

Family Law Justice System

If a woman wants to end the marriage or common-law relationship, she should talk to a lawyer or a family justice counsellor. Mediation is rarely helpful if there has been violence in the relationship. If she cannot afford a lawyer, she can apply for legal aid.

If she leaves her marriage or common-law relationship, she should remember to take with her:

- her financial information (e.g. tax returns, banking information)
- her medical card
- her passport and other immigration papers
- her jewelry
- half of everything she owns with her spouse or partner, including money
- children's birth certificates
- children's medical cards
- children's passports
- children's clothing

She should also try to get information about her spouse or partner's assets and photocopies of his/her pay stubs and tax

returns. She should also write down his/her Social Insurance Number. All these can be useful later if there are disputes about assets and property.

Custody

Custody is a parent's legal right to live with and take care of the children. If a woman is leaving an abusive spouse or partner, she has the right to take the children with her. She will also have a better chance of getting legal custody if the children are with her.

She should go to family court right away to apply for an interim (temporary) custody order of her children, whether or not she has the children with her. She will need a lawyer for this. If she cannot afford one, she can apply for legal aid.

If she is afraid that the father will kidnap the children, she can ask for a non-removal order. The non-removal order prohibits him from taking the children out of the province or a specified area without her written permission.

Guardianship

There are two kinds of guardianship: guardianship of a child's person and guardianship of a child's estate. Guardianship of a child's person includes decisions about how the child is raised – education, health care, religious training, etc. Guardianship of a child's estate is managing anything the child owns, such as money or property, on behalf of the child.

It is important for a woman to talk to her lawyer about this issue when making custody arrangements.

Access

Access is the children's right to see the parent who does not have custody. A judge may decide that the father can see the children, even if he has assaulted the mother. A woman can ask for restrictions or conditions on the father's access.

A judge may order specified access. The father will be allowed to see the children only if he follows certain conditions, like not drinking or not using drugs for 48 hours before the visit, not taking them out of the province or seeing them only at specific times.

The judge may also order supervised access, which means that the father can only see the children when someone is there to supervise the visit.

Separation Agreements

A separation agreement is a legal document that sets out what you and your ex-spouse or ex-partner have agreed to about maintenance, custody and access, and dividing up your assets and property. Before signing a separation agreement, get legal advice separately from your ex-spouse or ex-partner.

Property

Property is everything that a woman and her ex-spouse or ex-partner owned and used for a family purpose, such as the family home, car, furniture, RRSPs, investments, bank accounts, insurance policies, and pensions. Laws regarding division of property for married couples are different from common-law couples.

For more information:

LEGAL SERVICES SOCIETY, BC

Living Together, Living Apart:

Common-law Relationships, Marriage, Separation, and Divorce.

[www.lss.bc.ca/assets/pubs/
livingTogetherLivingApart.pdf](http://www.lss.bc.ca/assets/pubs/livingTogetherLivingApart.pdf)

BATTERED WOMEN'S SUPPORT SERVICES

Legal Advocacy Program

Phone: 604-687-1867
www.bwss.org