A woman’s guide to money, relationships and the law in Ontario

From the National Association for Women and the Law
Your financial rights and responsibilities

Do you want information to help you make good financial decisions in your personal relationships? This website is for you!

Relationships can mean different things to different people. You can have important relationships with people you live with, who you are related to, who you raise kids with, the person you love, or the person or people you share your life with. You can be in a relationship with someone you consider to be your friend, to be your boyfriend, girlfriend, common-law spouse, partner, or husband or wife. Often people who are in significant relationships share money and expenses, and depend on each other financially.

Many laws affect your financial rights and responsibilities within your relationships. In Ontario most of the laws apply to two-person relationships and some laws apply differently to married couples than to partners who are not married. Either way, these laws can affect you financially when you enter a new relationship and when you end one.

Even when you are happily entering a new relationship, it is important to plan ahead, to be aware of what you are entitled to if the relationship ends, and to know the laws and how they relate to your situation.

This guide outlines the financial rights and responsibilities of people in relationships in Ontario and highlights the differences for married women and women who are in spousal relationships but are not married. For more legal information about topics that are not covered by this website, see Where to get help when you need it (p.49)

The information on this website is general legal information only. It is not a substitute for getting legal advice about individual situations.

Click on the links below to find out information about each topic.
# Table of Contents

1. **Talk to your partner and create your own agreement** .................................................. 4  
   - Marriage contracts and cohabitation agreements .......................................................... 6  
   - Legal advice ............................................................................................................... 7  
   - What to include in your agreement ............................................................................. 7  
   - Changing your agreement ......................................................................................... 8  

2. **Economic abuse in relationships** .................................................................................. 11  
   - How to protect yourself from economic abuse ......................................................... 13  
   - What to do when you leave a partner who is economically abusive ......................... 13  

3. **Living with a partner: Know your rights and responsibilities** ..................................... 14  
   - Know how the law defines marriage and unmarried spouses ...................................... 15  
   - When does the law consider someone to be your legal spouse? ............................... 16  
   - Be aware of how OW and ODSP define a spouse ...................................................... 18  
   - Rights and responsibilities for income tax ................................................................. 20  
   - Rights and responsibilities when sponsoring family members to immigrate to Canada ... 22  

4. **When the relationship ends: Know your rights and responsibilities** ............................ 24  
   - Rights to the home where you live ............................................................................. 26  
   - Responsibilities for debts and loans ........................................................................... 28  
   - Property rights for married couples .......................................................................... 28  
   - Property rights for unmarried couples ...................................................................... 32  
   - Property rights for couples living on-reserve ............................................................. 33  
   - Rights to pensions ....................................................................................................... 34  
   - Rights and responsibilities for spousal support ......................................................... 35  
   - Rights and responsibilities for child support ............................................................. 37  
   - How to enforce support orders .................................................................................. 41  

5. **Settling you issues when the relationship ends** ............................................................ 42  
   - Writing a separation agreement ................................................................................. 43  
   - How to settle disagreements ..................................................................................... 45  

6. **Where to get help when you need it** ............................................................................ 49

**Definition of terms** ............................................................................................................ 52

**Frequently Asked Questions about Money, Relationships and the Law in Ontario** ........... 53
1. Talk to your partner and create your own agreement
Talk to your partner and create your own agreement

Most women do not take steps to protect their economic interests when they start a new relationship. Many of us do not want to imagine that the relationship will ever end, or that we could disagree about how to settle finances if we do break up with our partner. Many of us don’t realize just how essential creating a financial agreement with the person we’re in a relationship with can be.

Talking about money with your spouse or the people you share finances with is important. But it can be difficult. It can be especially hard to talk about money when a new relationship is beginning. Most women do not take steps to protect their economic interests when they start a new relationship. Many of us do not want to imagine that the relationship will ever end, or that we could disagree with our partners about how to settle finances if we do break up. Many of us don’t realize just how essential creating a financial agreement with the person we’re in a relationship with can be.

Even when you’re happily entering a new relationship, it is important to

- Plan ahead
- Know your economic rights
- Know what you’re entitled to if your relationship ends

One way to protect your financial interests is to talk to your partner and write up an agreement. While it is a good idea to create an agreement when entering a new relationship with someone, you can write these agreements at any time.
Marriage contracts and cohabitation agreements

Married couples can enter into marriage contracts, sometimes called “pre-nuptial agreements.” “Cohabitation agreements” are similar contracts for unmarried spouses. These contracts allow you to make legal decisions about your rights in a relationship and decide how you want to arrange your finances if your relationship ends.

Writing your own contract allows you to divide property in the way that best suits you even if it isn’t what the law provides for married or non-married couples. For instance, although Ontario law doesn’t include an automatic division of property between unmarried spouses, you can write a cohabitation agreement that would give you the same property rights as if you were married.

Compared to going to court and asking a judge to make decisions about your relationship, creating your own contract in advance is a more certain and less expensive way to determine the financial implications of a break-up.

Some religious and cultural communities have traditional ways to discuss and negotiate what to do if a relationship ends. In some traditional forms of negotiation, relatives, religious authorities, or other community members can help create a marriage contract. These people can then be turned to for help if the agreement isn’t respected.

To be legally binding, agreements must be in writing. They must be signed by both spouses and by two witnesses. Witnesses don’t have to be anyone in particular. Any adult can be a witness. Contracts made outside of Ontario may be valid in Ontario, but must be signed and witnessed.

You can choose to file your agreement with the court. This makes it possible for a judge to enforce the contract if someone violates any of the terms. For more information on how to file an agreement with the court contact the Family Law Information Centre near you. See Where to get help when you need it (p.49).
Legal advice

You don’t need a lawyer to write an agreement, but it is a good idea to get advice from a lawyer before you sign one.

If possible, each person should get their own legal advice from different lawyers. A lawyer can make sure that the agreement meets all legal requirements, and can advise you about the minimum rights that you are entitled to by law. For help finding a lawyer see Where to get help when you need it (p.49).

What to include in your agreement

There are certain things that the law allows you to include in a marriage or cohabitation agreement, and other things that can’t be included.

Custody and child support issues cannot be included in a marriage or cohabitation agreement. This is because issues related to the rights of children cannot be decided by a contract between parents. Custody and child support can only be decided after a spousal relationship ends. see Rights and responsibilities for child Support (p.37)

Two people who are not spouses but who are parents of a child can create parental agreements. To be legally binding, parental agreements also need to be in writing, signed by all parents, and signed by two witnesses. Parental agreements can deal with things like a child’s prenatal care, birth, financial support for the child, and how to raise the child.

Maria and Shushana

Maria and Shushana have lived together in an apartment as a couple for 8 years. Shushana bought most of their furniture and appliances. They share a car that Maria bought, and they have a credit card debt in Maria’s name. They are ending their relationship and need to decide what to do with their belongings and who will pay the credit card bill. They are not married, but 5 years ago they wrote and signed a cohabitation agreement.

The law doesn’t require unmarried couples to equally share their property or debt when they separate, but Maria and Shushana wrote in their agreement how they wanted to divide their belongings in case they broke up. When they move out of their apartment, Maria and Shushana will each keep some furniture. They will share the value of the car, and pay off their debt as they had planned in their cohabitation agreement.
The checklist on the next page is a list of things that should be included in a cohabitation agreement, or in a marriage contract.

### Changing your agreement

If you decide to change your agreement, you and your spouse will have to sign a new agreement and have it signed by witnesses.

If you no longer think the agreement is fair after your relationship ends, or if you and your spouse can’t agree on how to change the agreement, you might need to go to court and ask a judge to settle the dispute. Generally speaking, the courts don’t like to interfere with these legally binding contracts, but may under certain circumstances.

A court can make an order to change or set aside an agreement if:

- Your spouse was not honest about their financial situation
- You were pressured into signing the agreement
- You were physically or economically bullied into signing the agreement
- You didn’t understand the agreement when you signed it
- The agreement is extremely unfair
A court may also agree to change the terms of an agreement if your financial situation has changed significantly from the time you signed your agreement. However, even if there are changes in your financial situation, it’s unlikely that a court will change the parts of agreements that deal with the division of property.

What should be in your agreement? Use this checklist!

