

Family Law on PEI

Introduction

This publication explains basic information about family law on Prince Edward Island, Canada. This publication includes information about spouses, separation, divorce, parenting, and family violence. It also includes information on how family law issues may affect immigration status.

The information in this publication is not legal advice and does not replace guidance from a lawyer.

About Us

Community Legal Information provides understandable and useful information about the law and the justice system in Prince Edward Island.

Contact

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Resolving Conflict

Should I take legal action?

Going to court can be a long and stressful experience. Taking legal action means a judge who does not know you or the other party will decide the matter. The other party is the person or people on the other party of your legal dispute. In a family law case, the other party is usually your ex. Sometimes both you and the other party may be unhappy with the result.

Coming to an agreement can be difficult. Dispute Resolution may help you come to an agreement with your spouse.

For more information about taking legal action, see our publication *How to Go to Family Court Without a Lawyer*. This publication may be useful even if you plan to hire a lawyer.

What are my dispute resolution options?

Before you decide to take legal action, think about Dispute Resolution. Dispute Resolution is a word for the different ways people can resolve conflicts out of court. Dispute Resolution sometimes has better results than going to court and is often much less expensive.

Here are some types of Dispute Resolution:

- Negotiation is talking with the other person and trying to come to an agreement. For example, you may both agree that the education of your children is the most important financial priority, or that you want as little disruption to your children's lives as possible. You may think that you don't agree with your ex on anything, but you may be surprised. Some people can resolve a lot on their own.

- Mediation is when you, your ex and a mediator sit down together to resolve disagreements. The mediator may meet with each of you separately first to learn more about the conflict. The mediator will then meet with you and your ex together and give each of you the opportunity to speak and to listen. The mediator is neutral and will help you to speak to one another in a positive way. One of the goals of mediation is to create a better way for you and your ex to communicate in the future.
- Collaborative Practice involves you, your spouse, your collaborative lawyers, and sometimes other support professionals, like finance or mental health professionals. The group must agree to resolve the issues without going to court. The process is based on mutual respect and the best interests of the family.

* Negotiation and Mediation may not be appropriate if there is a power imbalance or violence in the relationship.

Free Child-Focused Family Mediation: This service is offered for free by the Family Law Centre, with the Department of Justice and Public Safety. Child-Focused Family Mediation helps parents make a parenting agreement. Call 902-368-6928.

Spouses

What is a spouse?

Spouses may be:

- Two people who are legally married OR
- Two people who have lived together in a sexual relationship for 3 years or more (often called ‘common law partners’) OR
- Two people who are living together in a sexual relationship and are the natural or adoptive parents of one or more children

Spouses may be people of any gender.

To be legally married, you must have a recognized marriage ceremony. A recognized marriage ceremony must be performed by one of these people:

- A member of the clergy, or
- A judge, or
- Someone with a license to perform marriages in Prince Edward Island (usually called a ‘marriage commissioner’).

Some national government programs, like Immigration, Refugees and Citizenship Canada (IRCC) or Canada Revenue Agency (CRA), have different definitions of “common-law” relationships. For example, CRA considers you to be common law spouses after one year.

Do married and unmarried spouses have the same rights?

Unmarried spouses and married spouses have similar parenting rights and responsibilities. Unmarried spouses and married spouses have different rights about division of property.

How do married and unmarried relationships end?

Separation is when spouses live apart with the intention of ending their relationship. **Divorce** is the legal end of a marriage.

Separation automatically ends unmarried relationships. Spouses who lived together but never married don't get a divorce.

Married spouses may separate. But, until they get a divorce, they are still legally married.

Separation

Canada's *Divorce Act* says that separation for married spouses begins when you and your spouse begin living separate and apart. Living separate and apart means at least one spouse does not want to live together as spouses. You must tell your spouse that you are separating from them.

What if we want to separate but we can't afford to live separately?

You can be legally separated and still live in the family home. Examples of living separately in the same house include sleeping in different rooms and not eating together.

[Textbox] Remember, separation automatically ends unmarried relationships. You do not have to take any further action to make your separation "legal". If you are married, separating from your spouse does not mean you are divorced.

What is a separation agreement?

A **separation agreement** is a contract between spouses that includes information about division of property, parenting responsibilities, and other arrangements. A separation agreement can be made at the time of separation or later. You can make a separation agreement if you are married or unmarried.

You don't need to have a separation agreement. But having one can be very useful if there are disagreements between spouses later.

