

# Family Law **in** BC

## > Quick Reference Tool

**I no longer live with my long-time partner**

**I live apart from the other parent of my children**

**I was married and am now separated**



### **What is family law?**

If you've left a relationship or live apart from the other parent of your children, you have certain rights and responsibilities under the law. These "family laws" will help you make plans for the future care of your children, support payments, and dividing property or debts. This quick reference guide is a starting point for the steps ahead of you.

## Do I have to go to court?

You and your partner likely need to reach decisions about some important issues. How you do this depends on how easily you're both able to agree on the issues.

You may be able to work together or with a professional to write an **agreement** that you both sign. If you can do this, you don't need to go to court. You can choose to file (hand in) your agreement at a courthouse so that it can be enforced if necessary.

If you can't agree even with the help of professionals, you may need to go to court to let a judge decide on the details and put them into one or more **court orders**. Usually, you'll want a lawyer to help you with this.

Even if you make an agreement, you need a court order to get a divorce. If you've covered all the issues in an agreement or order, you can get a divorce order (if you need one) by filing some forms at a courthouse. You don't need to go in front of a judge.



# What are the steps ahead?



## BEFORE YOU BEGIN

Which laws apply to me?

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What court do I go to?

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Am I a "spouse"?

☞ Card 6



## ISSUES TO CONSIDER

Your children

☞ Cards 7 and 8

Financial support

☞ Card 9

Property and debt

☞ Card 10



## Agreements

Made by both spouses when you can agree

☞ Cards 2 and 11

## Court orders

Made by the court when you can't agree

☞ Cards 2 and 11



## Divorce Order

(if necessary)

# Which laws apply to me?

There are two different sets of laws for family matters: the provincial Family Law Act and the federal Divorce Act. Most people, married or unmarried, resolve their issues using the Family Law Act. Although the two acts overlap in some areas, the Divorce Act is usually only used for getting a divorce.

## Family Law Act

Applies if you're **married/unmarried**

Dividing property

Dividing debts

Getting a protection order in a family court

## Divorce Act

Only applies if you're **married**

Getting a divorce

## BOTH

Raising your children  
Spending time with your children  
Arranging support

# What court do I go to?

Anything you can do in the Provincial Court of BC, you can also do in the Supreme Court of BC, but not the reverse. Even if your issue can go to either, you may prefer to stay in Provincial Court because it's less complicated and less expensive. Some issues, like property and debt, must go to Supreme Court. Only Supreme Court can make an order for divorce.



*Provincial Court*

*Supreme Court*

## Supreme

divorce  
property  
adoption  
debts



## Provincial and Supreme

guardianship  
child support  
spousal support  
parenting arrangements  
contact with a child  
protection orders

# Am I a “spouse”?

The Family Law Act and the Divorce Act both use the word “spouse.” If you’re a spouse, you have specific rights and responsibilities under these laws. This is especially important for property and pension matters or for issues being decided under the Divorce Act.



## Married

**You’re a “spouse” if you were legally married to your former partner.**

To be legally married, you must have had a legal marriage ceremony (religious or civil).

However, if you’re a parent, all the laws about spousal support, child support, and parenting arrangements apply to you even if you were never a “spouse,” either married or unmarried.



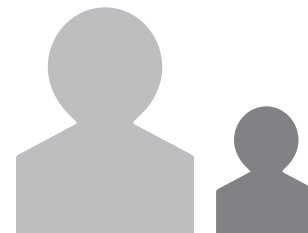
## Unmarried

**You’re a “spouse” if you lived together in a marriage-like relationship for two or more years with your partner.**

Many people call this a “common-law relationship” but that isn’t a term used in BC family laws.

# I am a parent. What are the issues?

When parents live apart, there are important issues to work out. The terms below are used in the Family Law Act to describe your rights and your responsibilities.



<b>Guardianship</b>	<b>Parental responsibilities</b>	<b>Parenting time</b>	<b>Parenting arrangements</b>	<b>Contact with a child</b>
<p>If you've ever lived together with your child and the other parent, you're a guardian (with "guardianship").</p> <p>If you've never lived with your child, you're a guardian if you've regularly cared for the child or are made a guardian by agreement or a court order.</p>	<p>These are the responsibilities that each guardian has for making the day-to-day and the bigger decisions about a child's life. These can be shared (or divided) in whatever way works best for the child.</p>	<p>This is the time that each guardian spends with a child. During parenting time, a guardian makes day-to-day decisions and is responsible for the care of the child. You can arrange this time in whatever way works best for the child.</p>	<p>These are the arrangements you make in an agreement or a court order for sharing (or dividing) parental responsibilities and parenting time.</p>	<p>This is the time that a person who isn't a guardian spends with a child. The person could be a parent who doesn't have guardianship or another relative such as a grandparent. Contact isn't part of parenting arrangements.</p>

# Orders/agreements about children

If you have an order or agreement about children made before March 18, 2013, under the Family Relations Act, see below for what the terms mean under the Family Law Act.