<table>
<thead>
<tr>
<th>Information to include</th>
<th>Include in a Cohabitation agreement or Marriage contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full legal name of all spouses</td>
<td>√</td>
</tr>
<tr>
<td>Date and place of marriage</td>
<td>√</td>
</tr>
<tr>
<td>Date you started living together as spouses</td>
<td>√</td>
</tr>
<tr>
<td>Full legal name and date of birth of any children</td>
<td>√</td>
</tr>
<tr>
<td>The address of the matrimonial home, or any places where you live together as a couple</td>
<td>√</td>
</tr>
<tr>
<td>List of property that each spouse owns, and the value of that property</td>
<td>√</td>
</tr>
<tr>
<td>List of the debts each spouse owes</td>
<td>√</td>
</tr>
<tr>
<td>List of joint assets that the spouses share</td>
<td>√</td>
</tr>
<tr>
<td>List of debts that the spouses share</td>
<td>√</td>
</tr>
<tr>
<td>List of things that each spouse inherited</td>
<td>√</td>
</tr>
</tbody>
</table>

How you want to organize finances during the relationship.
Remember to specify:

- Will you have a joint bank account? √
- Will you share credit cards? √
- Who will pay what bills? √
- How will you pay daily expenses? √
<table>
<thead>
<tr>
<th>Topic</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who will pay the rent or mortgage payments?</td>
<td>✓</td>
</tr>
<tr>
<td>How you want to divide the property if the relationship ends.</td>
<td>✓</td>
</tr>
<tr>
<td>Remember to write</td>
<td></td>
</tr>
<tr>
<td>• What specific things will go to each spouse</td>
<td>✓</td>
</tr>
<tr>
<td>• Who will care for which pets</td>
<td>✓</td>
</tr>
<tr>
<td>• Will anyone continue to live in the shared residence?</td>
<td>✓</td>
</tr>
<tr>
<td>How you want to divide debts if the relationship ends</td>
<td>✓</td>
</tr>
<tr>
<td>How you want to calculate spousal support if the relationship ends</td>
<td>✓</td>
</tr>
<tr>
<td>Whether either spouse has a will</td>
<td>✓</td>
</tr>
<tr>
<td>Who will care for your children if both spouses die</td>
<td>✓</td>
</tr>
<tr>
<td>What process you will use to update or change the agreement</td>
<td>✓</td>
</tr>
<tr>
<td>What process you will use to resolve any disagreements that happen</td>
<td>✓</td>
</tr>
<tr>
<td>when you interpret the agreement</td>
<td></td>
</tr>
<tr>
<td>Did you have legal advice when you wrote the agreement? If you did,</td>
<td>✓</td>
</tr>
<tr>
<td>list the contact information for the lawyers.</td>
<td></td>
</tr>
</tbody>
</table>
2.

Economic abuse in relationships

There are many forms of abuse in intimate relationships. Economic abuse is common, and is a way that abusers try to control their partners through money.
Economic abuse can take many forms

- Keeping a partner from being able to use the couple’s money
- Keeping a partner from knowing about the couple’s finances
- Controlling all the finances against the other partner’s wishes
- Running up large debts in joint accounts
- Running up debts in a partner’s name
- Running up arrears in their personal or business taxes
- Adding to the mortgage on the family home without the partner’s consent
- Taking out credit cards in a partner’s name, or their children’s names
- Stealing money from a partner
- Not allowing a partner to work
- Forcing a partner to earn the income for the couple
- Putting a partner’s current or future job at risk by harassing or abusing them
- Telling a partner that they will cut off financial support if the partner leaves
- Using bills or credit card statements to find a partner who has left

If this is happening to you, contact the Assaulted Women’s Helpline for confidential support and to find help near you (1-866-863-0511 or TTY: 1-866-863-7868).
How to protect yourself from economic abuse

You can keep control of your own finances and limit how economic abuse affects you. Here are some things you can try to do:

• Keep track of your finances so that you will know if you are being economically abused.
• Separate your money and debt from your partners’.
• Keep copies of important financial and legal documents in a safe place away from home. These documents include deeds for any property you own, medical records, documents such as birth certificates, marriage certificates, passports and social insurance cards. You can keep important financial or legal documents with a trusted friend or family member, or locked in a secure place like a safe. You can also email important documents to yourself or upload to them to a website that stores documents.

What to do when you leave a partner who is economically abusive

Women who decide to leave abusive partners often don’t have much money and may not have much credit. This can make it difficult for them to find a place to live or to pay for food, clothing and other things they need. Since this is a common problem, there are funds set up to help women leaving abusive partners.

To find out about how to apply for this money, contact your local Ontario Works office or call the Assaulted Women’s Helpline for more information about help available in your area. (1-866-863-0511 or TTY: 1-866-863-7868). See Where to get help when you need it (p.49).

If you leave an abusive relationship, you need to protect your finances. To do this, remember to:

• Take your name off any joint accounts you have with your partner
• Change the PIN and passwords on all of your own accounts

Talk to a lawyer about how to finalize the financial details of your separation. For help finding a lawyer, see Where to get help when you need it (p.49)
3. Living with a partner: Know your rights and responsibilities

Many laws in Ontario about families and money are different for people who are married and for people who are not married. To know your rights you need to know what it means to be legally married, and how different laws define what spouses are.
Know how the law defines marriage and unmarried spouses

Here is what **being married** means in Ontario:

- Two people of the same or opposite sex have had a legal marriage ceremony performed by a judge, a justice of the peace or a licensed member of the clergy.

- For a marriage to be legal, both people must be at least 18 years old. However, people can get married when they are 16 if they have written permission from their parents or legal guardians.

- More than two people can be married, but only if the marriage took place in a country where polygamy is legal.

- To end a marriage, spouses must get a legal divorce or annulment.

- Certain classes of people who are related through blood or adoption cannot marry each other. For example, you can’t marry your sibling or half-sibling.

- People can’t be forced to get married. Marriage must be voluntary.

Unmarried couples of the same or opposite sex are called spouses, common law partners or conjugal partners. Here is how to tell if **people who live together** are considered legal spouses:

- Two people who live together as a couple can be spouses if they depend on each other financially and emotionally.

- People must live together for some time before they become legal spouses. Some laws say people become legal spouses after only 3 months. Other laws say they are not spouses until they have lived together for 3 years.

- The law says that two people who are in a steady relationship and have a child together are legal spouses.

- A relationship with a spouse ends when the couple separates and will not be getting back together.

- Two people can be spouses even if one or both of them are still legally married to someone else.
When does the law consider someone your legal spouse?

Different kinds of laws in Ontario recognize common-law relationships in different ways. Most laws define couples according to how long people have lived together. Some laws consider people spouses after only 3 months, and other laws require people to live together as a couple for at least 3 years before they are considered spouses. Some laws even say that people who have never lived together have spousal responsibilities.

You need to know what the different laws say about your relationship so that you can protect your own interests. This chart shows basic information about how different kinds of laws define a spouse.

<table>
<thead>
<tr>
<th>What Law</th>
<th>How long do you have to live together to be spouses?</th>
<th>When can someone be your spouse even if you don’t live together?</th>
<th>Other things about your relationship that the law considers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Assistance</td>
<td>3 months</td>
<td>If they have legal obligation to support your child</td>
<td>No sexual/romantic relationship is required for someone to be your spouse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If there are problems in the relationship but you might reconcile</td>
<td>Your spouse could be legally married to or separated from someone else</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If they are is waiting to immigrate to Canada</td>
<td>Spousal status ends when you live apart with no reasonable chance of getting back together</td>
</tr>
<tr>
<td>Income Tax</td>
<td>12 continuous months</td>
<td>When they are the parent of your child by birth or adoption</td>
<td>Relationship must be conjugal</td>
</tr>
<tr>
<td></td>
<td>12 months is interrupted during any period of living separately for more than 90 days due to relationship breakdown</td>
<td>When they have custody of your child and the child depends on them financially</td>
<td>When filling out your tax return you should include your marital status as of December 31st</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Spousal relationship ends on the first of 90 consecutive days of living apart due to relationship breakdown</td>
</tr>
<tr>
<td>What Law</td>
<td>How long do you have to live together to be spouses?</td>
<td>When can someone be your spouse even if you don’t live together?</td>
<td>Other things about your relationship that the law considers</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------------------------------------------------</td>
<td>----------------------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| **Spousal Support**      | 3 years                                             | If you share custody of a child and live together with “some permanence” | You don’t have to live together all the time  
Other factors like how much you depend on each other may be considered |
| **Property Division**    | 3 years                                             | If you share a child and live together with “some permanence” | Property division between spouses that aren’t married is not automatic |
| **Child Support**        | You don’t have to live together for child support   | N/A                                                              | You don’t have to have a spousal relationship to have rights or responsibilities to child support |
| **Immigration Sponsorship** | One year                                           | If you can’t live together in another country for fear of persecution or punishment | Spouse must be at least 16 years old  
You have to prove that you didn’t enter into the relationship for immigration purposes |
| **Canada Pension Plan**  | One year                                            | N/A                                                              | Relationship must be conjugal |
Be aware of how OW and ODSP define a spouse

Rules for both Ontario Works (OW) and the Ontario Disability Support Program (ODSP) say that the assistance amounts are different for single people and for people who live with a spouse. Couples receive less assistance together than the total amount you would get as two single people. The rules for OW and ODSP are the same for married couples as for couples that aren’t married.

