

Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP
Answers to pressing questions on Family Law.

Yes, it is unfair.

Question: I am a parent with custody of three children. At trial the judge ordered that my spouse pay child support retroactive to the beginning of last year, totaling some \$6,000, in addition to monthly ongoing support of about \$500. I spent thousands of dollars in legal fees and a lot of time from work over two years to obtain that judgment. All these payments were automatically to be made through the Ontario Director of the Family Responsibility Office (the FRO). If my spouse fails to pay the Director then the FRO is supposed to enforce the Order. My spouse failed to make the payments so the FRO suspended his driver's license. To get his license back, my spouse then made a special arrangement with the FRO. Under this arrangement he has to pay \$50 per month towards the \$6000 retroactive child support the judge ordered and towards \$2000 in arrears, so long as he keeps paying the ongoing \$500 child support each month. In short, some bureaucrat at the FRO unilaterally overruled the trial judge's decision, without even notifying me. I was given no opportunity to argue why this \$50 payment was unfair. I was told I had no say in the matter. Can anything be done?

Answer: No. The legislation was designed to allow the FRO to give parents who pay child support some "breathing room" when the FRO feels that such arrangements are warranted. However noble the idea, the FRO takes the position that the legislation governing its conduct does not allow it to canvass the views of the recipient of child support before entering into such arrangements. Given that it is the recipient and his or her children that are the most directly affected by such "deals", the insensitivity of the FRO and their refusal to canvass their views in such situations is mind-boggling. These arrangements can sometimes lead to grave injustices. In any event, it should be up to our judiciary when and how such payments are to be structured, not a functionary who does so behind closed doors.

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