard in the proceeding before that date, other than in respect of an interim order, the proceeding shall be deemed to be an application in the Unified Family Court subject to such directions as the court considers appropriate. Application to proceedings already commenced

(2) The Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth continues to exist for the purpose of completing proceedings commenced in it before the 5th day of February, 1977 and to which subsection (1) does not apply. Idem

(3) The Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth in place of that court. 1977, c. 4, s. 4. Enforcement of orders

24. This Act is repealed on the 1st day of July, 1982. Repeal 1979, c. 108, s. 1.

SCHEDULE

Jurisdiction under the following statutory provisions:

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario) (Canada)</i>	All
<i>Child Welfare Act</i>	Parts II and III
<i>Children's Residential Services Act</i>	Subs. 18 (1) except Cls. (a) and (b)
<i>Divorce Act (Canada)</i>	All
<i>Education Act</i>	Sections 29 and 30
<i>Family Law Reform Act</i>	All, except Part V
<i>Juvenile Delinquents Act (Canada)</i>	All
<i>Marriage Act</i>	Sections 6 and 9
<i>Minors Act</i>	All
<i>Minors' Protection Act</i>	Section 2
<i>Reciprocal Enforcement of Maintenance Orders Act</i>	All
<i>Training Schools Act</i>	Section 8

1977, c. 4, s. 6 (2).