If you receive benefits as a single person and OW or ODSP think that you’re living with someone as your spouse, your benefits could be cut off. If OW or ODSP says you are living with your spouse you can then apply as a couple.

If you’re receiving benefits as a single person, you must tell OW or ODSP if someone moves in with you. If you’re living with someone and that person leaves, tell OW or ODSP because you may be eligible for different benefits.

OWL and ODSP use a very broad definition of spouse. Their rules say that after you live with another person for 3 months, that person is your spouse if you rely on each other financially or if you share responsibility for supporting a child. Even if you are not in a sexual or romantic relationship, OW and ODSP can say that you are spouses.

What questions can OW and ODSP ask to decide if someone is a spouse?

OW and ODSP can ask you for information about someone or about your relationship with that person in order to decide if that person is your spouse. They can ask you for information to decide whether you are financially dependant and living as a couple. OW and ODSP can ask you questions such as:

Danielle and Jacques

Danielle receives Ontario Works support. She has lived alone in a one bedroom apartment until very recently when her boyfriend Jacques moved in with her for the summer. Danielle and Jacques do not share finances and she doesn’t consider Jacques to be her spouse. However, Danielle isn’t sure if Ontario Works would say that Jacques is her spouse and if this would affect her benefits. If Danielle doesn’t call Ontario Works to say that Jacques is living with her, she could risk having her monthly support cut if Ontario Works finds out.
• What is the social insurance number of the person you live with?
• Where does the person you live with work, and who is their boss?
• Do you own things together?
• Do you pay bills together?
• Are both of your names on leases or bills?
• Do friends and family think you’re a couple?
• Do your children think you’re a couple?
• Does the person you’re living with act as a parent to your children?

OW and ODSP are not allowed to ask you about whether you are in a sexual relationship.

If you don’t answer OW or ODSP’s questions or you don’t provide them with the information they ask for, your benefits can be cut off. If OW or ODSP decides that someone is not your spouse, they can ask you about your relationship every few months to see if it has changed.

Even if you do not live with a person, OW or ODSP may consider them to be your spouse if you are apart because one of you is away at school, is working, or is waiting to immigrate to Canada. OW and ODSP can also decide you are still spouses if you are living apart and they believe there is a chance you will get back together. OW and ODSP rules say that two people are no longer spouses if they stop living together and there is no reasonable chance that they will get back together. Tell OW or ODSP as soon as your relationship changes.

Does the law require you to get child or spousal support before OW or ODSP?

Before you can get assistance from either OW or ODSP, you must first try to get financial support from a spouse, former spouse, or another parent of your children. If OW or ODSP does not believe that you are trying hard enough to get financial support from these people, they may reduce your benefits or decide that you do not qualify.

You may not have to ask for support from a spouse or parent of your child if:
• Your spouse has abused you or your children
• You can’t find your spouse
• Your spouse can’t pay any support
• Your spouse lives in a country where a support order can’t legally be enforced
If OW or ODSP decides that you don’t need to ask for support, they can ask you again after three months. They can make you prove that there are reasons you can’t ask for support from a spouse or other parent every few months.

If you receive child support or support from a former spouse, it is likely that OW or ODSP will cut the amount of your monthly benefits. Even if the payor doesn’t pay, your benefit will be reduced by the amount of support you should be getting. If your former spouse regularly misses support payments, ask to have the child support paid to OW or ODSP. That way OW and ODSP will know when your former spouse doesn’t pay and they can give you the full benefit if child support or spousal support is not paid.

How to challenge decisions from OW or ODSP

If OW or ODSP refuses your application, reduces your benefits or cuts you off because they consider you to be living with a spouse, you have 40 days to write to the office that made the decision and request an internal review. If you don’t agree with the decision of the internal review you can appeal to the Social Benefits Tribunal. For more information visit their website at www.sbt.gov.on.ca or call toll free at 1-800-753-3895 or TTY: 1-800-268-709.

Rights and responsibilities for income tax

Sam and Mohamed

In 2009, Sam earned an annual income of $20,000. When she filed her taxes as a single person she received around $380 in GST and HST credits. The next year Mohamed moved in with Sam and they indicated that they were living in a common law relationship when they filed their taxes in 2010. Sam earned $23,000 and Mohamed earned $17,000 and as result Sam received around $125 in GST and HST.

Many calculations and tax credits are based on combining a couple’s income. This can be an advantage or a disadvantage, depending on your income and your spouse’s income.

Two people who both have low incomes usually pay more tax as a couple than if they were two single people. Couples where one person earns a lot more than the other person often pay less tax than couples that both earn a low income.
How does Canadian tax law define a couple?

You can file your taxes as a couple if you’re legally married or if you live in a common-law relationship. For tax purposes someone is your common-law partner if:

- You lived with them in a relationship for 12 months in a row, even if you were apart for up to 90 days
- They are a parent of your child, either by birth or adoption
- They have custody of your child and your child depends on them for support

When does it help to be married or living common-law?

If one spouse has a higher income they can use the tax credits that the other spouse with a lower income does not need. Here is a list of tax credits that can be transferred from one spouse to another:

- An Age Credit for people older than 65
- A Child Tax Credit for children under the age of 18
- Pension income payments
- A Disability Tax Credit
- Credits for the cost of post-secondary education

When is it a disadvantage to be married or living common-law?

Being part of a couple can be a disadvantage if both spouses have low incomes. Low-income couples qualify for fewer tax credits than they each would get if they were single.

The Government of Canada can help you estimate what your Child Tax Credit or your HST/GST benefit will be.

How to estimate your Child Tax Credit or your HST/GST benefit

To estimate your Child Tax Credit call 1-800-387-1193, or visit the government site: http://www.cra-arc.gc.ca/bnfts/clcltr/cctb_clcltr-eng.html

To estimate your HST/ GST benefit call 1-800-959-1953 or visit the government site: http://www.cra-arc.gc.ca/bnfts/clcltr/gstc_clcltr-eng.html
Rights and responsibilities when sponsoring family members to immigrate to Canada

Canadian citizens or permanent residents who are 18 years of age or older can sponsor some family members to immigrate to Canada. To sponsor family members, you must live in Canada or plan to live in Canada. Here is a list of the family members you can sponsor:

- Married spouses
- Common-law partners living together for at least 1 year
- Partners of at least 1 year who can’t live together because of the law of the country they are coming from
- Parents and grandparents
- Dependant children (single and under the age of 22, over the age of 22 and enrolled as a full-time student, or dependant on a parent because of a physical or mental condition)
- The dependant children of your spouse or parent
- Children you plan to adopt
- Orphaned relatives who are unmarried and under the age of 18

*Note that in November 2011 the Government of Canada said it will not accept any new applications to sponsor parents and grandparents for two years.*

Sponsors are financially responsible for their family members

To sponsor family members, you must promise the Government of Canada that you will support your family financially. You must sign a paper saying that you will pay for everything that your family member needs. This means you must promise to pay for their food, clothes and a place to live, and also for any medical costs not covered by OHIP.

If you are on ODSP you can sponsor family members, but if you’re on any other social assistance you can’t be a sponsor. You must show that you have enough money to support the family members you want to sponsor, such as parents or grandparents, the dependant children of your spouse or parent, or any orphaned relatives.
When you sponsor a family member, you’re responsible for them for a set amount of time after they arrive in Canada. The chart below shows how long you must support your relatives after they become permanent residents:

### How long sponsors are financially responsible for family members

<table>
<thead>
<tr>
<th>Family member</th>
<th>How long sponsor is responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse</td>
<td>At least 3 years</td>
</tr>
<tr>
<td>Children over the age of 22</td>
<td>At least 3 years</td>
</tr>
<tr>
<td>Other family members</td>
<td>10 years</td>
</tr>
</tbody>
</table>

If a family member that you have sponsored receives social assistance within the time period indicated above, you may be asked to pay that money back to the government. Until you pay back the amount of social assistance owed, the government may not let you sponsor any other family members.

