

If Your Marriage Breaks Up

Dealing with the legal issues



Legal
Services
Society

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This booklet explains the law in general. It is not intended to give you legal advice on your particular problem. Because each person's case is different, you need to get legal help. The information in this booklet is up to date as of January 2005.

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Contents

<i>Physical safety for women</i>	v
Introduction	vii
Is this booklet useful for me?	viii
1. If you have children	1
Custody	1
Guardianship	2
Custody and guardianship arrangements	3
Writing it down	5
Access	6
Common questions about custody, guardianship, and access	8
Child support	10
What are the child support guidelines?	11
If you are on income assistance (welfare)	13
If your spouse is on income assistance	14
Family Maintenance Enforcement Program	14
Common questions about child support	15

2. You and your spouse	17
Support for a spouse	17
How does a judge decide to award support to one spouse?	19
If you are on income assistance (welfare)	19
If your spouse is on income assistance	20
Property	21
The family home	22
Pension benefits	22
Canada Pension Plan (CPP)	23
Common questions about property	24
Debts	24
Immigration issues	25
Seniors issues	27
Old Age Security programs	27
Seniors Supplement	28
Income assistance (welfare)	28
Taking control of your own affairs	29
Bank accounts and credit cards	29
Insurance policies	29
RRSPs	29
Medical/Dental coverage	29
Income assistance (welfare)	30
Wills	30
Decision making	30
Keeping track of the details	31
What to take with you if you leave	31
Ending the marriage: Divorce	32
Common questions about divorce	33

3. Settling the legal issues	36
Talk things over with your spouse	37
Get more information	38
Take a "Parenting after Separation" course	38
See a family justice counsellor	39
Use a mediator	40
See a lawyer	41
Make a written separation agreement	41
Go to court to get, change, or enforce	
a court order	42
Family (Provincial) Court	43
Supreme Court	44
Changing orders or agreements	45
Enforcing orders	47
Summary	47
4. Where to get legal help and information	49
To get help from a lawyer	49
To get legal information	54
Also available from the Legal Services Society ...	62

Physical safety for women

If you are afraid that your spouse will physically hurt you or your children, or if he has done so in the past, you need to protect yourself.

Here are some things you can do:

- **Call the police if you are in immediate danger of being hurt, or if you've been hurt.**

- **Phone a transition house.**

Transition houses are places where women and children can go if they are in danger. Usually you can stay for up to one month. Transition houses are sometimes called safe houses. One of these houses can take you in, help you find legal help, and give you protection.

Transition houses don't give out their addresses, but most crisis lines, Ministry of Human Resources offices, Family Courts, police, or legal aid offices will be able to put you in touch with the house closest to you. Transition houses provide a 24-hour service, and there is no charge.

If you don't want to go to a transition house, you can still talk to transition house staff. They can give you information about your rights and refer you to emotional counselling and legal help.

- **Get legal help.**

After you're safe, you may want to talk to a lawyer about getting a court order that keeps your partner away from you or your children. If you can't afford a lawyer and you meet the financial eligibility guidelines, you can apply for legal aid. A legal aid lawyer can help you if your partner has hurt you or your children, threatened to hurt you or your children, or threatened to take your children out of BC permanently. For more information about legal aid, see page 49.

- **Get more legal information.**

Free booklets called *Speaking of Abuse* and *For Your Protection: Peace Bonds and Restraining Orders* contain useful information about court orders.

If you need emergency financial help, you may be able to apply for income assistance (welfare). To get more information about applying for income assistance, see the free booklet called *Your Welfare Rights*.

See the back cover of this booklet to find out how to order these booklets.

Introduction

This booklet is for people who are thinking about separating from their spouses, or who are already separated.

As soon as you and your spouse start living apart from each other, you're legally separated. You don't have to see a lawyer or get a legal document that says you're separated.

However, a number of legal issues come up when you separate. If you have children, what happens to them is probably your biggest concern. Whether or not you have children, you need to deal with issues about money and the things you and your spouse own together.

This booklet gives you information about the legal issues. Finding out about your choices is a very positive move, both for you and your children.

There are two laws you need to know about. One is a provincial law: the BC Family Relations Act. The other is a federal law: the Divorce Act.

- Chapter 1 of this booklet outlines what these laws say about issues that affect children when a marriage breaks up.
- Chapter 2 looks at legal issues that affect you and your spouse.
- Chapter 3 focuses on ways to settle the legal issues.
- Chapter 4 explains where you can get legal help and information.

Is this booklet useful for me?

This booklet is for people in British Columbia who are separating from a marriage partner. Most of the information applies to both opposite-sex and same-sex married couples. (As of January 2005, there are still questions about the availability of same-sex divorce. Check with a lawyer to find out if this has changed.) If you live outside BC, you'll need information for your province.

If you are in a common-law relationship with an opposite-sex or same-sex partner and your relationship is ending, you face many of the same legal issues as a married person, but there are some important differences. The Legal Services Society has a booklet called *Living Common-Law: Your Rights and Responsibilities* that describes the rights and responsibilities of same-sex and opposite-sex partners, both during their relationships and upon separation.

See page 62 for information about other publications you may find useful.

1

If you have children

If you and your spouse have dependent children, you'll be concerned about the legal issues of —

- custody,
- guardianship,
- access, and
- child support.

This chapter explains what's involved in each of these issues.

Custody

The parent who lives with the child has custody of the child. That parent has the right and the responsibility to care for the child on a day-to-day basis. For example, he or she provides the child with food, shelter, and clothing. He or she nurtures the child and protects the child from harm.

A parent can have sole custody or joint custody. Under



sole custody, the child lives primarily with one parent only. Under joint custody, the arrangements may vary. The child may live with both parents equally, or the child may live primarily with one parent, but the parents have agreed to equally share the rights and responsibilities relating to the child. This involves a high level of communication and shared decision making.

Custody is sometimes described in other terms, which may have particular legal meanings under the child support guidelines. Get legal advice before making decisions around custody or guardianship. To find out how to get legal help, see page 49.

If you are of Aboriginal heritage, live on your band's reserve, and have custody of any children, they can continue living with you on the reserve even if they are not band members. (Normally, a person who's not a band member isn't entitled to live on the reserve, but an exception is made in these circumstances for non-band children.)

Guardianship

There are two kinds of guardianship: guardianship of a child's **person**, and guardianship of a child's **estate**.

The guardian of the child's person is responsible for making decisions about such things as the child's education, health care, or religious training. The guardian of the child's estate is responsible for managing anything the child owns, such as money or property, on behalf of the child.

During a marriage, parents share custody and both kinds of guardianship. After separation, these roles may be carried out by one parent or shared between the parents.

In the case of an Aboriginal child, the Minister of Indian and Northern Affairs Canada may become the guardian of the child's estate, or the minister may appoint someone as the child's guardian.

Custody and guardianship arrangements

When you separate from your spouse, a number of different custody and guardianship arrangements are possible. One parent may have complete charge of the child, or both parents may share equally in caring and making decisions for the child, or you may want to split up responsibility for your child in some other way.

From the moment you separate, the parent who cares for the child on a day-to-day basis has **de facto** custody ("de facto" means "in fact"). The parent who has custody is usually the **sole guardian** of the child's person, but both parents are still **joint guardians** of the child's estate.

You and your spouse may agree on one parent having sole custody of the child, but both parents having joint guardianship of the child's person. This means both of you can still be involved in major decisions about your child. This also usually means that if the parent with custody dies or becomes

unable to care for the child, the other parent becomes the child's sole guardian. This arrangement works if you and your spouse can talk openly, agree about major plans for the child, and agree on who should have custody.

Or you and your spouse may agree to joint custody and joint guardianship of your child. This means sharing day-to-day responsibility for your child. It also includes making other decisions about your child together, such as decisions about education and health care or where the child will live.

In some cases, the child may live half the time with each parent. In other cases, the child may live more of the time with one parent, but with the close involvement of the other parent. This arrangement works best if you are on good terms with your spouse, and you accept each other's way of parenting.