A separation agreement is legally binding if it is:

- Written down.
- Dated.
- Signed by each parent in front of a witness.
- Signed by the witness.

The witness must be at least 18 years old and must be mentally competent.

The witness does not need to read or know the terms of the agreement. They are there to confirm that the spouses signed willingly and were not pressured to sign a binding legal agreement.

Once the separation agreement is signed, it is a legal contract. It is important to be sure you fully understand and agree with the terms of the agreement before you sign it.

Do I need a lawyer to make a separation agreement?

No, you don't need a lawyer to make a separation agreement. But it is always a good idea to get advice from a lawyer before signing a legal document. If possible, it is best to have your agreement drafted by a lawyer and notarized. This ensures the agreement is correct and reflects the law.

If you do not have a lawyer, the Lawyer Referral Service may be helpful. The Lawyer Referral Service is administered by Community Legal Information. You may access up to 45 minutes of consultation with a lawyer for \$25 + tax. **Call 902-892-0853 or toll-free 1-800-240-9798.**

Do I need to file the separation agreement with the court?

No, you don't need to file your separation agreement with the court. A separation agreement is a private contract between spouses. But the agreement may be used in court proceedings later if disputes arise. It is important to keep more than one copy of the agreement in safe places.

What Do I Include in a Separation Agreement?

This list includes ideas of what to include in your separation agreement. You may not need to include everything on this list. You may need to add items depending on your situation.

Children

- Decision-making responsibility
- Parenting time (include plans for regular days and holidays)
- Contact with important people in the child's life who are not parents
- Other arrangements telephone, correspondence etc.
- Supervision, if necessary (who plans, who pays, what are the conditions)
- Guardianship (if required)
- What happens if someone moves outside the province
- Name changes for the children
- Who gets family allowance benefits and child tax credits
- Travel and passports

Child Support

- Amount
- Duration
- Material change in circumstances
- Income of support payor for variation purposes
- Retroactive child support payments
- Non-financial forms of support
- Planning for future costs (for example, University costs)
- Special agreements (for example, orthodontist fees, medical expenses, children's insurance for parents' automobiles, life insurance etc.)

Spousal Support

- Amount and duration
- When to increase support

- Definition of a “fundamental change in circumstances”
- Taxes
- Retroactive spousal support payments
- Non-financial forms of support
- Planning for future costs
- Special agreements

Division of Assets

The matrimonial home

a) Exclusive possession by one party

- Who pays for what
- When to be sold
- Buyout provision
- Occupation rent
- Date of valuation
- What if destroyed
- Conditions limiting occupation by one spouse (for example, if one spouse cohabits with another person)

b) Sale of home

- How proceeds are divided
- Credits to either party
- Reduction of list price by advance agreement

Other assets

- Canada Pension Plan credits
- Other pension plans
- Life insurance
- Tax refunds
- Leasehold interests
- R.R.S.P.'s
- Stocks and bonds
- Pets or animals
- Other investments (for example, G.I.C.'s.)
- Tools and employment equipment
- Furniture and appliances
- Vehicles
- Other land (for example, farmland, investment properties, cottages, condos)
- Business assets of either party
- Profit sharing plans
- Bank accounts (joint and/or individual)
- Inherited assets and gifts
- Receivables
- Investment valuables (for example, jewelry or art)

Assignment of debts and obligations to pay. This includes not only who takes care of existing debts but also how you and your spouse renegotiate existing joint loans or debts.

Miscellaneous

- If separation agreement binds estates
- If either spouse will maintain medical insurance for the other spouse and child(ren)
- If life insurance will be maintained and who will be the beneficiary
- Who will pay for the separation agreement (note: both can't pay one lawyer)
- If divorce will be applied for, and who will do it
- Use of mediation for conflicts or to negotiate changes
- Rules for involvement in each other's lives

This list is based on a template originally developed by Macnutt & Dumont for the Bar Admissions Course. It is reproduced with their permission.

Divorce

The rules for divorce in Canada are in the *Divorce Act*. Only a Divorce Judgment from a judge can officially end a marriage.

Can I get divorced if my spouse does not agree?

Yes. Even if your spouse does not agree to the divorce, you can ask the judge to grant you a divorce. Your spouse can't force you to stay in the marriage.

Can I get divorced without my spouse knowing?

No, you can't get divorced without your spouse knowing. Your spouse must have the chance to see the divorce paperwork you file and reply.