For more information about your rights and responsibilities, see *Where to get help when you need it* (at p.49).

### If your relationship with your sponsor spouse ends

If your spouse sponsors you to come to Canada they must support you for at least 3 years, even if the relationship ends. If your marriage ends before your application for permanent residency is accepted, you can apply to stay in Canada by making an application for reasons known as Humanitarian and Compassionate Grounds. However, it can be quite difficult to successfully immigrate to Canada when you apply on Humanitarian and Compassionate Grounds.

If your marriage ends and your spouse refuses to support you, you can apply for social assistance. You can’t lose your permanent resident or landed immigrant status because your marriage ends, and you can’t lose your permanent residence or landed immigrant status because you apply for Ontario Works (OW).

If you leave your spouse because your spouse is abusive to you, talk to a lawyer. You may be able to apply to stay in Canada.

Like Canadian citizens, sponsored spouses, immigrants, refugees, and people without immigration status have financial rights when they are separating from a spouse. They have the same rights to dividing property, to the matrimonial home, and to spousal support and child support.
4. When the relationship ends: Know your rights and responsibilities
When the relationship ends: Know your rights and responsibilities

When a couple separates, how their property gets divided is different for married couples than it is for unmarried spouses. Couples that are married have to equally divide the value of all of what they own and what they owe, but unmarried spouses do not. The most important differences between married and unmarried spouses concern how the law deals with the home where you live, your property, and your debts.

The following table summarizes the differences between financial rights when a marriage ends and when unmarried spouses split up.

<table>
<thead>
<tr>
<th>Division of Property</th>
<th>Unmarried Spouses</th>
<th>Married Spouses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property includes: Money, assets, pensions, interests in a property and disability benefits (see page 28)</td>
<td>There is no automatic right to a division of property, but a spouse may have a claim to make if their actions have significantly contributed to the other spouse’s wealth. There is a 2-year time-limit after separation to make a claim in court.</td>
<td>The value of property obtained during the marriage is divided equally. The spouse with the higher valued property pays half of the difference of both property values to the other spouse. There is a 6-year time limit after separation, and a 2-year limit after divorce to make a claim in court.</td>
</tr>
<tr>
<td>Matrimonial Home</td>
<td>Home remains the property of the person whose name is on the deed. Unmarried spouses are not automatically entitled to the division of the matrimonial home.</td>
<td>The value of the home is divided equally regardless of whose name is on the deed. Both spouses have the right to live in the home.</td>
</tr>
<tr>
<td>Debts and Loans (see page 28)</td>
<td>Each spouse is responsible for paying the debts that are in their name. Only joint debts in both names are shared.</td>
<td>Each spouse is responsible for paying the debts that are in their name. Only debts in both names are shared.</td>
</tr>
<tr>
<td>Canada Pension Plan (CPP) Benefits (see page 34)</td>
<td>Pension credits that each person earned while living together are divided equally</td>
<td>Pension credits that each person earned while married are divided equally</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>4-year time limit to apply for a division of pension credit after separating</td>
<td>There is no time limit to apply for a division of pension credits</td>
</tr>
<tr>
<td>Child Support (see page 37)</td>
<td>Each parent must support children under 18, or children over 18 who are unable to withdraw from parental custody because of a disability</td>
<td>Each parent must support children under 18, or children over 18 who are unable to withdraw from parental custody because of a disability</td>
</tr>
<tr>
<td></td>
<td>Parents may also be required to support children who are over 18 and enrolled in a full-time education program</td>
<td>Parents may also be required to support children who are over 18 and enrolled in a full-time education program</td>
</tr>
<tr>
<td>Spousal Support (see page 35)</td>
<td>After separation, spouses have an obligation to support each other depending on need and the extent of their ability</td>
<td>After separation, spouses have an obligation to support each other depending on need and the extent of their ability</td>
</tr>
<tr>
<td></td>
<td>2-year time limit from the date of separation to apply for spousal support</td>
<td>No time limit to apply for spousal support.</td>
</tr>
</tbody>
</table>

**Rights to the home where you live**

A **matrimonial home** is any property that a couple lives in and that both spouses are using when they separate. A matrimonial home is a home someone owns. Laws dealing with the matrimonial home don’t apply to homes that a couple rents. What happens to the matrimonial home depends on whether the couple is married or unmarried.

**What married couples need to know about the matrimonial home**

If the couple is married, each spouse has a right to half the value of the matrimonial home. This is true even if only one spouse’s name is on the deed, or if one spouse bought the home before the couple got married.
When a marriage ends, both spouses have equal rights to live in the matrimonial home. This means that you can’t be kicked out of your house because you’re separating.

If you can’t agree about who should live in the house after you separate, you can ask the court to decide for you. When making a decision about who will live in the home, a judge can consider the following things:

- How much money each spouse has
- If the couple has any written agreements about the house
- What is best for the children
- If there are other places for the spouses to live
- If there is a history of domestic abuse

One spouse can’t sell the matrimonial home without permission from the other spouse. One spouse can’t take out a mortgage or lease on the matrimonial home without permission from the other spouse. If they do either of these things, the court can rule that the deals were illegal.

A couple can have more than one matrimonial home if they spend a lot of time at the property as a family. For instance, a cottage may be a matrimonial home if the spouses spent a lot of time there as a family before they separated.

If a couple can’t agree on what is a matrimonial home, you can ask the court to decide.

Property stops being considered a matrimonial home when a couple gets divorced. If you own a home you should settle questions about how to divide property before you get an official divorce.

**What unmarried couples need to know about the matrimonial home**

If the couple is not married, the matrimonial home belongs to the person whose name is on the deed. If a couple has a cohabitation agreement, it should say who can live in the home and how the value of the home will be divided. The couple must follow what the agreement says, as long as the agreement is legal.

If you are in an abusive relationship, you may be able to stay in your home even if your name is not on the deed. To do this, you must apply for a restraining order that says your abuser must stay away from the property and that you are allowed to live in the home. It is very difficult to get this type of order. If you are in this position you should talk to a lawyer.
What couples living on-reserve need to know about the matrimonial home

If you live on a First Nation reserve, Ontario laws about the matrimonial home do not apply. Instead, the law that applies is The Indian Act. The Indian Act doesn’t mention anything about how to divide property when a relationship ends. This means that married people living on reserve don’t automatically have a right to half the value of the matrimonial home.

The inherent rights to land of Indigenous peoples are not accurately reflected in the Canadian Legal system. The federal government has said it will change the laws that affect the property rights of people living on-reserve and will allow First Nations to pass their own laws about owning and dividing land and houses on their territories.

For more information about property laws on-reserve in Ontario, contact the Aboriginal Legal Services of Toronto at (416) 408-3967 or at www.aboriginallegal.ca or The Ontario Native Women’s Association at 1-800-667-0816 or at www.onwa-tbay.ca

⚠ Responsibilities for debts and loans

Whether you are married or unmarried, you are responsible for the debt you accumulate in your name, or the debt that you accumulate jointly with someone in both your names.

If you’re married the amount of debt you owe is subtracted from the total amount of your property value when you’re calculating how to equally divide property at separation.

Running up large debts in a partner’s name or in joint accounts, with or without their consent, is a common form of economic abuse. See Economic abuse in relationships, (p.11).

(propertyName)

Property rights for married couples

Property includes the money, pensions and disability benefits, real estate and other assets that the couple have.

If you are married:

• Property that you got during your marriage must be divided equally
If your spouse owns property that is worth more than your property, they must give you half of the difference in value between their property and yours.

You can ask a court to make a decision about dividing the property. You must make the claim within 6 years after you separate and within 2 years after you get divorced.

The law says that married spouses must equally divide all of the property that the couple gained during marriage. It doesn’t matter who paid for what, or whose name is on the deed for the property. Remember that the matrimonial home is divided equally even if someone owned it before the couple got married. See Rights to the home where you live (p.26).

However, an exception to the rule around matrimonial homes is if a spouse owned a home before marriage that is used as a matrimonial home during marriage and it is then sold before the relationship ends. If a matrimonial home is sold before the relationship ends, the spouse who owned it can then count the value of the home on the date of marriage as property they owned before they were married, and that value does not have to be divided equally.

It’s helpful to know how to divide your property according to the law but it’s not always necessary depending on how you choose to resolve your issues at separation.