Joe and Maria separated two years ago. Maria has sole custody, but Joe and Maria have joint guardianship. This means that the children live with Maria, but both Joe and Maria work out such things as where the children go to school and if they will have religious instruction. They have a written agreement about these arrangements.

Writing it down

If the two of you can work out what custody and guardianship arrangements you want for your child, you can put these in writing. You can get legal advice about your planned agreement from a family advice lawyer or family duty counsel (see pages 51 and 52). A family justice counsellor (if there's one in your area), can sign and witness the written agreement. Family duty counsel can then help you file your agreement in court, or have it entered as a **consent order**. This means it's an order that you've both agreed to.

If you feel comfortable filling out court documents on your own, you can get a consent order without going through a family justice counsellor. You may want to discuss this with family duty counsel or the staff at your local Provincial Court when you go there to get the court forms. The consent order forms — #18, 19, and 20 — are also available on the Internet at: www.qp.gov.bc.ca/dispute/famrules.htm#forms.

If you can't agree about custody and access, you can go to court and ask a judge to decide. The law says that the judge must decide what arrangement would be in the "best interests of the child." To decide this, the judge considers these issues:

- the ability of each parent to care for the child;
- the love, affection, and similar ties that exist between the child and each parent, and between the child and other people involved in the child's life;

- the child's health and emotional well-being (including how stable the child's home situation is), and whether the child has any special needs;
- education and training for the child;
- sometimes, what the child would like to do; and
- if your child is of Aboriginal heritage, continued contact with his or her Aboriginal culture.

It's important to get legal advice about custody arrangements. If you can't afford a lawyer, legal aid or family duty counsel may be able to help you (see pages 49 and 52).

Access

When a child lives with one parent, the other parent almost always has the right to visit the child. The legal word for this is "access." Access recognizes a child's right to continue to have a relationship with both parents after they separate.

You decide about access the same way you decide about custody and guardianship. You can simply both agree about it and do nothing more. Or you can put your agreement in writing. Or either one of you can go to court and ask a judge to decide. In court, the judge listens to both sides and makes an access order that's in the best interests of the child.

Sometimes an access order says that the parent who doesn't have custody should have **reasonable and generous access**. This leaves it up to the parents

to arrange the visiting times. In other cases, the access order says when the visiting parent may see the child and for how long. This is called **specified access**.

In some cases, the parent who has custody might not want the other parent to see the child. However, judges don't deny access unless they're convinced that the other parent might kidnap or harm the child. Then the judge might limit access or order that access be supervised, usually by a friend or family member. Judges rarely refuse access completely.

If you fear for your safety or your child's safety because of past abuse, see a lawyer about access arrangements. If you meet the income requirements, you can apply for a legal aid lawyer. See page 49.

Children also have a right to see their grandparents and other people who are important in their lives. Grandparents and others who are worried about being able to see the children should get legal help.

Aboriginal children have a right to maintain their heritage. The court may grant access to an appropriate person who'll keep your child in contact with his or her Aboriginal culture.

If your spouse lives on a reserve with the children and you are not a band member, the band could restrict your right of access if you need to go on the reserve to see your children. To avoid this problem, as part of the access order you may ask that the children be brought off the reserve when you are to visit them.

Sid and Anna separated a year after their son, Jason, was born. They got divorced 18 months later. Sid took no interest in Jason when he was a baby and didn't apply for access.

Now Jason is 12, and Sid has told Anna that he's going to court to ask for access every weekend.

Anna doesn't want Sid to have Jason every weekend. She thinks that Jason will see Sid and his friends doing drugs and partying all night long. Anna's lawyer will argue in court that Sid shouldn't get this kind of access because it's not in Jason's best interests.

Common questions about custody, guardianship, and access

Can my spouse move out of the province or leave the country and take the children?

If there's no written agreement or court order, it's difficult to keep one parent from taking the children out of province or out of the country. If you fear that your spouse will take the children out of BC and not return, talk to a lawyer immediately.

If there is a court order, and the parent without custody has access rights, it's against the law for one parent to take a child away from the other parent in order to prevent him or her from seeing the child.

My spouse was having an affair. Doesn't that make her unfit to get custody of the children?

You can bring up your spouse's affair only *if* you can relate it to her ability to be a good parent. In other words, if you can show the judge that your spouse spends very little time with the child, the judge will consider this in deciding custody. But if your spouse is a good parent, extra-marital affairs don't have anything to do with the issue of custody or access.

My spouse has stopped paying support but still wants to visit the children. Can I stop him?

The law says that a child's right to have access to the most important people in his or her life has nothing to do with the parents' duty to pay support for that child. If your spouse stops making support payments, you don't have the right to prevent him from visiting. If you try to stop your spouse from seeing the child, your spouse can take you back to court. For help in getting your support payments started again, see the information about the Family Maintenance Enforcement Program on page 56.

Will I lose my right to custody of the children if I didn't take them when I left?

No. The spouse who remains in the family home with the children doesn't get the legal right to custody just because of that. If you left without the children, see a lawyer as soon as possible. This is very important. You may need to apply for a temporary custody order. Later, you may need to have a judge decide who'll have custody, based on the best interests of your children.

Child support

Parents have a legal duty to provide for and support their children. When parents separate, the law may require one parent to pay money to the parent who has custody in order to help provide for the day-to-day needs of the children. This money is called **support** or **maintenance**. Child support is the right of the child, not of the parent who has custody of the child.

Children in BC are entitled to support if they are —

- under 19; or
- 19 or over, but still need support because of illness, disability, or another cause (going to school, for example).

A step-parent is responsible for supporting his or her step-children if the step-parent has contributed to their support or acted as a parent to the children for at least one year. If you want this type of support, you must apply within one year of the last time the step-parent contributed to the support of your child.

If your child and your child's other parent are members of an Indian band, you could try applying to the band for money to support the child. Not many bands have money to distribute in this way, but it's worth a try. You could also try applying to Indian and Northern Affairs Canada, in case your child's other parent has money that can go to the support of his or her child.

Note: Access isn't related to a parent's payment of child support. See *Common questions about custody, guardianship, and access* on page 8.

What are the child support guidelines?

The child support guidelines are the legal formulas used to make sure that all families in similar circumstances pay (or receive) the same basic amount of child support. The guidelines are a set of rules and tables for calculating the amount of child support parents should pay.

The courts must follow these child support guidelines when parents go to court to get or change a child support order. The child support guidelines can help parents decide between themselves how much child support is needed. Many parents can agree about child support without having to rely on the courts to decide for them.

The amounts set out in the child support guidelines are the minimum amounts for child support. If you are the parent with custody, and you have special or extraordinary expenses, the court may order that your spouse pay you a higher amount of child support. Special or extraordinary expenses can include child-care, health-related, and educational expenses.

The court can say that the amount of child support should be more or less than the guideline amount if that amount will cause “undue hardship” to either —

- the parent paying child support (because he or she can’t afford it), or
- the child for whom the payments are being made (because it’s not enough to support the child).

The child support guidelines apply to you if you are a parent who —

- gets a divorce that includes a child support order,
- gets a child support order under the Family Relations Act, or
- wants to change a child support order.

You may have a court order for child support that was made before the child support guidelines came into effect in 1997. If you and your spouse agree to change the order so your child support payments are the same or more than the guideline amount, you usually don't have to go to court. You just have to prepare the court documents and file them at the court registry. But if you want to lower the amount, you have to go to court.

If you and your spouse don't agree about the amount of child support to be paid, you have to go to court.

For a child support order made *on or after* May 1, 1997, child support payments *aren't* a tax deduction for the parent who pays them, and *aren't* reported as income by the parent who receives them. If your child support order was made *before* May 1, 1997, different tax rules apply. Contact the Canada Revenue Agency (CRA) for details. To find the CRA address and phone number, look in the blue pages of your phone book, under "Government of Canada — Taxes — Canada Revenue Agency."

The Family Justice Services Information Line is an automated phone service that provides information about child support and can tell you where to get a copy of the child support guidelines and other useful information. The number is (604) 660-2192 in Vancouver. The toll-free number for the rest of BC is 1-888-216-2211.