Can I start a new relationship before my divorce?

It is illegal in Canada to get married to another person if you have not legally ended the previous marriage. However, you may enter an unmarried relationship while still married.

If I was married in another country, does PEI recognize it?

Usually, yes. If your marriage was valid in the province, territory, or country where it was performed, PEI will recognize it as well. But there are some cases where PEI won't recognize your marriage. For example, if you are under the age of 16 and get married in a country where that is legal, your marriage will not be recognized in PEI.

I was married in another country/ province. Can I get divorced in PEI?

Yes, you can get divorced in PEI if:

- Your marriage is valid in PEI, and
- You or your spouse has lived in PEI for at least 365 days (one year).

If you were married in another country, that country may not recognize your divorce.

Can I get divorced in PEI if I am not a Canadian citizen?

Yes. You don't need to be a Canadian citizen to get divorced in Prince Edward Island.

I got divorced in another country or province. Is my divorce valid in PEI?

Yes. Your divorce is valid if you or your spouse lived in that country or province for at least one year before you started divorce proceedings.

What are the reasons I can get divorced?

You can choose to get a divorce because your marriage has broken down for one of three reasons:

- **A one-year separation.** You can start the process of filing for divorce before the one year is up, but you can't complete your divorce until you have been separated for at least one year. The one-year period of separation must be uninterrupted and continuous up to the time that the Divorce Judgment is granted. However, the *Divorce Act* does allow for efforts at getting back together, provided that the time you live together is 90 days or less during that one year. This is called a "trial cohabitation" and does not interrupt the one-year period of separation.
- **Adultery committed by the other spouse.** You will have to provide proof of your spouse's adultery in Court. You can't get a divorce because of your own adultery.
- **Mental or physical cruelty committed by the other spouse.** Cruelty may be physical or mental, but it must be of such a kind as to make it intolerable to remain together. You will have to provide proof in Court.

In Canada, most people get divorced after they have been separated for one year.

Do I need to prove that the one-year separation is not my fault?

No. You do not have to show who is at fault. There is no advantage to showing fault.

What is the difference between a contested and uncontested divorce?

An **uncontested divorce** is a divorce where you and your ex-partner agree on all the terms of the divorce. An uncontested divorce is filed at the Courthouse and reviewed by a Judge, but no Court hearing is necessary. An uncontested divorce can take between three and six months to complete. You may not need to hire lawyers for an uncontested divorce, although legal advice is always recommended before signing legal documents.

A **contested divorce** is a divorce where you and your ex-partner can't agree on the terms of the divorce. For example, you may disagree about parenting or about who will live in the family home. A contested divorce often takes much longer than an uncontested divorce. You may have to go to Court. If the divorce goes to a Court hearing, a Judge will decide on the matters.

Do I need to talk to a lawyer about my separation or divorce?

It is always a good idea to speak with a lawyer when divorcing or separating. This is especially true if you and your spouse can't agree on the terms of the divorce.

If you do not have a lawyer, the Lawyer Referral Service may be helpful. The Lawyer Referral Service is administered by Community Legal Information. You may access up to 45 minutes of consultation with a lawyer for \$25 + tax. **Call 902-892-0853 or toll-free 1-800-240-9798.**

What is a Certificate of Divorce?

Once your divorce is complete, the court will issue a Certificate of Divorce. The certificate is important. If you choose to remarry, Vital Statistics requires a Certificate of Divorce to prove that you are divorced before they will issue a new marriage licence. If you lose your certificate, ask the court if you can get a replacement. There is a fee.

Annulments

What is a legal annulment?

A **legal annulment** is the legal declaration that a marriage is void and has been since the beginning. If you get a legal annulment, you do not need to get a divorce. Legal annulments are only granted in rare circumstances. There are very specific reasons for which you can apply for a legal annulment. You can apply for a legal annulment if:

- **Non-consummation of the marriage:** One spouse is unable or unwilling to have sex within the marriage and the other spouse did not know that before marriage.
- **Family relation:** The spouses are too closely related to each other by blood or adoption.
- **Underage marriage:** A spouse was too young to get married. You must be 18 years old to get married in Canada. In some circumstances, you can get married at 16 or 17 years old.
- **Duress:** A spouse entered the marriage because they were threatened, coerced, or were otherwise fearful for their safety.
- **Mental capacity:** A spouse lacked the mental competency required to enter a legal contract.
- **Pre-existing marriage:** A spouse is already married to another person.
- **No consent:** If one or both spouses were unable to provide consent at the time of marriage.