To calculate how to equally divide your property according to the law, follow this two-step formula:

**Step 1:** Each spouse must calculate their Net Family Property (NFP).

To find this amount, each spouse must add up the value of everything they own. From this amount they must subtract the value of what they owned before they got married, their debts and any inheritances or gifts.

**Step 2:** The couple must calculate the equalization payment amount.

The equalization payment is a payment that the spouse with the higher NFP must make to the spouse with the lower NFP. The amount of the equalization payment is half of the difference between the higher and lower NFP.
Sample calculation:

Dividing a married couple’s property

Step One: Calculate your Net Family Property (NFP)

Add up the value of all your assets $30,000

Add up the following:

- The value of what you owned before you got married $10,000
- Any gifts or inheritances $2,000
- The amount of your debts $5,000

Total $17,000

Subtract this amount from the value of your assets

<table>
<thead>
<tr>
<th>Assets</th>
<th>$30,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minus personal property</td>
<td>$17,000</td>
</tr>
<tr>
<td>This is the amount of your NFP</td>
<td>$13,000</td>
</tr>
</tbody>
</table>

Your spouse’s NFP is $40,000

Step Two: Calculate the equalization payment amount

Start by comparing each spouse’s NFP. To do this, subtract the smaller NFP from the larger NFP.

<table>
<thead>
<tr>
<th>Start with your spouse’s larger NFP</th>
<th>$40,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subtract your smaller NFP</td>
<td>$13,000</td>
</tr>
<tr>
<td>Difference</td>
<td>$27,000</td>
</tr>
</tbody>
</table>

Next, divide the difference in half. When you do this, you are calculating how much the spouse with the larger NFP needs to pay the other spouse so that they each end up with an equal amount.

$27,000 ÷2 = $13,500 So your spouse would owe you an Equalization payment of $13,500
When would an equalization payment be a different amount?

In special cases a court can order one spouse to pay more or less than the calculated equalization payment. This can happen if a judge believes that the equalization amount is extremely unfair, or if the couple signed a marriage contract or other agreement.

If you have a marriage contract or another agreement, the court will order you to follow what it says unless the contract is deemed to be extremely unfair. The court will not order you to follow an agreement that you were forced to sign. If you signed a contract because you were bullied, pressured or lied to, tell the court.

Here are the things a judge will consider when they decide whether an equalization payment is fair:

• One spouse didn’t tell the other spouse about all their debts at the time of marriage
• One spouse accumulated debt by being reckless, or by purposely acting unfairly
• One spouse deliberately reduced their property, or spent their money, before the couple separated
• The NFP of one spouse includes large gifts from the other spouse
• The spouses lived together for less than 5 years and the equalization amount would give one spouse more than their fair share of the property
Property rights for unmarried couples

Property includes the money, pensions and disability benefits, real estate, and other assets that the couple owns. If you are not married:

- You don’t automatically have a right to your spouse’s property
- You can ask a court to order that your spouse give you some of their property, if you can show that what you did during the relationship made it possible for your spouse to get that property or your actions increased its value
- You must make a claim in court within 2 years after you separate

When an unmarried couple separates, each spouse keeps the property they brought into the relationship and anything they bought while they were part of the couple. The only property that is divided equally is assets that list both spouses as owners.

If a couple has a cohabitation agreement, the property will be divided according to what the agreement says. Couples can also write a separation agreement about how to divide the property. See Writing a Separation Agreement (p.43).

What happens if you can’t agree?

If a couple cannot agree about how to divide property, they can go to court and ask a judge to decide. You can ask a court to help divide your property if:

- You can’t agree about how to divide something you and your spouse bought together
- You and your spouse planned to share property that was only in one person’s name
- The property is in your spouse’s name, but you made it possible for them to buy it and you suffered financially because of this
- The property is in your spouse’s name, but you helped add to the value of that property, and you suffered financially because of this
You should be able to get some of the value of property that is in your spouse’s name if you can show how work that you did helped your spouse to get richer i.e you contributed to your spouse’s business or supported them while they were in school or advancing their career.

Women’s work in the home, including caring for children, is one thing that makes it possible for many couples to get richer. The court often recognizes this work, but fighting for this in court can be a long process and can cost a lot of money.

If you think you might have a right to some of the value of your spouse’s property, talk to a lawyer. For information on how to find a lawyer see Where to get help when you need it (p.49).

Property rights for couples living on-reserve

The inherent rights to land of Indigenous peoples are not accurately reflected in the Canadian legal system. Ontario laws concerning the division of property do not apply to land or property on reserves. The Indian Act is the law that applies to land on-reserve. The Indian Act does not mention how to divide property when a relationship ends. This means that people living on First Nation reserves have no automatic rights to property and land when a relationship ends.

The federal government has said it will change the laws that affect the property rights of people living on-reserve and will allow First Nations to pass their own laws about owning and dividing land and houses on their territories. However, this promise has not been made into law.

For more information about property laws on-reserve in Ontario contact Aboriginal Legal Services of Toronto at (416) 408-3967 or at www.aboriginallegal.ca or The Ontario Native Women’s Association at 1-800-667-0816 or at www.onwa-tbay.ca
Rights to pensions

The value of a pension is considered property. For married couples, pensions must be included in the calculation of the Net Family Property (NFP). The value of the pension for NFP starts on the date that the couple got married and ends on the date of separation. A pension administrator will use these dates to calculate the value of the pension.

Spouses can decide how to divide the value of a pension in a marriage contract, a cohabitation agreement or separation agreement.

After separation, the amount of the divided pension can be paid to a spouse in regular installments or in a lump sum.

Canada Pension Plan (CPP) benefits

When a relationship ends, both married and unmarried spouses can ask to split their Canada Pension Plan (CPP) credits. The CPP credits that both individuals earned while married or in a common-law relationship are then combined and then split equally between the two people. Both married and unmarried spouses have to have lived together for at least 1 year to be eligible to split their CPP credits.

If you’re ending a common-law relationship you have to wait 1 year after separating to request that your credits be divided, and you have to make your claim within 4 years after you and your spouse separate.

If you’re married and separated you have to wait 1 year after separating to request that your credits be divided and there is no time limit after that for credits to be divided. If you’re divorced you don’t have to wait to request that your credits be divided and there is no time limit for credits to be divided.

The exchange of credits will be greater the longer a couple was together, and if one person earns a lot more than the other. If you have fewer CPP credits than your spouse, splitting them can be advantageous. If you have more CPP credits than your spouse, dividing them may not be to your advantage.

A CPP credit split application can be obtained from any Service Canada Centre at 1-800-277-9914 or TTY at 1-800-255-4786.
There is a 90-day time limit to appeal a decision about CPP credit splitting.

Couples may also be eligible to split credits from other types of pensions like pensions from private employers.

Rights and responsibilities for spousal support

Spousal support is an amount of money that one spouse pays to the other to help them become financially independent when the relationship ends. It is meant to make sure that both spouses share the financial effects of separating. Both married and unmarried spouses are responsible for paying spousal support.

The amount of support depends on what the dependent spouse needs and on what the wealthier spouse can pay. Spousal support can be one lump sum payment, or regular amounts paid over a set period of time, or an indefinite period of time. Both spouses must declare spousal support when filing their income tax. The spouse who receives support must declare it as income, and the spouse who pays support can claim it as a tax deduction.

Couples can make their own decisions about spousal support. If they do, their decision should be included in their marriage, cohabitation, or separation agreement. If the couple can’t agree on spousal support, they can apply to family court and a judge will decide for them. Unmarried couples have 2 years from the date of separation to apply to the court for a spousal support order. There is no time limit for married couples to apply to courts for a spousal support order.

How courts calculate spousal support

When a couple asks the court to decide about spousal support, the judge will review their finances. Each spouse must bring papers showing their own financial situation. This information can include personal income tax returns, a pay statement, a social assistance statement or some other proof of their income, and a list of their assets and expenses.

When a couple goes to court to determine spousal support, here is what the judge will consider:

- How long the spouses were married or lived together
- How much each person earns or could earn
- Each spouse’s age and how healthy they are
- How well one spouse could support the other’s career
• What one spouse did to support the other’s career
• How much time and effort each spouse put into caring for the children during the relationship
• How each spouse’s responsibilities in the relationship affected their ability to earn an income

Usually the judge will not focus on other parts of the relationship. For example, if one spouse was abusive or unfaithful, these actions will not affect the amount of spousal support that the court orders.