If you are on income assistance (welfare)

Whether you're applying for income assistance, or already receiving it, you must sign a form that gives the Ministry of Human Resources (MHR) the right to do whatever is necessary to get child support from your spouse. This is called assigning your rights to maintenance to the government. MHR pursues maintenance and treats it as a debt owed directly to the ministry.

MHR will arrange for you to meet with a family maintenance worker from the Family Maintenance Program to discuss your situation. MHR will try to work out a child support agreement or take your spouse or ex-spouse to court to get a court order for child support.

The Family Maintenance Program can decide to —

- review any agreement you've already made about support,

- arrange to get a support agreement or court order,
- apply to the court to change a support order, and
- see that any agreement or order is enforced.

If you don't want MHR to pursue child support from your spouse, explain this clearly to the worker. MHR can choose not to pursue child support if you or your children are in danger of violence from your spouse. Get some legal help.

If your spouse is on income assistance

If your spouse is on income assistance, you may still want to apply for support for the children, even if the support isn't much. Then, if your spouse's financial situation changes, it's easier to ask the court to increase the amount of support than to ask for a support order where there wasn't one before.

Family Maintenance Enforcement Program

The Family Maintenance Enforcement Program (FMEP) can help you collect support payments if you have a court order for support or a separation agreement that's filed in court. Your spouse pays the FMEP, and it passes the cheque along to you. The program covers orders both for spouses and for children. For information about how to enrol in this program, see page 56.

Common questions about child support

My spouse has been paying support for the children. Two weeks ago he told me he wasn't going to pay any more. What can I do?

If you have a child support order or an agreement filed in court, you can enrol in the FMEP. It takes time to enrol, but once you're enrolled in the FMEP, it can demand payment and take your spouse to court if necessary.

What happens to child support orders made before the guidelines were introduced?

You may have a court order for child support that was made before the child support guidelines came into effect on May 1, 1997.

Orders aren't automatically changed to bring them in line with the child support guidelines. Parents can apply to court to change the order so child support payments are the same or more than the guideline amount. Both parents can agree to the change outside of court, or either parent can apply to court to change the amount.

Family duty counsel or family justice counsellors may be able to help you prepare the court documents to change an order for child support. See pages 52 and 55 for how to contact them. See also page 60 for information about online self-help kits.

Do I have to appear before a judge to change a child support order?

Not if both of you agree to change the child support order to make the amount the same or more than the child support guidelines. You have to prepare, sign, and file the agreement in the court registry to make it enforceable like a court order. If you want to lower the amount for any reason, you may have to go before a judge in court. You also have to go before a judge if you and your spouse don't agree.

I lost my job and I can't afford the child support. Can I have the amount decreased?

If you are unable to pay the amount in the court order, you can go back to court to change the order. You may get an order to pay less or to stop paying until your income changes.

If you want to decrease the amount of child support, contact a family duty counsel or your local Family Justice Centre for more information. (See chapter 4, "Where to get legal help and information.") Or see the Legal Services Society family law website for online self-help kits that can help you apply for a change to a child support order. See page 60 for more information about online self-help kits.

You and your spouse

When your marriage breaks up, you and your spouse have a number of legal issues that you have to settle. These include spousal support (maintenance) and what to do about the family home, property, and money. You may also want to decide about legally ending your marriage in divorce.

Support for a spouse

Support or maintenance is money paid by one spouse to help the other spouse with living expenses. After your marriage breaks up, if one of you needs assistance, the other spouse has a responsibility to help with financial support if he or she can afford it. This kind of support usually continues for a set period of time. For example, you may have difficulty supporting yourself



because the children live with you and are still very young. Or you may not have had a job for a long time and need some kind of training. Or you may have a disability or serious illness. Your spouse may agree to support you until the children are in school, or until you have gotten retraining and can find a job to support yourself, or indefinitely if you can't support yourself.

Both the Family Relations Act and the Divorce Act say that the court can order one spouse to pay maintenance to the other spouse. Each act also states that every spouse has a duty to be self-sufficient. Of course, sometimes this isn't possible. For example, a spouse may have been out of the work force for so long that he or she can't be expected to be self-supporting. In this case, support may continue indefinitely.

If you feel you need support and can't get your spouse to agree about it, you'll have to go to court and ask for it. The judge will decide whether you can get support and for how long. For example, the judge might order support only until the children reach a certain age, or until you get some retraining.

If your situation has changed, you want the support order changed, and you and your spouse don't agree, you have to go back to court.

Unlike child support, spousal support is a tax deduction for the person who pays it. The person who receives the support reports it as income when filing taxes.

How does a judge decide to award support to one spouse?

The judge will look at a number of things, including —

- how long your marriage lasted;
- what each spouse contributed during the relationship, including child care and financial support;
- whether one parent stayed at home to look after the children;
- what plans the supported spouse has made to become self-sufficient in the future;
- the financial situation of each spouse throughout the marriage and since its breakdown; and
- any agreement you made about support.

When making a support order, the judge looks at need and financial factors only. The behaviour of either spouse doesn't affect the awarding of support.

If you are on income assistance (welfare)

Whether you're applying for income assistance, or already receiving it, you must sign a form that gives the Ministry of Human Resources (MHR) the right to do whatever is necessary to get spousal support from your spouse. This is called assigning your rights to maintenance to the government. MHR pursues maintenance and treats it as a debt owed directly to the ministry.

MHR will arrange for you to meet with a family maintenance worker from the Family Maintenance Program to discuss your situation. MHR will try to work out a spousal support agreement or take your spouse or ex-spouse to court to get a court order for spousal support.

The Family Maintenance Program can decide to —

- review any agreement you've already made about support,
- arrange to get a support agreement or court order,
- apply to the court to change a support order, and
- see that any agreement or order is enforced.

If you don't want MHR to pursue spousal support from your spouse, explain this clearly to the worker. MHR can choose not to pursue spousal support if you or your children are in danger of violence from your spouse. Get some legal help (see page 49).

If your spouse is on income assistance

If your spouse is on income assistance, you can still get a support order or reach an agreement with your spouse about support for yourself, even if the support isn't much. Then, if your spouse's financial situation changes, it's easier to ask the court to increase the amount of support than to ask for a support order where there wasn't one before.

Amy and Tan were married for 25 years when Tan left her. At that time, he was 54 and she was 49. Amy suffers from arthritis and is emotionally upset due to the separation. Tan is healthy and has a steady job in insurance.

With Tan's approval, Amy never worked outside the home during the marriage. She cared for their four sons and the home. The eldest son is now 19 and self-supporting.

Amy applied to court for a spousal support order and a judge ordered Tan to pay support to Amy for an indefinite period.

Property

Property includes everything you own, such as the car, furniture, appliances, the family home, bank accounts, insurance policies, pension benefits, annuities, RRSPs, stocks and bonds, investments, and family businesses.

Any kind of property owned by one or both spouses and ordinarily used for a family purpose is a "family asset." Personal items, such as jewellery, that are used by only one person aren't family assets. Until a court decides otherwise, each spouse is entitled to half of the family assets.

Business assets owned by only one spouse might be included in family assets. The spouse who doesn't own the business would have to show that he or she contributed to the business, either directly or

indirectly. For example, you may have contributed to the business by staying home to raise the children while your spouse worked in the business.

If dividing your family assets in half would be unfair, the judge may decide to divide the property differently. This might happen, for example, if your marriage lasted only a few years and one of you owned most of the property before the marriage.

The laws about property are complicated. If you have to make decisions about property, talk with a lawyer as soon as possible. There are important time limits.

The family home

The family home is often the most difficult piece of property to agree about. Hard questions come up: Who's going to leave the family home? Will we have to sell it? These are vital issues. When it comes to deciding about the family home, you *can't* afford to wait and see how things work out. For *any* legal problem about the family home, it's very important to see a lawyer immediately.



Pension benefits

When family assets are divided at the end of the marriage, pension benefits built up during the marriage are also split. These benefits can amount to a lot of money, so it's important to get legal advice to make sure they're divided fairly.