There may be other reasons for a legal annulment. Talk to a lawyer if you believe you qualify for a legal annulment and want to get one.

What is a religious annulment?

A **religious annulment** means your marriage is revoked by your place of worship only. This type of annulment is not recognized legally. If you get a religious annulment without a divorce or legal annulment, you are still legally married.

Division of Property

What are the division of property rules for married spouses?

The value of any assets acquired during your marriage (and that you still own) is divided equally between spouses. Debts are also divided equally. If a 50/50 division does not work for your family, spouses can agree to an unequal division of property. A judge may order an unequal division of property in some situations.

If you and your spouse want to divide your assets unequally, talk to a lawyer before an agreement is made. If your family property is in another country, it is important to get legal advice on how Canadian law applies.

What are the division of property rules for unmarried spouses?

The equal division of property rule does not apply to unmarried spouses. When unmarried spouses separate, the person whose name is on the deed or proof of purchase of the asset may be the only one entitled to it. Unmarried spouses are not responsible for each other's debts unless they co-signed for the debt or the debt is in both names. You and your spouse can agree to divide property and debts, or one of you can make a claim in court for division of property and debts.

If you have put time and/or money towards an asset owned by your spouse, you may wish to speak to a lawyer about making a claim in Court for a share of the value of the asset. Unmarried spouses can sometimes divide pensions from employers or governments. Speak to the pension provider for details.

Can I force my ex to leave the family home?

If you are married, both spouses have an equal right to live in the family home and neither one of you can force the other to leave. The exception is if there is a Court order. Read our publication, *Court Orders for Your Protection* for more information.

What about cultural practices for dividing property?

There are many cultural practices about spouses' rights to property both during and after the marriage. Some of these practices are legal in Canada, while others are not. A lawyer can provide you with advice relevant to your situation.

Spousal Support

What is spousal support?

Spousal support is money paid by one spouse to the other spouse to help with ongoing expenses after the relationship ends. Spousal support is not automatic. A spouse asking for support must prove they are entitled to it. An ex-spouse or partner is usually expected to work and earn money if they can.

What is the time limit for a spousal support application?

You must file for spousal support within two years of separation. This is true if you were married or unmarried.

Can I apply for spousal support if I was not married to my spouse?

Yes. An unmarried spouse can ask for support if:

- The spouses lived together for 3 years or
- Have had a child together.

Can I apply for spousal support if I started the separation or divorce?

Yes. Spousal support is not connected to fault. You can still apply for spousal support if you:

- Had an affair, or
- Separated from your spouse, or
- Started the divorce process.

How do judges decide if there should be spousal support?

Judges consider many factors to decide if there should be any spousal support, how much should be paid, and how long it will last. The judge may base their decision on Justice Canada's *Spousal Support Advisory Guidelines*, but not necessarily.

Parenting Time and Decision-Making Responsibility

Parents have the same responsibilities to their children. Parenting responsibilities don't depend on factors like:

- Gender, or
- Age, or
- Marital status (meaning if you are married or not).

Children have the same rights if their parents are married or unmarried.

Usually, both parents have parenting time and decision-making responsibility. When parents separate, they must decide on what their parenting roles will be. The law in Canada prioritizes the best interests of the child in parenting. If it benefits the child, both parents should spend time with the child.

What is parenting time?

Parenting time is the time a child spends in the care of a parent or someone who acts as a parent. Each person with parenting time may make day-to-day decisions about a child when the child is in their care, unless a court orders differently. This means that small decisions about daily activities are made by the parent who has parenting time with the child on that day.

What is decision-making responsibility?

Decision-making responsibility is the responsibility to make significant decisions for a child's well-being. This includes, but is not limited to, the child's:

- Health,
- Education,
- Culture,
- Language and spirituality, and
- Significant extra-curricular activities.

Parents may have similar or different decision-making responsibilities. For example, you may be responsible for most decision-making, while both parents may be responsible for medical decisions. Or, you and the other parent may share all decision-making responsibility equally.

How do we resolve parenting disagreements?