To identify a reasonable amount of support, most judges and lawyers look at the Canadian government’s Spousal Support Guidelines (SCG). These guidelines use a general formula to calculate support, and suggest for how long support should be paid for. The SCG suggest a range of amounts for judges to consider when they compare the difference between each spouse’s gross income, and how long the spouses were married or living together. The greater the difference between the spouse’s incomes and the longer a couple was married or lived together, the larger the spousal support amounts may be and the longer they must be paid. Every situation is different and judges decide spousal support by considering each specific case.

Spousal support orders can be changed after six months if either spouse’s life has changed significantly. Below is a list of circumstances where you could ask for the support to change:

• If your income is much higher or much lower than when the order was first made
• If your spouse’s income is much higher or much lower
• If either spouse remarries
• If either spouse retires
• If either spouse develops a disability and needs more support or one can pay less support
• If the cost of living has changed significantly since the support was ordered

Ummni and Jen

Ummni and Jen have been living together for 5 years and have been married for 2 years. Jen works part time and does most of the household work and Ummni works full time, earning almost double Jen’s income. They live in a house Ummni has owned since before they were a couple. Ummni feels that Jen is treating her badly and thinks that she has been cheating on her with someone else. Ummni decides to break up with Jen and wants Jen to move out of the house and to pay her monthly spousal support. However, because they are married the house belongs to both of them equally, and because Ummni earns more money than Jen, Ummni will likely have to pay spousal support regardless of Jen’s behaviour.
Ontario laws say that child support is more important than spousal support. This means that if someone cannot afford to pay both child support and spousal support, they may only have to pay child support. After their duty to pay child support ends, they can then be ordered to pay spousal support.

**Rights and responsibilities for child support**

In Ontario, the laws about child support are the same for married spouses, unmarried spouses, and all parents of children whether or not the parents have ever been in a spousal relationship.

People who are not parents but who have shown over time that they intend to act like parents can also be held responsible for supporting children.

All parents must support their children until the children are 18 years old. If a child gets married or leaves the home, even if they are under 18 years old, parents are no longer responsible for supporting them. However, a judge could order a parent to support a child who is over 18 if the child is a full-time student, is sick, or has a disability.

The responsibility to support a child who is over 18 will depend on things like the relationship the child has with the payor and the financial situation of both the child and the payor.

Parents must support their children even if:

- They don’t live with the children
- They aren’t married to the other parent
- They never lived with the other parent

Adults who must support children can include:

- The biological mother or father
- A parent who has adopted a child
- A stepparent who has shown, over time, that they plan to act as a parent
- Another adult who has shown over time, that they plan to act as a parent

Parents who live with, and take care of the children have the right to child support from the
other parent or parents. If the kids spend about an equal amount of time living with each parent, the parent with the highest income may have to pay child support to the other parent.

The amount of child support that a parent must pay is set by the Governments of Ontario and Canada in the Child Support Guidelines. The amount a parent must pay depends on the parent’s income and how many children they must support. Here is a chart showing some of the Child Support Guideline amounts.

**Sophie and Martin**

Sophie and Martin have been dating off and on for some time. After a few months of casual dating they have a baby. Their daughter lives with Sophie and Martin visits with her every week. Because Martin earns $45,000 a year, the Child Support Guidelines requires him to pay Sophie $406 a month.
Examples of Child Support Guideline Amounts

<table>
<thead>
<tr>
<th>Payer’s Income</th>
<th>Amount of support to be paid every month</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 child</td>
</tr>
<tr>
<td>$15,000</td>
<td>$97</td>
</tr>
<tr>
<td>$20,000</td>
<td>$160</td>
</tr>
<tr>
<td>$25,000</td>
<td>$200</td>
</tr>
<tr>
<td>$30,000</td>
<td>$245</td>
</tr>
<tr>
<td>$35,000</td>
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<tr>
<td>$40,000</td>
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</tr>
<tr>
<td>$50,000</td>
<td>$450</td>
</tr>
<tr>
<td>$55,000</td>
<td>$498</td>
</tr>
<tr>
<td>$60,000</td>
<td>$546</td>
</tr>
<tr>
<td>$65,000</td>
<td>$594</td>
</tr>
</tbody>
</table>

Please note: This chart shows examples of amounts set out in the Child Support Guidelines for Ontario. To calculate the child support for your situation visit the Federal Government website at this link: http://www.justice.gc.ca/eng/pi/fcy-fea/lib-bib/tool-util/apps/look-rech/index.asp?Income=30%2C000&Children_No=3&Province_ID=6#Results

If parents cannot agree about child support—the amount, who will pay it or what the terms of child support will be—they can apply in court for a judge to make a decision about child support. See Going to court (p.47).

Sometimes the court will order a parent to pay less than the Child Support Guidelines suggests if:

- The child is over age of 18
- The child spends an equal amount of time living with each parent
- Both parents have custody of at least one child
- The payor proves that they would suffer from undue financial hardship by paying the higher amount

Guideline amounts are meant to help pay for basic living expenses only. The court may decide that a parent must pay more than the Guideline amount if there certain extra expenses to pay. These extra expenses can include things like medical insurance, childcare...
costs, health-care costs, and expenses related to a child’s education. Extra expenses are usually shared between parents depending on their incomes.

After child support has been paid for 6 months, either parent can ask the court to change the child support order. They can ask for a change if their income has risen or fallen, or if the cost of raising the children has gone up.
How to enforce support orders

In Ontario, a government office called the Family Responsibility Office (FRO) enforces support orders. When a court orders someone to pay spousal or child support, the order is automatically filed with the FRO. The FRO will also enforce orders for couples who separated without going to court. If the couple gives the FRO a copy of their separation agreements, the FRO will enforce orders for couples who separated without going to court. See Writing a separation agreement (p.43).

The FRO collects payments from the person who has been ordered to pay spousal support or child support. Once it collects the money, the FRO gives the support payment to the other person. For more information about the FRO visit www.ontario.ca/FRO or call 1-800-267-4330.

If the payer doesn’t pay support, the FRO can collect the money from the payor’s employer. The FRO can get money from the payor’s bank accounts or by putting a lien on something that the payor owns. If the FRO discovers that the payer is trying to avoid paying by hiding money, another person who is linked financially to the payer can be ordered to pay the support payments. This person might be a new spouse, or another family member that the payor share expenses with. The FRO can also collect support payments from money the government owes to the payer.

The FRO can collect money from a payer who does not live in Ontario. It has the power to enforce support orders across Canada, and in the United States and several other countries.

If a payer has not paid support, the FRO can suspend a payer’s driver license, their hunting or fishing license or their passport. When a payer refuses to pay support, they can be sent to jail for up to 180 days.

If someone doesn’t pay you support for years, you can ask the court to order retroactive payment of support arrears. See Going to court (p.47).
Settling your issues when the relationship ends

When a couple separates, they can use the legal system to settle their issues or they can settle issues privately. Not all couples need to use the courts when they separate.
Settling your issues when the relationship ends

It is useful to learn about the law or get legal advice to help you understand your rights and responsibilities.

How you choose to settle your legal issues will depend on your individual situation and on the relationship you have with your spouse at the time of separation. If you already have a signed cohabitation agreement or marriage contract, you should refer to that document first.

If the issues that you need to settle are simple, you and your ex may be able to reach a verbal agreement or write a separation contract. You may also choose to ask people whom both of you trust to help you negotiate an agreement. Some couples look to family members, religious leaders, or other trusted community members for assistance and guidance.

Writing a separation agreement

A separation agreement is a signed written document that says how a couple has agreed to divide property and what to do with the matrimonial home. It can also outline the terms of spousal support, child support, and custody and access issues. A separation agreement is written when the relationship ends.

To be legal, a separation agreement must be in writing, it must be signed and it must be witnessed. You don’t need a lawyer to write a separation agreement but it is best to get legal advice so that you can find out what the law says you are entitled to.