If your spouse has the pension plan, your share may be transferred to your RRSP. If you're retired, it may be paid out as a monthly pension cheque. Exactly how the pension is divided depends on the kind of pension it is and whether or not your spouse is retired when your marriage breaks up.

You may also be eligible for survivor benefits from your spouse's plan.

While the law provides for a 50-50 split of pension benefits, you and your spouse can agree to a different kind of split, as long as it's fair. Include any arrangements for dividing pension benefits in your written agreement or court order.

How do you find out what you may be entitled to? Notify the pension plan that you're claiming an interest in the pension. Because pension plans can be complicated, it's a good idea to get legal advice before you agree to any division.

Canada Pension Plan (CPP)

Canada Pension Plan credits determine the amount of CPP benefits you may be entitled to. Credits earned by both partners during the marriage can be divided equally when your marriage ends. If the marriage lasted for at least one year, you or your spouse can apply for a division of pension credits any time after a 12-month separation period up to the death of your spouse. (If your spouse dies, you must apply within three years of the date of death.)

If you signed an agreement with your spouse that specifically says you won't split CPP pension credits, you may want to get some legal advice.

For more information about CPP benefits, contact the Department of Social Development (SD) (formerly Human Resources Development Canada — HRDC) at one of the following numbers:

English: 1-800-277-9914 (toll free)

French: 1-800-277-9915 (toll free)

TDD/TTY: 1-800-255-4786 (toll free) if you have a hearing or speech impairment

Or visit the SD website: www.sdc.gc.ca

Common questions about property

I'm the one who had to leave. Will I lose my right to the family home or property because of that?

No. The spouse who stays in the family home doesn't automatically get the right to stay in the home or to sell it. However, you should get legal advice as soon as possible.

My home is on reserve. What will happen when we separate?

Often, the court awards the home on reserve to the spouse who has the legal right to possession of the home. This is generally the husband. However, the court may then say the husband has to give the wife money to compensate for her share of the home. The husband must then find a way to pay the wife her share.

Debts

Each spouse is responsible for the debts in his or her name. If you sign a loan, it's your loan, and it's your

responsibility to pay it back. If your spouse signs a loan, it's your spouse's responsibility. However, if you both sign, either of you can be held responsible for the entire debt.

That's probably obvious to you, but look at the problems you might face if you have a joint loan. For example, say your spouse isn't working, but wants to buy a truck. Although you won't be using the truck, you co-sign the loan. If you separate and your ex-spouse leaves with the truck, or simply fails to make the payments, the bank will make you pay. You may be totally responsible for paying for something you don't even have.

Because legal responsibility for debts can seem unfair, especially when they are family debts, a judge will consider dividing family assets or making an order for spousal support to get a result that is fair to both parties. Family debts are any debts you ran up for family assets or expenses, including mortgages and loans.

After separation, if one spouse goes into debt alone, then only he or she is responsible for that debt. However, if you have joint credit cards, then both of you are responsible for any money owing, even after you separate. So it's a good idea to let all your creditors know you've separated. Get in touch with the credit card companies and remove your name from any joint cards.

Immigration issues

If you are a permanent resident in Canada (you have landed immigrant status), you won't be deported if

you leave the marriage, even if your spouse sponsored you.

If your spouse sponsored you and your marriage breaks down —

- This doesn't give your spouse the right to keep your children or your property.
- Your spouse still has a legal responsibility to help support you and your children. See page 10 for information about child support and page 17 for information about spousal support.
- If you already have permanent resident status, you won't lose it if you need to apply for income assistance (welfare).
- Your spouse can't make you leave Canada.

If you can't support yourself, you can apply for income assistance. When you apply, the Ministry of Human Resources expects you to try to get support from your sponsor. If your sponsor isn't willing or able to support you, you may be eligible for benefits.

If you left your marriage because your sponsor abused you, tell the ministry. If you are in this situation, you *don't* have to try to get support from your sponsor before you can be eligible for benefits.

For more information, see the Legal Services Society booklet called *Sponsorship Breakdown* (see the back cover of this booklet for how to get a copy).

If you are not a permanent resident in Canada (for example, if you are a refugee claimant) and you and your spouse separate, you need to get help right

away regarding your immigration status. Talk to someone at an agency that helps immigrants and refugees (like a multicultural organization) to find out who can help you. See page 59 for more information about multicultural organizations.

Seniors issues

Here is some information on some of the federal and provincial benefits available to seniors and how separation affects them.

Old Age Security programs

Old Age Security and the Guaranteed Income Supplement are administered by the Department of Social Development (SD) (formerly HRDC). If you're receiving Old Age Security, you'll continue to receive your pension when you separate.

If you're also receiving the Guaranteed Income Supplement (GIS), you'll continue to receive your share of this benefit too. Single people who qualify for GIS receive a higher amount than couples, so it's important to tell SD that you've separated as soon as possible. In general, SD requires that you live separately for at least three months before it considers you a "single person." However, if you're separating because you were abused in your marriage, tell SD immediately. SD treats this as an "involuntary separation," and you may be able to start receiving the single rate for GIS one month after separating.

If you are 60 to 64 years old and married to someone who receives Old Age Security, your Spouse's Allowance will stop when you separate. You

should apply for income assistance from the provincial government (see Income assistance, below).

For more information about Old Age Security or GIS, contact SD at one of the following numbers:

English: 1-800-277-9914 (toll free)

French: 1-800-277-9915 (toll free)

TDD/TTY: 1-800-255-4786 (toll free) if you have a hearing or speech impairment

Or visit the SD website: www.sdc.gc.ca

Seniors Supplement

Note: The Seniors Supplement Program is being phased out. Until it is completely phased out, it is still paid automatically if you qualify for GIS.

Income assistance (welfare)

You may be eligible for income assistance from the provincial government if you don't qualify for federal benefits. Contact your local Ministry of Human Resources office. You can find the phone number and address of the office closest to you in the blue pages of your phone book, under "British Columbia — Human Resources-Ministry of — Employment & Assistance Centres.

Your local seniors' centre may know someone who can give you more information about benefits available to seniors. You may also wish to read *When I'm 64: A Guide to Benefits and Services for People*



Aged 60 and Over. Ask for it where you got this booklet, or see the back cover for how to get a copy.

Taking control of your own affairs

When you separate, it's easy to forget some of the things you must take care of. This section outlines some of the issues you may need to deal with as you take control of your own affairs. Chapter 4, "Where to get legal help and information," on page 49 has information about who can help with these issues.

Bank accounts and credit cards

It's a good idea to remove your name from any joint bank accounts or credit cards after you've taken out the money you need. If your pay cheque or benefits are direct deposited into a joint account, get them deposited into your own account.

Insurance policies

You may want to change the beneficiary on your life insurance policies (who the insurance money goes to if you die).

RRSPs

Again, you may want to change the beneficiary.

Medical/Dental coverage

Spouses and children under 19 can still be covered on a working spouse's medical coverage after separation. If you divorce, you are no longer a spouse and therefore no longer covered. However, your child can still be covered.

Income assistance (welfare)

If you are on welfare, be sure to tell your employment and assistance worker that you've separated, so you can get the rate for a single person. Remember, the Ministry of Human Resources will make you assign your rights to maintenance (see pages 13 and 19 for more information about this). Tell MHR that you're separated as soon as possible.

Wills

When you separate, you may want to change your will. A divorce affects your will. Find out which parts you may have to change.

If you don't have a will, you should make one. If you have children under 19, you can name a guardian for your children or say what you want done with your possessions. However, if you die, the person you've named as guardian still has to apply for a custody order.

Decision making

You may want to revise the decisions you've made about who'll take care of your financial matters when you can't do so yourself. For example, you may have given your spouse power of attorney. If so, you may want to cancel that power of attorney and give power of attorney to someone else. Your power of attorney may have an enduring clause that says the authority remains in effect even if you become mentally incapable.

In BC, enduring powers of attorney are being replaced by representation agreements. Such an agreement gives your representatives the legal authority to handle your financial and legal affairs, and to make personal and health-care decisions for you. You can choose anyone you like to be your representative. You can also choose how many representatives you want.

