

# Domestic violence in Ontario: A beginning to an end? | Michael Cochrane

By **Michael Cochrane**

Law360 Canada (January 6, 2025, 1:29 PM EST) -- In three previous columns I examined the incredible cost to taxpayers of the consequences of domestic violence (billion\$), the ill-considered judicial invention of a special tort of family violence (an invitation to a return to trench warfare over unhappy relationships) and the questionable value of trying to criminalize coercive behaviour in relationships (as if corrosive behaviour — as defined in the bill — could be deterred when it is so embedded in some cultures). All three of those issues deal with the aftermath of the violence, not the origins of the violence or the prevention of the violence, so let's turn to that now.



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But first consider the following:

If you divorce in Ontario there is a requirement to complete the MIP — the Mandatory Information Program. It is designed to provide litigants with information about the family justice system, the options to resolve disputes, the effects of their separation on children and it "...empowers litigants to make informed choices about their future..." The mandatory session, led by an experienced family law lawyer, lasts from one to two hours and is free.

If you use mediation to resolve a family law dispute you must be screened for power imbalances or domestic violence. This mandatory process allows the potential mediator, who meets separately with each party, to "diagnose" their complex relationship dynamic. It is in part a search for potential emotional or physical harm. The sessions take over an hour each and are included in the cost of the mediation.

On the other hand, if one wishes to marry in Ontario, where "it is desirable to encourage and strengthen the role of the family and recognize the equal position of the spouses as individuals within the marriage and recognize marriage as a form of partnership..." (so says our *Family Law Act*), you can embark upon the most important decision you will make in your life by simply filling out an application (online no less) and paying \$75. And for that minimal effort you will also enjoy all the financial benefits accorded married people under our *Income Tax Act* and other laws.

Why do we pour resources into empowering people to separate and divorce but do nothing to empower them as they marry? That seems backwards to me.

In my experience people do not suddenly become abusive. People are not married or in a relationship for years and then suddenly wake up to find themselves married to an abuser. No, they wake up to the fact that they are in an abusive relationship, that it has been going on for some time and that they need to find a way out. But how did they find their way into it to begin with? Were there no warning signs? No clues?

Consider this suggestion: prior to being granted a marriage licence couples should be required to take a course that — at a minimum — is equivalent to what they must take when they divorce. Let's have a course that "empowers the couple to make informed choices about their future, to recognize their equal positions as individuals, and to understand that marriage is a form of partnership." Sound familiar?

And while they are involved in that course, they should also meet with someone to diagnose the relationship dynamic. Are they on an equal footing? Are there red flags? If they don't want to take the course, if they do not pass the course then no marriage licence and no access to income tax benefits. The same could apply equally to those who make an informed choice to live common law — no course, no access to income tax and other legal benefits. As a society we should want to subsidize healthy marriages and relationships, not roll the dice for \$75.

You may recall my column about Bill-C332 and some of the types of behaviour proposed for criminalization:

- if a person controls or attempts to control employment, monitor finances or education,
- if a person controls or attempts to control expression of gender, appearance, dress, medication, access to health, and
- if a person controls or attempts to control expression of thoughts, opinions, religious or spiritual beliefs, culture, use of language access to their community.

Would those kinds of challenges in relationship surface during this type of course? I think so.

None of these types of coercive behaviours are reviewed with individuals applying for either Permanent Residence or Citizenship. (Go to the Toronto Public Library and take their random citizenship prep test to see what we want people to know about if they hope to make a life here. There's a lot more in there about the Metis, the environment, the governor general, and federal provincial jurisdiction than there is about what we expect in our intimate and family relationships.)

At a minimum this type of course could help to weed out the scandalous use of marriages of convenience and related abuse of our immigration and tax laws. You don't think that happens? Dream on. I can personally attest to a conversation in chambers with a very experienced Toronto family law judge. He pointed to the stack of divorces on the front of his desk and said, "Michael, marriages of convenience, hundreds. We can't say anything."

All experienced family law lawyers have raised their eyebrows, scratched their heads and swallowed hard as they administered oaths to litigants completing their financial statements. Multiple principal residence designations? How were these homes paid for? Loans? Were these significant assets declared when you entered Canada? And on and on. But that's another problem for another day.

Back to preventing abusive relationships from forming to begin with.

To graduate and receive a diploma from an Ontario high school, a student must complete 40 hours of voluntary community involvement. They can get those hours by volunteering at local businesses, hospitals, long term care, retirement homes and other health care institutions, not for profits, religious, cultural events and so on.

There are 111 organizations in Ontario that provide domestic violence services at some level. In Canada there are, as of 2023, 560 residential facilities whose primary mandate is to serve victims of abuse. I guarantee that any female student who earns her 40 hours of community involvement with one of these organizations will be a lot less likely to find herself in an abusive relationship. And it would be a nice extra benefit from the billions of dollars being spent on those services to begin with.

So perhaps instead of more things to sue for or more crimes we should spend some time — and money — at the front end, trying to stop those relationships from ever getting started.

I have some more ideas so stay tuned.

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