You and the other parent may:

- Come to an agreement themselves.
- Get help from a mediator or a lawyer.
- Go to court and ask a judge to decide (only if it isn't possible to reach an agreement outside of court)

As a parent, you must:

1. Act in the best interests of the child

2. Protect the child from conflict
3. If it is appropriate, try to resolve matters through dispute resolution
4. Provide complete, accurate and up-to-date information as required
5. Obey court orders

Going to court is the last resort for resolving disagreements. The law says you must try to resolve a disagreement outside of court first.

Free Child-Focused Family Mediation: This service is offered for free by the Family Law Centre, with the Department of Justice and Public Safety. Child-Focused Family Mediation helps parents make an agreement about parenting. Call 902-368-6928.

If you go to court, a judge can make a parenting order that sets rules for a family's parenting. The judge only considers the best interests of the child when making a parenting order. A judge's decision is not affected by the age, gender, or incomes of the parents.

Child Support

What is child support?

Child support is the financial duty a parent has to their children.

A parent must pay toward the cost of raising their children as much as they can. A parent can't ignore or negotiate away child support. This is true if a child's parents were married, lived together, or never lived together.

A person who acts as a parent to a child, such as a relative or stepparent, may be able to receive or be required to pay child support.

Are parenting responsibilities and child support connected?

Child support and parenting responsibilities are settled separately. For example:

- A parent may be required to pay child support and have no parenting time or decision-making responsibility.
- A parent can't be denied parenting time because they are not paying child support.

Parenting and child support can be decided separately, or at the same time as other issues.

How long do I have to pay child support?

You must pay child support until the child turns 18 (the age of majority). You may also have to pay child support if the child is over 18 and has a disability, or illness, or attends post-secondary education full-time.

What are the Child Support Guidelines?

Across Canada, parents can use the Child Support Guidelines ("Guidelines") to calculate how much support each parent must pay (<http://www.justice.gc.ca/eng/fl-df/child-enfant/cst-orpe.html>).

The Guidelines set out the basic monthly amount of child support payable. In addition to the monthly amount of child support, a parent can also ask for more money from the other parent for the child's "special expenses". For example, medical, education, extracurricular activities, and day care expenses may be considered "special expenses".

[Where can I get more information about child support?](#)

For more information about child support, see our publication *Parenting and the Law*. *Parenting and the Law* includes information about the process of setting up child support, changing child support, and more.

Child Support Guidelines Officers can give you information on the child support tables, court forms, and the court process if you do not have a lawyer to help you. These services are free of charge. Call 902-368-6220 to speak with a Child Support Guidelines Officer.

Family Violence

[What is Family Violence?](#)

Family violence is any violence by one family member against another family member. There are legal options to protect yourself from family violence.

Family violence can include:

- Hitting, punching, scratching, biting.
- Threatening injury or property damage.
- Forcing someone to stay in a room.
- Sexual activity without consent.
- Emotional abuse.
- Depriving food, clothing, medical attention, shelter, transportation, or other necessities of life.

Anyone can be a victim of family violence.

[What do I do if a family member is violent?](#)

If you are feeling threatened and unsafe in your home, there is help for you.

[TEXTBOX] If you or the children are in immediate danger, call 911.

If you or the children are in immediate danger, call 911. The police will come to your house. They will talk to your family. They may lay charges of assault against the person who hurt you. If the assault is serious, the police may arrest the person who hurt you. The police may apply for an Emergency Protection Order (EPO) for you. If you do not speak English, the police will arrange translation services.

For more information about family violence, read the publication *Family Violence and the Law*.

[Victim Services](#)

Victim Services is a free and confidential program that supports you during the criminal justice process. Victim Services can support you at any point, even if charges have not been laid or you don't want to

report to police. Victim Services can act as a liaison between you and other members of the criminal justice system, including the police and the Crown Attorney.

Victim Services provides:

- General information about the criminal justice system.
- Information about your case.
- Safety planning.
- Court preparation and court accompaniment.
- Help writing your victim impact statement.
- Referrals to other services.
- Emotional support and short-term counseling throughout the process.

Victim Services does not provide legal advice.

Victim Services Charlottetown office

902-368-4582, victimservicescharlottetown@gov.pe.ca

Victim Services Summerside office

902-888-8218, victimservicessummerside@gov.pe.ca

Family Violence Prevention Services (FVPS)

You may wish to contact Anderson House Emergency Shelter or an outreach worker with Family Violence Prevention Services (FVPS). Anderson House can be reached 24 hours a day toll free at 1-800-240-9894 or in Charlottetown at 902-892-0960. Although men cannot stay in the shelter, FVPS staff can provide outreach services, referrals and other assistance.