If you don't have a representation agreement, you may wish to make one now. If you have a representation agreement that names your spouse as your representative, you can change the agreement to name someone else. For help with this, contact the Public Guardian and Trustee or the Representation Agreement Resource Centre. See page 61 for information about how to contact them.

Keeping track of the details

It's a good idea to make a copy of your income tax returns for the last three years. Then make a list of all the things you own, and all income you receive. Be sure to write down information about your spouse: Social Insurance Number, CareCard number, date of birth, etc. This can be useful later if you have a dispute about money and property, or if you need to find your spouse.

What to take with you if you leave

If you leave the marriage, here are some of the things you should take with you —

- all your financial information, such as tax returns, bank account information, and copies of your pay slips;

- your medical card;
- your passport, your children's passports, and any other immigration papers you have;
- your children's birth certificates and medical cards;
- your jewellery;
- half of everything you own with your spouse, including money; and
- your children's clothing, furniture, or personal belongings if you're setting up a home with the children.

It will also be helpful if you get information about your spouse's assets, such as photocopies of pay stubs and tax returns.

Ending the marriage: Divorce

Divorce is the main way to legally end your marriage. According to the Divorce Act, the only reason you need for a divorce is "marriage breakdown." Marriage breakdown has occurred if —

- the husband and wife intentionally live separate and apart for one year,
- either spouse commits adultery, or
- either spouse subjects the other to physical or mental cruelty.

You may not want to apply for a divorce immediately after separation. You may not be ready for the finality of divorce. Or there might still be some chance of getting back together again. You and your spouse can get back together again for up to 90

days without affecting the one-year time period. If you stay together longer than 90 days but end up separating, the one-year time period starts over from when you separate again.

Common questions about divorce

How do I get a divorce?

The following are conditions for applying for a divorce in BC:

- You have to be living separate and apart.
- Either you or your spouse can begin divorce proceedings.
- You have to have lived in BC for one year.

Here are the steps involved.

1. You apply for a divorce in the Supreme Court of BC. There's a fee for filing the application. The application explains —
 - where and when you were married;
 - who your children are;
 - what arrangements you want for custody and access;
 - how much child support must be paid;
 - the grounds of the divorce;
 - if one of the spouses should pay support to the other, and if so, how much; and
 - what will happen to the family property.
2. Once the application is filed, you must arrange to have a copy served on (delivered to) the other spouse. He or she has a limited time to contest

(argue against) the application (the terms of the divorce).

The Divorce Act requires the court to check whether there seems to be any chance of reconciliation between you and your spouse. However, judges rarely interfere when a formal divorce petition has been filed.

If your spouse contests the application, you have a court hearing.

3. After the court decision, you're divorced and are free to re-marry after 31 days.

The Legal Services Society's family law website has an online do-your-own-divorce kit. See page 60 for more information about online self-help kits.

When can I apply for a divorce?

You can apply for a divorce as soon as you and your spouse are living separate and apart, but the judge won't grant the divorce until you've been separated for one year.

However, if your marriage breaks up because of adultery, or physical or mental cruelty, you may not have to wait for one year before the divorce is granted.

What if I don't want a divorce but my spouse does?

If your marriage has broken down, your spouse can apply for a divorce even if you don't want one. You can't stop the divorce from being granted. It's a good idea to see a lawyer right away. You may want your

lawyer to go to Supreme Court to apply for an interim (temporary) order about issues such as custody, access, or support for the children and/or yourself.

What if we got married in a different country? Do I have to go there to get a divorce?

No. You don't have to go anywhere else if you've been in Canada for at least one year.

Will a Canadian divorce be recognized everywhere?

Yes, a divorce in Canada should be recognized in any other country, particularly since Canadian law requires that the other party know about the divorce petition.

Settling the legal issues

Many legal issues are a part of separating from your spouse. You need to decide what you want to do about —

- custody;
- guardianship;
- access;
- child support;
- spousal support;
- property, including the family home and pension plans; and
- divorce.

You don't have to resolve all the legal issues right away. But sometimes there may be problems. If you have children, there could be some question about who has custody unless there's a written agreement or court order. Are you getting any money from your spouse to support yourself and/or your children? You need a court order or written agreement in case your spouse stops paying you.

There are also time limits for getting certain types of court orders. If you're dealing with property issues, you can't afford to wait; get legal advice right away.

Here are some of the options you have:

- Talk things over with your spouse.
- Get more information about your options.
- Take a "Parenting after Separation" course. In some parts of BC, this course is mandatory.
- See a family justice counsellor.
- Use a mediator.
- See a lawyer.
- Make a written separation agreement.
- Go to court to get, change, or enforce a court order.

Talk things over with your spouse

It's good if the two of you can settle the issues in a friendly way. Shared agreements work best. However, this isn't always possible.

Suppose you and your spouse agree about all the issues. You're happy with what you've decided. You see no need to put the agreement in writing. Legally, that's fine. You don't have to do anything else.

But remember that if the two of you disagree later about what you decided, you won't have anything in writing to prove what each of you agreed to. A written agreement is useful if you eventually have to go to court.

Get more information

You can get information about custody, support, and guardianship issues, as well as how to apply for a divorce, on the Legal Services Society (LSS) family law website. LSS also produces publications and videos about family law issues. See page 62 for more information. Other organizations also produce material about family law issues. See page 54 for more information about some of these organizations and what they do.

Take a “Parenting after Separation” course

“Parenting after Separation” is a free three-hour workshop offered throughout BC. In some parts of BC, you have to take one of these courses before the court will make an order to settle any legal issues. The workshop is intended to help you adjust after separation, and includes information about —

- the effect of separation on you and your children;
- ways for your family to adjust to the changes;
- the child support guidelines;
- problem-solving options available to you, like conciliation, mediation, counselling, and the court process; and
- effective ways to communicate and solve problems in parenting.

The workshop will help you understand how you and your children are affected by your separation and

how you can recognize and meet your children's needs. Phone your local Family Justice Centre or local courthouse to see if "Parenting after Separation" workshops are being offered in your community. In the Lower Mainland, these workshops are also available in Cantonese, Hindi, Mandarin, and Punjabi.

See a family justice counsellor

In many communities in BC, a family justice counsellor can help you. These counsellors are trained to deal with family problems.

A family justice counsellor can —

- explain what you have to do if you go to Family Court,
- help you understand the process of applying for a court order,
- provide mediation or conciliation or tell you where to go for more help, and
- help you prepare a consent order or written agreement.

Note: You may want to get legal advice from a lawyer before you sign a consent order or written agreement negotiated with the help of a family justice counsellor. You may be able to get some free legal advice from a family advice lawyer or family duty counsel (see pages 51 and 52).

Use a mediator

A mediator is an impartial person who can help you and your spouse agree on a practical plan for ending your relationship. A mediator sits down with you and your spouse and helps you discuss all the issues. He or she may also make suggestions for solving problems, but you and your spouse make all the decisions.

Mediation isn't meant to keep you together, and mediation is not therapy or personal counselling. A mediator is simply a person who can help you and your spouse reach an agreement.

Mediation is a flexible and informal process that you may find more attractive than going to court. It can work well for couples who want to keep dealing with each other on parenting issues.

Mediation doesn't work well if one partner has a lot more power than the other. For example, if your spouse has been violent towards you, he may try to intimidate you into agreeing to things in mediation.

There are different kinds of mediators. Family justice counsellors can act as mediators, or you can use a private mediator or a mediator from your community. A family justice counsellor or someone at a legal aid office can explain the different kinds of mediation available.

If you would like to try using a mediator, see page 59 for information about how to find one.

Remember: You can use a mediator and also get legal advice from a lawyer.

See a lawyer

If you have legal questions or you and your ex-partner can't agree about important issues (for example, custody or property division), you may want some legal help. If you don't know a lawyer, you can call the Lawyer Referral Service to get the name of a family lawyer (see page 52). If you have little money and few assets, and you have a serious legal problem, you may be able to get a lawyer through legal aid, or you may be able to get some legal help and information from your local legal aid office (see page 49). You may also be able to get legal advice from family duty counsel in most Provincial Courts (see page 52).