Negotiating a separation agreement is not a good idea if one person has a lot of control over the other, and/or there is a serious power imbalance in the relationship. Women should not agree to a separation agreement if they feel their spouse has more power than they do, if their spouse is abusive, or if they cannot talk honestly and openly with them. In these cases women should talk to a lawyer. For help finding a lawyer see Where to get help when you need it (p.49).
What to include in your separation agreement:

<table>
<thead>
<tr>
<th>Areas to cover</th>
<th>Details to include</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full legal name of all spouses</td>
<td></td>
</tr>
<tr>
<td>Date you started living together as spouses, or the date you got married</td>
<td></td>
</tr>
<tr>
<td>Full legal name and date of birth of any children</td>
<td></td>
</tr>
<tr>
<td>The address of the matrimonial home, or any places where you live together as a couple</td>
<td></td>
</tr>
<tr>
<td>How do you want to divide property?</td>
<td>List the specific items that will go to each spouse</td>
</tr>
<tr>
<td></td>
<td>Will one spouse pay the other spouse a lump sum for the value of property?</td>
</tr>
<tr>
<td></td>
<td>Who will care for each pet?</td>
</tr>
<tr>
<td>How do you want to divide debts?</td>
<td></td>
</tr>
<tr>
<td>Will one spouse pay spousal support?</td>
<td>How much support will be paid?</td>
</tr>
<tr>
<td></td>
<td>Will support be a monthly amount, or a lump sum payment?</td>
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<tr>
<td></td>
<td>How and when will the money get from one spouse to another (post dated cheque, electronic transfer, money order)?</td>
</tr>
<tr>
<td>Will one spouse pay child support?</td>
<td>How much child support will be paid each month?</td>
</tr>
<tr>
<td></td>
<td>When will child support end?</td>
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<td></td>
<td>Who will pay for extra expenses?</td>
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<tr>
<td></td>
<td>Who will pay for post-secondary education for the children?</td>
</tr>
<tr>
<td></td>
<td>How will the money be exchanged?</td>
</tr>
<tr>
<td></td>
<td>How will child support change as the children get older?</td>
</tr>
</tbody>
</table>
### Who will have custody of, and access to the children?
- Will the parents share joint custody?
- Will one parent have sole custody and the other parent have access rights?
- What will the access schedule be?
- How will the children move between homes?
- Who will make major decisions about the children’s health, education and religious upbringing?
- How will the children spend their holidays?
- How will parents decide on the children’s vacation schedules?

### Who will care for the children if both spouses die?
- Names of guardian and alternate guardian

### What process will you use to resolve any disagreements that happen when you interpret the agreement?
- Will meditation and arbitration be used?
- Will there be a timeline for discussions?

### Did the spouses have legal advice when they wrote the agreement?
- Names and contact information of lawyers involved

## How to settle disagreements

When spouses separate and can’t agree about money matters there are a number of ways that they can settle the issues. Most separated spouses, or parents of children, do not go to court to agree about financial matters. It is often simpler and cheaper to decide on the terms of how to separate if you do not have to go to court. Mediating or negotiating an agreement can give you more control over important aspects of your life. These options can also be used for parents making decisions about child support.

### Mediation

If you and your ex can’t agree about what to include in a separation agreement, you may decide to go through mediation. In mediation a neutral professional called a mediator will help you talk to one another and make decisions together.

A mediator can help you agree about some or all of the issues you need to resolve. Sometimes the mediator will talk to both of you in the same room. Other times you may
decide it is best to be in different rooms and have the mediator go back and forth between you. If there is a power imbalance in the relationship, or if you find it hard to talk to your ex, you may choose to not be in the same room as them during mediation.

Mediation can give former spouses more control over the separation agreement because spouses will be working together to decide how to settle issues. However, mediation doesn’t always succeed. If mediation isn’t helping the couple to reach an agreement, either spouse can decide to end the process. If this happens, you can go to court.

Mediation is not always a good choice for spouses with a history of abuse or where one spouse feels they don’t have much power imbalance. It is difficult to negotiate with someone when there is a strong power imbalance. Under these circumstances you may choose an option like arbitration or going to court, because these options don’t require you to negotiate with your ex.

Family courts in Ontario offer some free mediation services. For more information about this, contact a Family Law Information Centre, or a Family Law Service Centre. See Where to get help when you need it (p.49).

You can also hire a private mediator. For a list of private trained professional mediators, and for more information about mediation, contact the Ontario Association for Family Mediation at www.oafm.on.ca or call 1-800-989-3025. It is also possible to agree on another type of mediator that you trust like a religious leader or a community leader.

If you decide to use mediation, talk to a lawyer before you start. A lawyer can make sure that you know your financial rights and responsibilities.

**Arbitration**

If you and your ex can’t agree on some issues either by negotiating or at mediation, you can hire an arbitrator to decide things for you. When an arbitrator makes a decision, it is legally binding. This means that if you decide to use arbitration, you must obey what the arbitrator decides. Also, unlike mediation, once an arbitration process begins you can’t change your mind and decide not to continue with the process.

For an arbitration to be legally binding it must follow Canadian laws. An arbitration decision award that follows religious or cultural laws, and doesn’t follow Canadian law, is not legal or enforceable.
Arbitration can be expensive. Before an arbitrator will work with you, you must prove that you got legal advice. This means that arbitration involves hiring a lawyer, and paying the arbitrator.

You can hire a lawyer to give you advice, or to represent you at the arbitration hearing. Legal Aid Ontario does not usually pay for lawyers to help with arbitration. For information about arbitrators contact a Family Law Information Centre. See Where to get help when you need it (p.49).

Collaborative Family Law

Collaborative Family Law is a formal process where you and your ex each hire a lawyer to help you settle your issues. Together with your lawyers, you and your former spouse work together to find solutions. This process can be expensive because both spouses must work with a lawyer. Legal Aid Ontario does not usually pay lawyers to do this work.

Collaborative Family Law is not a good choice for spouses with a history of abuse, or where one spouse feels that they don’t have much power because you must work together to find solutions.

Collaborative Family Law can be cheaper and faster than going to court because the lawyers who do this work are committed to negotiating an agreement instead of arguing in court.

If you can’t come to an agreement using Collaborative Family Law, you must hire a different lawyer to represent you in court.
**Going to court**

You may have to go to court and ask a judge to settle the financial issues from your separation. Going to court is a good idea if:

- You and your ex can’t agree about how to resolve your issues
- Your partner is abusive
- You feel you don’t have much power in the relationship
- Your spouse refuses to communicate with you or is being unreasonable
- Your spouse is refusing to give you details about their finances

Going to court can be a lengthy process and can cost a lot of money because there are lots of rules and paperwork. The court process requires each side to prove everything that they say using documents or witnesses. Going to court is also a very adversarial process because the other side will try and prove you’re wrong.

If you go to court, it is highly recommended that you hire a lawyer to represent you. Legal Aid Ontario does offer some funding that you can use to get advice or to be represented in court. If you can’t afford to hire a lawyer and you can’t get Legal Aid to hire a lawyer, you should still talk to a lawyer to get legal advice on your case.

For information about how to find a lawyer, contact the Lawyer Referral Service at 1-800-268-8326. To find out more about Legal Aid or to apply for funding call 1-866-641-8867 or visit the Legal Aid website at [http://www.legalaid.on.ca/en/getting/default.asp](http://www.legalaid.on.ca/en/getting/default.asp).
6.
Where to get help when you need it
<table>
<thead>
<tr>
<th>Who</th>
<th>Contact Information</th>
<th>How they can help</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyer Referral Service</td>
<td>Ph: 1-800-268-8326</td>
<td>• Call to find a lawyer that will give you 30 minutes of free legal advice or accepts legal aid certificates</td>
</tr>
<tr>
<td>Legal Aid Ontario</td>
<td>Ph: 1-800-668-8258 TTY: 1-866-641-886</td>
<td>• Call to ask if you qualify for a lawyer paid by legal aid</td>
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<td>• Get 20 minutes of free advice</td>
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<td>• Free telephone interpretation services available for non-English and non-French speakers available</td>
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<tr>
<td>Family Law Information Centres</td>
<td>Located in most courthouses that handle family law cases</td>
<td>• Find a lawyer for your family law case</td>
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<tr>
<td>(FLICs)</td>
<td>To find the FLIC near you, call Legal Aid Ontario</td>
<td>• Get free legal advice about family law</td>
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<tr>
<td></td>
<td>Ph: 1-800-668-8258 TTY: 1-866-641-886</td>
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<td>Or go to</td>
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<td><a href="http://www.attorneygeneral.jus.gov.on.ca/english/family/infoctr.asp">www.attorneygeneral.jus.gov.on.ca/english/family/infoctr.asp</a></td>
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</tr>
<tr>
<td>Family Law Service Centres (FLSC)</td>
<td>To find the FLSC near you, call Legal Aid Ontario</td>
<td>• Assistance with documents for family law cases</td>
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<td></td>
<td>Ph: 1-800-668-8258 TTY: 1-866-641-886</td>
<td>• Mediation services</td>
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<td></td>
<td>Or go to</td>
<td>• Settlement conferences</td>
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<td><a href="http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc">www.legalaid.on.ca/en/contact/contact.asp?type=flsc</a></td>
<td>This help may be free, if you qualify</td>
</tr>
<tr>
<td>Aboriginal Legal Service of</td>
<td>Ph: 416-408-3967</td>
<td>• Legal programs and services for Aboriginal people in Ontario</td>
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<tr>
<td>Toronto</td>
<td>Or go to</td>
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<td></td>
<td><a href="http://www.aboriginallegal.ca">http://www.aboriginallegal.ca</a></td>
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</table>
### Where to get help when you need it

