

# 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.



**Legal  
Services  
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British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

**May 2017**

## 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 can both agree to the details.

You may be able to work together or with a professional to write an **agreement** that you both sign. If you can't agree, you may need to go to court to let a judge decide on the details and put them into one or more **court orders** for you. 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.



# What are the steps ahead?



## BEFORE YOU BEGIN

Which laws  
apply to me?

Card 4

What court  
do I go to?

Card 5

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

## Which laws apply to me?

There are two different sets of laws that the courts use to decide family matters when people no longer live together (or if they haven't lived together but have a child together). One is the provincial Family Law Act and the other is the federal Divorce Act. Different laws can apply depending on the issue and whether or not you're married.

### Family Law Act

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

**Dividing property**

**Dividing debts**

**Getting a  
protection  
order in a  
family court**

### Divorce Act

Applies if you're  
**married**

**Raising  
your children**

**Spending  
time with  
your children**

**Arranging  
support**

**Getting a divorce**

## 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. However, 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**  
**custody/access**  
**adoption**  
**debts**

### **Provincial**

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

## 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 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).

### Unmarried

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

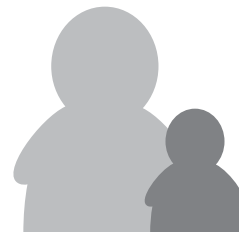
Many people call this a “common-law relationship” but that isn’t a term used in BC family laws.

### For spousal support

**Under the Family Law Act**, you’re a “spouse” for the laws related to spousal support if you and a partner have children together and you lived together for any length of time.

## 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.



### Guardianship

If you've ever lived together with your child and the other parent, you're a guardian (with "guardianship"). 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.

### Parental responsibilities

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.

### Parenting time

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.

### Parenting arrangements

These are the arrangements you make in an agreement or a court order for sharing (or dividing) parental responsibilities and parenting time.

### Contact with a child

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.

## 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 words mean under the Family Law Act.

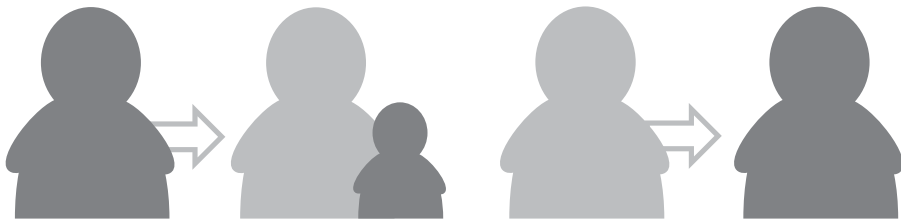
<b>Old term</b> Family Relations Act	<b>New meaning</b> Family Law Act
<b>Custody</b>	You now have guardianship (along with anyone else who has guardianship or custody). You also have parental responsibilities and parenting time.
<b>Guardianship</b>	You now have guardianship (along with anyone else who has guardianship or custody). You also have parental responsibilities and parenting time.
<b>Sole custody with sole guardianship</b>	You're still the only guardian. You now 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 with 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 now 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.

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 but with someone who's the other parent of your child. Spousal support can last for a certain period of time or it can be open-ended.



### Child support

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.

### Spousal support

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.

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### Family property

These are the assets that either spouse got 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 were received during the relationship by only one spouse.

### Family debts

These are debts that either spouse got during the relationship that were still owing when they separated, or that have to do with taking care of family property after separation. In general, these debts must be shared equally.

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## Who can help?

There are many professionals who can help you with family law matters, whether or not you go to court. Some services are free if you have a low income.

For more about agreements, orders, and other family law information, see the Family Law in BC website at [familylaw.lss.bc.ca](http://familylaw.lss.bc.ca) and the MyLawBC website at [mylawbc.com](http://mylawbc.com).

### Helping with agreements



collaborative  
family law  
lawyer



mediator



parenting  
coordinator



family justice  
counsellor



family law  
lawyer



duty counsel  
lawyer



legal advice  
clinics

### Getting a court order



# Legal Aid BC online

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



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## *Family Law in BC*

**familylaw.lss.bc.ca**

Detailed family law information including self-help guides and links to court forms.



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## *MyLawBC*

**mylawbc.com**

Guided pathways that produce action plans, including a dialogue tool for negotiating a separation agreement online.



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## *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 Right to Fairness*

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.



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

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Information*)

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