Before you see a lawyer, think about the questions you need answered. Make a list of the things you're worried about. Also, make a list of family property, other assets, and your expenses.

Make a written separation agreement

A written separation agreement is a contract between you and your spouse that outlines what you both have agreed to about the issues arising from your separation. It doesn't legally end the marriage. It's not a divorce.

You and your spouse can put whatever you want in a separation agreement. For example, the separation agreement can say who lives in the family home and who gets the car or the television. If you have children, it can say who has custody and what the access arrangements are.

Make a list of what you would like to put in your separation agreement. If you need help to decide what to put in, see a family justice counsellor, a mediator, or a lawyer. See chapter 4, "Where to get legal help and information," to find out how to contact these people.

Important: Before you sign any agreement, see a lawyer! It's very important that you see a different lawyer than the one your spouse is seeing to be sure that you've protected your own rights. Judges take these agreements very seriously and are reluctant to change them.

However, if you didn't get legal advice and you signed a separation agreement that you now realize is unfair, you can go to court. The judge will look at the agreement to see if it was fair in your situation.

After you and your spouse sign a separation agreement, it's a good idea to file it with the court. If there are problems later, you can show a judge what you and your spouse agreed to. You'll need to get legal help with your particular situation to know whether to file it in Family or Supreme Court.

Go to court to get, change, or enforce a court order

There are two courts that can help settle the issues of separation:

- Family (Provincial) Court
Supreme Court

It can be difficult to figure out which court to use because they overlap in some areas. Here's an explanation of what each court does and when to use it.

Family (Provincial) Court

If you have children and your spouse lives in BC, you can go to Family Court (also called Provincial Court) to ask for a court order to deal with custody, access, and support for the children. Whether or not you have children, you can ask for a court order to deal with support for a spouse. You can't get a divorce or settle property matters in Family Court.

Advantages

- Family Court is simpler than Supreme Court.
- There are no court fees, unlike for Supreme Court.
- It may be quicker.
- It may be located closer to where you live.
- If you get an order in Family Court and you want to change it, it is easier to do than in Supreme Court.
- If you don't have a lawyer, it will be easier for you in Family Court than in Supreme Court.



Disadvantages

- Family Court can't settle property issues or grant a divorce.
- Family Court can't change orders made in Supreme Court.

If you and your spouse have a written separation agreement, you can show it to a judge in Family Court. The judge can make the agreement into a consent order of the Family Court. Or you and your spouse can file the written agreement with the court registry without going before a judge.

If you and your spouse don't have a written separation agreement (either because you're still arguing over the issues, or because you can't find your spouse), you can go to Family Court for a trial of the issues and have the judge decide.

Supreme Court

You have to go to Supreme Court to get a divorce or to decide property disputes. You can also deal with custody, access, and support in Supreme Court. If your spouse lives in another province and there's no order in place, you need to go to Supreme Court.

A mediator or lawyer may help you and your spouse reach an agreement before going to court. The agreement can become part of the court order. If you can't agree about one or more of the issues, a judge decides at a hearing.

You should have a lawyer if you go to Supreme Court. The paperwork is more complicated than in

Family Court, and the rules and procedures are more formal.

However, if you want a divorce, and you and your spouse agree on all the issues, you can do the work yourself without a lawyer and without going to court. To find out about free online self-help kits produced by the Legal Services Society, see page 60. Guides available in most bookstores will also tell you how to get a divorce and what documents you need.

Advantages

- Supreme Court can settle all the issues at once.
- It can grant a divorce.
- Supreme Court orders can't be changed easily, so you'll be in court less often.
- You can get an order in Supreme Court if your spouse is outside BC.

Disadvantages

- Most people need a lawyer in Supreme Court.
- You have to go back to Supreme Court if you want to get the court order changed. This may be an issue if the closest Supreme Court is not near where you live.
- You will have to pay court fees.

Changing orders or agreements

What if your situation changes after you've settled the issues? If you have a separation agreement, you and your spouse can agree to change it. You can file the new separation agreement with the court. If you

can't agree about the changes, you have to go to court and ask a judge to make a court order.

If you need to change a court order, you have to go back to court. You need to show the judge that you have a good reason to change (or "vary") an order about custody, access, or support. For example, a good reason to change a support order would be that either your finances or your spouse's finances have changed significantly.

Some support orders have time limits. So if you want the court to change or extend an order, apply before the order expires.

Court orders or agreements about property division are almost never changed (or varied) if you've both been to a lawyer. While you can appeal a court order, you can't simply change your mind about how property is settled unless both you and your spouse agree.

Monica and Lee agreed that Lee would pay support for their three children. He also agreed to pay support for Monica for five years until their youngest child turns 13. Three months ago, Monica got a full-time job. She's now earning almost as much as Lee.

Now Monica and Lee are working out a new agreement. They'll agree to lower the support payments for Monica (but not the child support), and will register the new agreement with the court.

Enforcing orders

You may know people who have support orders but the spouse never pays. Or people who have access orders but they never get to see their children. Or people who have custody orders but the parent without custody has taken their children out of the country.

If this happens to you, you have to go to court to enforce your order. Legal aid may be able to give you some help, particularly if you or your children are at risk or you are regularly denied access (see page 49).

If you're enrolled in the Family Maintenance Enforcement Program, FMEP monitors payments and takes any action necessary to collect outstanding debts. Call the Central Enrollment Unit at (250) 220-4040 in Victoria, or toll free at 1-800-663-3455 (from anywhere in BC) to get the phone number of the office closest to you.

Summary

In this chapter, we've discussed your options for settling the legal problems of separating from your spouse. Each option has advantages and disadvantages. Only you can decide what's best for you.

Remember:

- You don't have to do everything all at once. But be careful if there's property involved — there are time limits for some issues that you can't miss.

- If you sort things out with your spouse without settling matters legally, you may have trouble later on if you disagree.
- If you want to sort things out but you're having trouble communicating with your spouse, a mediator may be able to help. With the mediator, you can figure out if you want a written separation agreement or a court order.
- Family Court and Supreme Court do different things and the one you go to depends on what suits your circumstances best. If you are not sure, get legal advice.

By finding out what's involved, you've put yourself in the best possible position to take the next step. If you want to get some help dealing with the legal problems, there are a number of organizations you can call or visit. See the next chapter, "Where to get legal help and information."

Where to get legal help and information

Here are some places to get legal help and information.

To get help from a lawyer

To find a lawyer, try one of the following options.

Legal aid

Legal aid is a provincial service that provides legal help for people who have serious legal problems and can't afford to pay a lawyer.



To get a legal aid lawyer to represent you, you have to meet some financial eligibility rules and have certain kinds of legal problems. You can get a legal aid lawyer if you have the following family law problems:

- You need a court order or other legal assistance to protect yourself or your children

because your partner has threatened or hurt you or your children and you are afraid of further harm.

- You need a court order because the other parent has threatened to take your children out of the province permanently.
- The Ministry of Children and Family Development has taken or is threatening to take your children away from you.

Note: There are exceptions to these guidelines for family law coverage that may allow you to get legal aid even if you do not fit into any of the above categories. Ask your local legal aid worker or the Legal Services Society (LSS) Call Centre if your particular situation is eligible.

The amount of legal aid assistance that you can get for a family law problem is limited. It may include several actions, such as getting —

- a custody, access, and maintenance order;
- an order to prevent the other parent from selling or getting rid of a family asset; and/or
- a restraining order.

To find a legal aid office, look in the white pages of your phone book under “Legal Aid — Legal Services Society” or in the yellow pages under “Lawyers — Legal Aid — Legal Services Society.” You can also call the LSS Call Centre at:

Lower Mainland: (604) 408-2172

Elsewhere in BC: 1-866-577-2525 (toll free)

If your hearing is impaired, you can call a province-wide toll-free number to be connected to a teletypewriter (TTY): 1-877-991-2299.

Or visit the LSS website (www.lss.bc.ca) and click "Offices," then "Address/Phone list" for a complete list of all legal aid offices.