**A woman’s guide to money, relationships and the law in Ontario**

<table>
<thead>
<tr>
<th>Who</th>
<th>Contact Information</th>
<th>How they can help</th>
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</table>
| Assaulted Women’s Helpline | Ph: 1 866 863 0511 TTY 1 866 863 7868 | • 24-hour crisis line for abused women in Ontario  
• Can refer women to shelters, rape crisis centres and other resources all over Ontario  
• Anonymous and confidential and the toll-free number won’t show up on your phone bill  
• Services can be provided in up to 154 languages. Deaf and hard of hearing women are served through the TTY line |
| Findhelp | Ph: 211  
Or go to www.211ontario.ca | • Can refer you to services in your community  
• Open 24 hours |

### Online Legal Resources

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<tr>
<th>Who</th>
<th>Website</th>
<th>What you can find out</th>
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| Family Law Education for Women | www.onefamilylaw.ca | • Information for women about family law in Ontario  
• Information in 14 different languages |
| CLEONET | www.cleonet.ca | • Information about many different laws in Ontario  
• Materials are produced by community organizations and government agencies |
• Where to find the Ontario Works office for your area |
| Legal Aid Ontario | www.legalaid.on.ca/en/contact/contact.asp?type=flsc | • Where to find the nearest Family Law Service Centre |
| Findhelp | www.211ontario.ca | • Information about services in your community |
Definition of Terms

**Arbitration:** A process for resolving disputes where an outside person, called an arbitrator, decides how to resolve the issues. When the arbitrator makes a decision on the issues in the dispute, their decision is final.

**Cohabitation Agreement:** A contract between spouses that describes the terms of their spousal relationship and how to settle issues between them if their relationship ends.

**Child support:** An amount of money that one parent must pay to the other parent to help cover the costs of raising their children. A person doesn’t have to be a biological parent to pay child support. Step-parents or someone else acting as a parent can also pay child support.

**Domestic Contract:** A general name for any written contract that describes the terms of relationships and separations. Domestic contracts include cohabitation agreements, marriage contracts, and separation agreements.

**Division of Property:** A process that spouses use at the end of a spousal relationship to divide what they own, including physical things and any financial assets.

**Economic Abuse:** A form of abuse where the abuser controls their partner by making it difficult for them to be financially independent.

**Matrimonial Home:** Any home that a couple owned and lived in together as spouses immediately before separation.

**Mediation:** A process for resolving disputes at the end of a relationship using a mediator. The job of the mediator is to help people talk to each other and find a way to agree about how to settle their disagreements.

**Marriage Contract:** A written agreement between spouses that outlines the terms of the spousal relationship and how to settle issues between them if the relationship ends.

**Separation Agreement:** A contract between spouses who are separating that outlines how to settle the issues between them.

**Spouse:** The legal name for people in relationships that involve emotional and financial
dependence. Usually “spouse” refers to couples in long term romantic relationships. Different laws have different criteria for what constitutes spouse.

**Spousal Support:** An amount of money a spouse with the higher income pays to the other spouse when their relationship ends.

#### Frequently Asked Questions about Money, Relationships and the Law in Ontario

**When do laws dealing with money treat married couples and unmarried couples differently?**

Many laws affect the financial rights and responsibilities of couples. Some of these laws apply differently to married couples than to couples that aren’t married. For example, the law says that married couples have to divide their property equally when they separate regardless of what each person owns. The law doesn’t require unmarried couples to equally split their property.

For more information about how laws affect married and unmarried couples differently, see *When the relationship ends: Know your rights and responsibilities* (p.24).

**When is my partner considered my common-law spouse?**

Different laws in Ontario define common-law spouses differently. Some laws require you to live with your partner for 3 months or 1 year and other laws require you to live with your partner for 3 years.

For a detailed comparison of how different laws define common-law or unmarried spouses, see *Know how the law defines married and unmarried spouses* (on p.15).

**Where can I get help if my partner is abusive?**

There are many different services and organizations in Ontario that can help women who are experiencing abuse. Ontario Works also offers women financial support if they are leaving an abusive partner.

Contact the Assaulted Women’s Helpline for more information or see *Where to get help when you need it* (p.49)
How can I protect my rights before moving in with my partner?
It is important to plan ahead and talk to your partner when entering a new relationship. One way to protect your interests is for you and your partner to sign a cohabitation agreement or a marriage contract.

For more information about these agreements and what they should include, see *Talk to your partner and create your own agreement* (p.5).

How can I protect my rights when I’m separating from my partner?
It is important to know what you are entitled to when breaking up with a partner. Once you know your rights, there are many different ways to settle the legal issues between you. What is right for you will depend on your individual situation. Some couples may choose to resolve their issues without using the legal system, while other couples will go to court to settle their issues.

For more information see *When the relationship ends: protect your interests* (p.43)

Do same-sex partners have the same rights as opposite-sex partners?
Yes. Same-sex partners, or gay couples, whether married or unmarried, have all the same rights and responsibilities as opposite-sex couples, or straight couples that are married or unmarried.

How do we divide our property and money if our relationship ends?
The law in Ontario dealing with the division of property when couples break up is different for married couples than it is for unmarried couples. Married couples have to split all of the property and money they’ve acquired since they have been married. Generally couples that aren’t married don’t have to divide their property equally. Ontario property laws don’t apply to people living on First Nation reserves.

For more information see *When the relationship ends, know your rights and responsibilities* (p.43)

Can I get child support from my kid’s other parent?
Under Ontario law, every parent is financially responsible for their children under the age of 18, and sometimes even longer if the child is in school or has special health needs. The parent who lives with the children has the right to child support from the other parent. If a child lives some of the time with both parents, the parent who makes the most money may have to pay child support to the other parent. The law sets out the amount of child support to be paid.

For more information, see *Rights and responsibilities for child support* (p.37)
Can I get spousal support from my former partner?

The law in Ontario requires both married and unmarried couples to help each other be financially independent when they break up. Unmarried spouses have to live together for 3 years in order to owe each other support when their relationship ends. The amount of spousal support one person has to pay depends on what the dependant spouse needs and what the wealthier spouse can pay.

For more information, see *Rights and responsibilities for spousal support* (p.35)

What if my partner cheated on me or treated me badly?

The law about money and relationships in Ontario doesn’t generally change if one person in a couple treated the other badly. For example, the amount of spousal support or child support that you are entitled to doesn’t change if your partner lies to you or cheats on you.

However, a judge may create exceptions in property division and spousal support if one person is hiding money or lying about their assets to avoid paying the other person after they break up. If you believe this is the case, you should contact a lawyer.

Judges can also grant exceptions to property division and support can also be granted if your former partner is abusive. If you are dealing with an abusive person, you should consult a lawyer. For confidential support, and to find help in your area call the Assaulted Women’s Helpline at 1-866-863-0511 or TTY: 1-866-863-7868.

Can I continue to live in my home if my relationship ends?

Who continues to live in the home will depend on whose name is on the lease or the deed, and whether or not the couple is married.

When couples are married, the family home legally belong to both spouses no matter whose name is on the deed. Both spouses have an equal right to live in the home when a marriage ends, and if the couple can’t decide who will live there, they can ask a judge to decide.

If a couple is not married the person whose name is on the lease or the deed will have a right to the home. However, women who are victims of abuse can apply to stay in the home even when the home is not in their name.

For more information, see *Rights to the home where you live* (p.26)
Do I need a lawyer if my relationship ends?

When couples separate, they do not always need a lawyer to settle the issues between them. However, it is useful to have a lawyer help you understand your rights and responsibilities.

Family Law Information Centres can provide free legal advice on certain family law issues and can help people find a family law lawyer.

See *Where to find help if you need it* (p.49) for information about Legal Aid Ontario, and Family Law Information Centres.