
Family

Overview

Family law covers legal rights and responsibilities of separating couples and parents, including:

- Separation and divorce
- Custody, parenting time, contact time, interactions
- Child support and spousal support
- Asset and debt division
- Family violence
- Child protection.

Objectives

To understand the basics of family law, including court structure and process, separation, divorce, support, and property division.

Agenda

Welcome and group discussion, questions on previous topics.

Presentation on: Family Law

- Separation and divorce
- Common law, married, registered domestic partner
- Parenting arrangements, support, property
- Enforcement issues.

Activities: How would you answer

Together or individually, research the questions below and explain your answer.

1. When does child support end?
2. I want to get a divorce and I cannot find my spouse. What can I do?
3. My common law relationship is ending. Can I get spousal support?
4. My spouse is abusive. Will that affect custody and parenting time?
5. When is a child old enough to decide where they want to live?

Separation & Divorce

Parenting, Child & Spousal Support

Property Division

Child protection

Key Resources

- Family law Powerpoints
- [Child protection video and information](#)
- nsfamilylaw.ca
- [Family law in an Aboriginal context](#)
- [Federal Child Support Guidelines Step-by-Step](#)
- [Guide to Filing for Divorce in Nova Scotia](#)
- [Nova Scotia Legal Aid \(nslegalaid.ca\)](http://nslegalaid.ca)
- [Maintenance Enforcement Program NS](#)
- [Mi'kmaw Matrimonial Real Property](#)
- [Family violence information: legalinfo.org](http://legalinfo.org)
- nsdomesticviolence.ca
- [Representing Yourself in Family Law matters](#)
- [Spousal Support Advisory Guidelines](#)
- [Transition House Association of Nova Scotia](#)

Activities: How would you answer?

6. I want to move to Alberta with our child – can my former partner stop me?
7. I cannot afford to pay the table amount of child support.
8. Can I apply for a divorce without a lawyer?
9. I'm married. The house is not in my name. Do I have any rights if we break up?
10. I am a grandparent. Do I have a right to see my grandchild?

Case example:

My spouse are separated. I have a few questions.

I have an child support order for 876.00. I'm going to have nothing for a paycheck, how can they take so much money and leave me with nothing to survive on?

We were using the same credit cards and have a combined debt of approximately \$20,000.

We have 'separate' debts on the same credit card; my spouse had debt on the credit card before we were married. I paid for my education on the same credit card, and we accrued debts together.

Do we legally need to split our debts 50/50?

Or, can my spouse find bank statements from before we starting sharing the credit card and pay off that portion, and I pay my student loan, and then we split the remainder 50/50?

Is a Separation Agreement a legal binding document?

If things like matrimonial property, spousal support, pension and child support are signed off on in the agreement can the parties come back and change that prior to divorce? I want to know that if we signed off on no spousal support and no child support is this set in stone?

Is this a situation that would be best with a mediator instead of both individuals having lawyers?

Key Laws

- [Change of Name Act](#)
- [Children and Family Services Act](#) (NS)
- [Civil Procedure Rules](#) (NS)
- [Divorce Act](#) (CAN)
- [Family Homes on Reserve](#) (CAN)
- [Federal Child Support Guidelines](#) (regulations)
- [Maintenance Enforcement Act](#) (NS)
- [Matrimonial Property Act](#) (NS)
- [Partition Act](#) (NS)
- [Parenting and Support Act](#) (NS)
- [Vital Statistics Act](#) (NS)

Legal Question	Where would you start? Answer key
When does child support end?	Nsfamilylaw.ca, child support, https://www.nsfamilylaw.ca/child-support/general-information-child-support/faqs - 24102 Federal Child Support Guidelines - https://www.justice.gc.ca/eng/fl-df/child-enfant/fcsg-lfpae/2017/index.html
I want to get a divorce and I cannot find my spouse. What can I do?	Notice of Motion for Substituted (alternative) service: https://www.nsfamilylaw.ca/what-if-i-don't-know-where-person-get-them-served-what-'substituted-service'
My common law relationship is ending. Can I get spousal support?	NS Parenting and Support Act – 2 years min. cohabitation Nsfamilylaw.ca https://www.nsfamilylaw.ca/spousal-support/general-information-spousal-support/faqs - 23686
My spouse is abusive. Will that affect custody and parenting time?	Nsfamilylaw.ca – What does ‘best interests’ mean – family violence a statutory factor (PSA) - https://www.nsfamilylaw.ca/custody-access/information-about-custody-and-access/faqs - 24154, and Supervised parenting time (access) and exchange https://www.nsfamilylaw.ca/services/court/supervised-accessexchange
When is a child old enough to decide where they want to live?	Nsfamilylaw.ca – custody - https://www.nsfamilylaw.ca/custody-access/information-about-custody-and-access/faqs#23897
I want to move to Alberta with our child – can my former partner stop me?	Parenting and Support Act – relocation (mobility) rules, including notice requirements - https://www.nsfamilylaw.ca/custody-access/relocation-moving-mobility
I cannot afford to pay the table amount of child support	Some possible options: Undue hardship under Child Support Guidelines – https://www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide/step8-etap8.html - h10 Money management (eg. Credit Counselling) https://www.solveyourdebts.com/ Material change? Variation application https://www.nsfamilylaw.ca/guide-applying-change-court-order-making-variation-application
Can I apply for a divorce without a lawyer?	Guide to Filing for Divorce in NS https://www.nsfamilylaw.ca/guide-filing-divorce-nova-scotia
I'm married. The house is not in my name. Do I have any rights if we break up?	Matrimonial property, matrimonial home, exclusive possession? Equal division – Matrimonial Property Act: https://www.nsfamilylaw.ca/separation-divorce/married/matrimonial-property-pensions-debts

Case example:

When was the order made & is it a final order? What income information did the court have? Has there been a material change since the order was made (eg. involuntary reduction in income) - potential variation application.

Do we legally need to split our debts 50/50? Creditor/debtor law - who is on the debt (that's who is responsible), but also family law. Debts are not presumptively divisible under the MPA. However, are they family debts? Person who wants a debt division must prove they are family (matrimonial) debts. What are the respective incomes? Did the debts exist at time of separation? Unequal asset division may be justified to take into account debts (MPA). If they agree on a division that's fine.

Explain need for ILA - each spouse for separation agreement. Terms will determine options for review/variation. Child support concerns - must comply with Child Support Guidelines if plan to register agreement or apply for divorce. Parenting arrangements and child support not “set in stone” while children are still dependent and entitled to support, parenting time.

Explain mediation, collaborative law, ways to get family law advice.