Lawyer advice services

For more information about the following legal advice services, see www.lss.bc.ca/legal_aid/cantget.asp.

Family advice lawyers

LSS and the Ministry of Attorney General provide free legal advice to low-income parents who are trying to reach an agreement in a separation or divorce. These lawyers do not represent or act for clients, but may provide up to three hours of advice about custody, access, guardianship, and child support; property (limited); tentative settlement agreements; and court procedures. You may be able to get help from these lawyers even if you do not qualify for legal aid.

This service is available in family justice counsellors' offices in Kamloops, Kelowna, Prince George, Surrey, Vancouver, and Victoria. You must be referred to the service by a family justice counsellor or a child support officer.

Family advice lawyers in Supreme Court

Free legal advice is also available to low-income people who have a Supreme Court family case. Lawyers paid by LSS are available at the Supreme Court in Kamloops, Kelowna, Prince George, Terrace, Vancouver, and

Victoria. They provide advice to unrepresented people about family matters, legal options, filling out court forms, and court procedures. These lawyers do not represent or act for clients. To find out when the advice lawyer is available, call your local legal aid office (see page 50).

Family duty counsel

LSS provides lawyers (known as duty counsel) at Provincial Courts to help unrepresented people with their Family Court appearances. Duty counsel are also available at the Vancouver Supreme Court (and at other BC Supreme Courts starting in 2005) to help people with Chambers applications. Duty counsel provide brief advice about a client's legal rights and options, as well as information about court procedures. They also speak in court for people on some matters. To find out when duty counsel will be at your court, call your nearest legal aid office (see page 50) or Provincial Court (look under "British Columbia — Court Services" in the blue pages of your phone book). Or visit the LSS family law website at www.familylaw.lss.bc.ca and click on "Resolving family law problems," then "Family duty counsel," to get more information.

Lawyer Referral Service

If you don't know a lawyer, try calling the Lawyer Referral Service. It will give you the name of a family law lawyer you can call for a half-hour appointment that costs \$25. This service isn't available in all areas of the province.

Ask for a lawyer who specializes in family law. Lawyer Referral will give you a lawyer's name but you make the appointment. If the first referral doesn't work out, you can call Lawyer Referral back and get another name.

The lawyer can give you some idea of what's involved in solving your problem, and you can decide if you want to hire this lawyer. Ask the lawyer what the charge will be, and how he or she wants you to pay.

Lower Mainland: (604) 687-3221

Elsewhere in BC: 1-800-663-1919 (toll free)

Pro bono (free) lawyer services

There are several pro bono legal programs in BC that provide lawyer services to people who are not eligible for legal aid, but cannot afford to pay for a lawyer. Pro Bono Law of British Columbia maintains a directory of these programs on its website at www.probononet.bc.ca (click on "Directory," then search "Pro Bono Programs"). These programs include:

- **The Multiple Sclerosis (MS) Society, BC Division, Volunteer Legal Advocacy Program** supports people with MS who cannot afford legal assistance and are ineligible for any other kind of legal representation. This program is available to people in the Lower Mainland, Victoria, and Kamloops.

Lower Mainland: (604) 689-3144
Elsewhere in BC: 1-800-268-7582 (toll free)
Website: www.mssociety.ca/bc/vlap.htm

- **The Salvation Army British Columbia Pro Bono Program** provides free legal advice to people who meet the program's guidelines.

Phone: (604) 296-3816
E-mail: contact@probono.ca
Website: www.probono.ca

- **The Western Canada Society to Access Justice** provides free legal advice to people who cannot afford a lawyer. The society holds clinics at many locations around BC. Call for an appointment:

Lower Mainland: (604) 878-7400
Elsewhere in BC: 1-877-762-6664 (toll free)

To get legal information

To get legal information, contact one of the following programs or organizations.

Dial-A-Law

Dial-A-Law is a service provided by the Canadian Bar Association, BC Branch. It is a library of tapes that give you information about the law in BC. Some of these tapes are available in Chinese and Punjabi as well as English. You can listen to tapes about family law and marriage breakup by calling the following numbers:

Lower Mainland: (604) 687-4680

Elsewhere in BC: 1-800-565-5297 (toll free)

Hours: 8:30 a.m. to 4:30 p.m., Monday to Friday

You can read transcripts of the Dial-A-Law tapes on the Internet at

www.cba.org/bc/Public_Media/dal/default.aspx.

Family justice counsellors and Family Justice Centres

Family justice counsellors can give you information about the law and about the Family Court process.

Family justice counsellors work at Family Justice Centres, which are located across the province (sometimes in the local courthouse). These centres offer a range of services related to separation, such as —

- information and referral,
- help filling out Family Court forms,
- mediation and conciliation services, and
- short-term counselling.

You can find family justice counsellors or centres in the blue pages of your phone book under “British Columbia — Attorney General-Ministry of — Family Justice Centres.” If they’re not listed there, call Enquiry BC at:

Lower Mainland: (604) 660-2421

Victoria: (250) 387-6121

Elsewhere in BC: 1-800-663-7867 (toll free)

and ask for a transfer to the nearest Family Justice Centre.

Family Justice Services Information Line

The Family Justice Services Information Line is a 24-hour automated phone service that provides information about child support, custody, guardianship, access, and the child support guidelines. It can also tell you about BC government programs, services, publications, and recent changes to BC law.

Lower Mainland: (604) 660-2192

Elsewhere in BC: 1-888-216-2211 (toll free)

Family law website

The Family Law in British Columbia website is a service of the Legal Services Society. It provides legal information and self-help materials to help people resolve family law problems, including self-help kits for doing your own divorce, getting or changing a custody, guardianship, access, or support order, applying for help if you cannot pay court fees, and dealing with the Ministry of Children and Family Development.

Website: www.familylaw.lss.bc.ca

Family Maintenance Enforcement Program

This program can help you collect your support payments *if* you already have a court order or a separation agreement that's filed in court. To get the phone number of the office closest to you, call the Central Enrollment Unit.

Victoria: (250) 220-4040

Elsewhere in BC: 1-800-663-3455 (toll free)

Website: [www.ag.gov.bc.ca/family-justice/
help/fmep](http://www.ag.gov.bc.ca/family-justice/help/fmep)

Friendship Centres

If you are an Aboriginal person, you can get legal information from staff at your local Friendship Centre. Ask the staff at your public library or community centre whether there's a Friendship Centre in your neighbourhood.

Interjurisdictional (inter-provincial) support orders

If you're applying for an initial support order or to change a support order, you can find information about support orders when the recipient and the payor live in different provinces on the Ministry of Attorney General website at www.ag.gov.bc.ca/family-justice/help/iso/index.htm, and an article about these orders on the LSS website at www.lss.bc.ca/for_lawyers/pdf_lawyer-materials/ISOproceedings.web.pdf.

LawLINE

LawLINE is a toll-free telephone service that provides general legal information and, in some cases, advice about legal issues. It is a service for people who cannot afford a lawyer but do not qualify for legal aid.

LawLINE is staffed with lawyers and paralegals, and can arrange immediate access to telephone interpreters as needed.

Lower Mainland: (604) 408-2172

Elsewhere in BC: 1-866-577-2525 (toll free)

After your call connects, press “7” to reach LawLINE.

Hours: 9:00 a.m. to 4:00 p.m., Monday, Tuesday,
Thursday, and Friday;

9:00 a.m. to 2:30 p.m., Wednesday

LawLINK

The LSS LawLINK provides low-income people with the tools they need to find plain language legal information on the Internet and can help you find legal information and self-help resources. The service has two parts —

- A website (www.lawlink.bc.ca) with links to information on legal topics, including family law problems.
- Free public access computers in various locations across BC, including all LSS regional centres. You can use these computers to search for legal information on the Internet. At these locations, you can also get direct telephone access to LawLINE and free legal information booklets and other materials. See the website above for a list of locations.

Legal information outreach workers

Legal information outreach workers (LIOWs) are staff members at the seven LSS regional centres who can —

- help you use LawLINK and the family law website to find legal information and self-help resources on the Internet;
- give you printed legal information; and

- refer you to other LSS services such as LawLINE and family advice lawyers, and to other community services.