Term: Family Relations Act	Meaning: Family Law Act
<b>Custody</b>	You have guardianship (along with anyone else who has guardianship or custody). You also have parental responsibilities and parenting time.
<b>Guardianship</b>	You have guardianship (along with anyone else who has guardianship or custody). You also have parental responsibilities and parenting time.
<b>Sole custody</b> with <b>sole guardianship</b>	You're still the only guardian. You also have parental responsibilities and parenting time. The time the other parent spends with the child is called contact with a child.
<b>Sole guardianship</b> with <b>joint custody</b> (or the reverse)	You and the other parent both have guardianship. Each parent still has the same parenting time and parental responsibilities (or restrictions) as in the original agreement or court order.
<b>Access</b> but not custody or guardianship	You have contact with a child.



# What about financial support?

Under the law, both parents must support their children – it's every child's right. When your relationship ends, if you have children who live with you, you can probably ask for child support from the other parent. Child support generally lasts until a child turns 19 years old, but there can be reasons for it to continue. Under the Family Law Act, you don't have to be a "spouse" to get child support or to have to pay child support.

You may also need spousal support for yourself. Under the Family Law Act, this is available to all spouses, even if you've lived in a marriage-like relationship **for less than two years** with a parent of your child. Spousal support can last for a certain period of time or it can be open-ended.



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## Child support

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This is money paid by one person to the other person as financial support for the children. The amounts are set by the Federal Child Support Guidelines.



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## Spousal support

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This is money paid by one spouse to the other spouse as financial support. You can use the Spousal Support Advisory Guidelines to figure out spousal support, but you'll need help calculating the actual amount because it's complicated.

## What about property?



When a relationship ends, there are rules for dividing property and sharing debts. Under the Family Law Act, these rules are the same for married and unmarried spouses.

You can agree to something that's different from the rules, but a judge can disallow an agreement if it's "significantly unfair" or was unfairly negotiated. A judge can also decide to divide property unequally if following the rules would be significantly unfair.

### Family property

These are the assets that either spouse bought during the relationship. Family property is shared equally between spouses unless you agree otherwise.

Family property also includes any increase in the value of "excluded property" that happens during the relationship.

### Excluded property

Excluded property isn't divided. This usually includes:

- the assets that each spouse had before the relationship started,
- inheritances and gifts from others, and
- some types of court awards and settlements that only one spouse received during the relationship.

### Family debts

These are debts that **either** spouse took on during the relationship that are still owing at the time of separation, or that have to do with taking care of family property after separation. In general, these debts must be shared equally.

## Who can help?

There are many professionals who can help you negotiate an agreement or order, whether or not you go to court. Some services are free if you have a low income. You may be able to apply for a legal aid lawyer in serious family situations such as those involving safety, access to children, or high conflict.

For information about the services below, see the Family Law in BC website at [family.legalaid.bc.ca/visit](https://family.legalaid.bc.ca/visit). For information about applying for legal aid, see [legalaid.bc.ca/legal\\_aid/familyIssues](https://legalaid.bc.ca/legal_aid/familyIssues).

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### Look for any of these services

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mediator



parenting  
coordinator



family justice  
counsellor



duty counsel  
lawyer



legal advice  
clinics



family law  
lawyer



collaborative  
family law  
lawyer

## Our websites

For legal help and information, including links to family law publications, see the following websites:

FamilyLaw  
Legal help for people in BC

Separation & Divorce | Children | Finances & Support | Abuse & Family Violence | BC Legal System

Welcome to Family Law in BC

Find the answers to your family law issue

Family Law in BC  
family.legalaid.bc.ca

Detailed family law information including step-by-step guides and links to court forms.

RESOLUTION TOOLS  
Dialogue Tool | Mediation Tool

MY LAW  
-BC-

My problem. My solution.

MyLawBC  
mylawbc.com

Guided pathways that produce action plans, including a dialogue tool for negotiating a separation agreement online, and a family resolution centre for making a parenting plan with or without the help of a mediator.

Legal Aid BC



legalaid.bc.ca



Describes all legal aid services in BC and how to apply.

# For more information

## Legal Aid BC publications

Family law publications from  
Legal Aid BC include:

### ***Living Together or Living Apart***

Explains the basics of family law in BC.

### ***Separation Agreements: Your Rights and Options***

Describes the law about the fair division of  
family property or debt. Co-produced with  
West Coast LEAF.

### ***Coping with Separation Handbook***

For people dealing with the emotional  
aspects of separating.

## How to get this and other free Legal Aid BC publications

Read: [legalaid.bc.ca/read](http://legalaid.bc.ca/read)

Order: [crownpub.bc.ca](http://crownpub.bc.ca)  
(under Quick Links, click  
BC Public Legal Education &  
Information)

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