To contact a legal information outreach worker, call the LSS regional centre closest to you.

Libraries

Many public libraries and BC courthouse libraries have collections of popular family law materials, including excellent guides to “doing your own divorce.” Courthouse libraries have many useful resources on family law. Ask your librarian.

Mediators

You can find mediators in several different places. Contact a community organization or your local legal aid office, family justice counsellor, or Lawyer Referral Service for more information.

Private mediation services are listed in the yellow pages under “Mediators.”

Multicultural organizations

These organizations can give you information in many languages other than English. They may know lawyers or counsellors who speak your language, and they can tell you how to arrange for an interpreter. Ask at your local public library or community centre for the names of organizations in your neighbourhood.

See also the Multilingo-legal website at www.multilingolegal.ca for links to publications about family law in languages other than English.

Online self-help kits

To find a free self-help kit to apply for an initial family order (for custody, access, guardianship, or support), change an existing order, apply for an indigency order if you cannot afford court fees, or do your own divorce, go to www.familylaw.lss.bc.ca/selfhelpmaterials.asp.

People's Law School

The People's Law School provides free classes and produces booklets about the child support guidelines, family law, making a will, and power of attorney. Contact it at:

150 – 900 Howe Street
Vancouver, BC V6Z 2M4
Phone: (604) 331-5400
Website: www.publiclegaled.bc.ca

Prideline (for gay, lesbian, bisexual, and transgendered people)

Prideline provides referrals to various gay, lesbian, bisexual, and transgendered groups, as well as the names and numbers of lawyers. They hold free legal clinics every Monday night.

Lower Mainland: (604) 684-6869
(7 p.m. to 10 p.m.)
Elsewhere in BC: 1-800-566-1170 (toll free)

Public Guardian and Trustee's office

The Public Guardian and Trustee's office has information about powers of attorney, representation agreements, wills, and estates.

Public Guardian and Trustee of British Columbia
700 – 808 W. Hastings Street
Vancouver, BC V6C 3L3
Phone: (604) 660-4444
Fax: (604) 660-9498
Website: www.trustee.bc.ca

Representation Agreement Resource Centre

In BC, representation agreements are replacing enduring powers of attorney and "living wills." For more information about representation agreements, contact:

The Representation Agreement Resource Centre
411 Dunsmuir Street
Vancouver, BC V6B 1X4
Phone: (604) 408-7414
Website: www.rarc.ca (Nidus eRegistry
and Resource Centre)

Services for seniors

Information about legal issues that affect older people is available in many communities. Ask your local seniors' centre, community centre, public library, Ministry of Human Resources office, or Royal Canadian Legion.

Also available from the Legal Services Society

Many LSS legal information publications and videos, including those below, are available on the LSS website at www.lss.bc.ca and/or on the LSS family law website at www.familylaw.lss.bc.ca.

The following LSS publications are free within BC. Videos are available online on the family law website (you can watch them on a public access computer at your local library) and may be available for viewing at your local legal aid office. Community groups can order single copies for free from LSS (see the back cover for how to order).

Family Matters in Supreme Court: Judicial Case Conferences and Chambers Hearings

Video, 19 minutes

2004

Available online at

www.familylaw.lss.bc.ca/subjectareas/videolist.asp

Family Matters in Supreme Court is designed to help people who have to go to Supreme Court on a family matter without a lawyer. The video dramatizes the fictional situation of Mark and Tracy Carter as they attend a judicial case conference, where they agree to reduce Mark's monthly child support payments, and a Supreme Court Chambers hearing, where the master rules that Mark must still pay child support arrears.

For Your Protection: Peace Bonds and Restraining Orders

Booklet, 25 pages (approx.)

Revised 2003

Available in Chinese, English, and Punjabi

This booklet explains how and when you can apply for peace bonds and restraining orders, and what the differences between them are. It was produced for women who need protection from violent partners or ex-partners, but the information applies to anyone in an abusive relationship. A list of resources is included.

Living Common-Law: Your Rights and Responsibilities

Booklet, 62 pages (approx.)

Revised 2005

Available in English and French

Living Common-Law explains the rights and responsibilities of people in common-law relationships. It includes changes to federal and provincial law that give same-sex common-law couples the same rights and obligations as opposite-sex common-law couples. It also includes information about the children, the child support guidelines, pensions, benefits, wills, estates, property, debts, what to do if the relationship ends, what happens if your partner dies, and how to get more information or help. Much of the information describes BC law.

Making Your Case: The Family Court Process

Video, 22 minutes

2000

Available online at

www.familylaw.lss.bc.ca/subjectareas/videolist.asp

Making Your Case is a 22-minute video designed for people who have to go to BC Family (Provincial) Court without a lawyer. Using the fictional case of a child support dispute between two parents as an example, this video takes viewers through the various stages of court proceedings, including filing a court application, serving documents, giving evidence, cross-examining, summarizing, and hearing the judge's order.

Parents' Rights, Kids' Rights: A Parent's Guide to Child Protection Law in BC

Booklet, 40 pages (approx.)

Revised 2004

Available in English and French

This easy-to-read booklet is for the parents or guardians of a child. It's written to help you if the BC Ministry of Children and Family Development removes your child from the home or tells you they have concerns about your child's safety or well-being.

Parents' Rights, Kids' Rights explains what parents' legal rights and responsibilities are, what the court process is like, and where you can get legal help. Other family members and advocates may also find this booklet useful.

Speaking of Abuse: Violence Against Women in Relationships

Booklet, 46 pages (approx.)

1998/1999/2004

Available in Chinese, English, Farsi, French, Punjabi, Russian, Spanish, and Vietnamese, and in an Aboriginal version

This booklet is based on the Attorney General's policy on violence against women in relationships. It reflects changes to the laws that affect women who are in abusive relationships, and explains how a woman can help herself by understanding her rights.

This is an informative resource for both women in abusive relationships and the advocates and victim service workers who work with them.

Sponsorship Breakdown

Booklet, 33 pages (approx.)

Revised 2003

Available in Chinese, English, Korean, Punjabi, Spanish, and Vietnamese

Sponsorship Breakdown contains useful information for people whose sponsorship to Canada breaks down. It explains what to do if the person who sponsored you is unwilling or unable to support you, and you are unable to support yourself. *Sponsorship Breakdown* is written for family class immigrants (people sponsored by a child, grandchild, husband, wife, same-sex partner, or parent).

Welfare Rights on Indian Reserves in British Columbia

Booklet, 35 pages (approx.)
2005

This booklet answers questions about income assistance (welfare) for people living on Indian reserves in BC — even if you're not Aboriginal — including:

- how welfare on reserve works,
- how welfare on reserve differs from welfare off reserve,
- what benefits are available,
- who can get welfare on reserve,
- how to get welfare on reserve, and
- how to appeal if you are turned down.

The booklet also contains a list of welfare advocacy groups throughout BC.

When I'm 64: A Guide to Benefits and Services for People Aged 60 and Over

Booklet, 100 pages (approx.)
Revised 2005

This booklet will answer your questions about government pensions, benefits, or services for older people.

Your Welfare Rights: A User's Guide to BC Employment and Assistance

Booklet, 108 pages (approx.)

Revised 2005

This booklet will answer your questions about income assistance (welfare), including:

- how to apply for benefits,
- what benefits are available,
- how to become and stay eligible for benefits,
- what other benefits are available, like crisis benefits, transportation costs, or medical benefits,
- how to appeal a decision about your case, and
- who can help.

See the back cover of this booklet for how to order these publications or videos.



Most LSS publications are now available on our website at www.lss.bc.ca. Our family law publications and videos are available on the family law website at www.familylaw.lss.bc.ca. If you can, please download materials from our websites or view them online.

To order any of the publications or videos illustrated above and described in this booklet, write, phone, fax, or e-mail:

Distribution
Legal Services Society
400 – 510 Burrard Street
Vancouver, BC V6C 3A8
Phone: (604) 601-6075
Fax: (604) 682-0965
E-mail: distribution@lss.bc.ca