Family Violence Prevention Services' Outreach workers can be reached Monday to Friday during business hours at:

West Prince 902-859-8849

East Prince 902-436-0517

Eastern PEI 902-838-4600, ext. 23

Queens 902-566-1480 ext. 224

What if I am an immigrant, and my sponsor is violent?

Everyone in Canada, no matter what their immigration status is, has the right to be protected by Canadian laws. This includes laws against violence towards anyone.

You will not be deported just because you leave an abusive relationship. But you may need to take further steps to keep your immigration status up to date. If you are not sure how the separation will affect your status in Canada, consult an immigration lawyer.

If you're afraid and you think you, your children, and/or others are in immediate danger, call the police right away by calling 911.

Children and International Travel

It is against the law to remove a child from Canada if they usually live here and this removal means that one parent cannot have parenting time. Canada has signed an international agreement with many other countries that arranges to quickly return children to the other parent.

You will likely have to show you are allowed to take your children out of Canada if:

- You're travelling without the child's other parent, or
- You're their only parent.

What documents do I need to leave Canada with my children?

If you share parenting of your children with someone else, bring:

- A letter from the other parent(s) that says they give you permission to take the children out of Canada. You can use the Canadian government's recommended consent letter for children travelling abroad ([link](#)).

If your children don't have another parent, bring legal documents that prove you don't need permission to travel with them on your own. For example:

- A death certificate (if the other parent is dead).
- A court order that shows you can travel with your child without asking anyone first.
- An agreement with the child's other parent(s) that says you can travel with the child without asking anyone first.

The country you are travelling to may have other requirements. Before you travel to another country, ask their embassy or consulate:

- What documents you need, and
- If your documents need to be notarized. Having a document notarized means a lawyer or notary public watches you sign the letter and then signs it as a witness to your signature.

What if I am worried my child will be taken out of Canada without my permission?

If your children are Canadian citizens, you can tell Passport Canada you do not consent to your child being issued a passport. Ask Passport Canada to put your child's name on the Passport Control List.

For more information about preventing parental abduction:

- Call Passport Canada toll-free at 1-800-567-6868. If you have a hearing impairment, call TTY services at 1-866-255-7655
- Read *International Child Abduction: A Guide for Left-Behind Parents* at www.travel.gc.ca
- Call the Vulnerable Children's Consular Unit, Global Affairs, toll-free in Canada 1-800-387-3124

If your children are not Canadian citizens, you may wish to contact:

- Canadian Border Services (1-800-461-9999),
- The embassy of your country, and
- The agency that issued your children's passports.

Immigration Status

Can my sponsor make me leave Canada?

If you are a permanent resident, your spouse, partner or sponsor can't make you leave Canada if you have permanent resident status. Only Canadian immigration officials can order a person to leave the country. This can only happen after an immigration hearing takes place. You won't be ordered to leave the country just because your sponsor wants you to leave.

Immigration, Refugees and Citizenship Canada (IRCC) will not make you leave Canada simply because your relationship ended.

What if my spouse is my sponsor and we separate or divorce?

If your spouse is your sponsor, you still have the right to end your relationship.

If you're a permanent resident, immigration officials won't ask you to leave Canada if you separate from your spouse (unless they believe the marriage wasn't genuine).

Your sponsor was required to sign a sponsorship undertaking. This means that your sponsor must continue to support you for three years. Separation or divorce does not change this commitment.

What if I am not a permanent resident and I leave my spouse?

Consult with an immigration lawyer about how a change in your marital status may affect your right to stay in Canada.

What if my sponsorship breaks down?

If you are a permanent resident, Immigration, Refugees and Citizenship Canada won't take any action against you (or your children) if your sponsorship breaks down. You will not be deported. Consult with an immigration lawyer for legal advice.

Can I go to family court if I am not a Canadian citizen?

Yes. Immigrants have similar rights to anyone else to use Canadian courts to deal with their family law issues. A person married outside Canada can go to court in Canada to resolve family law matters.

You can still apply for spousal support if you separated before your immigration to Canada is complete.

For more information for newcomers to Canada, visit the Immigration, Refugees and Citizenship Canada website at: www.cic.gc.ca.

Helpful Services

Community Legal Information: We provide legal information, referrals, publications on legal topics in English and French, public speakers, and presentations on legal topics. This is a free, confidential service. We also host the Lawyer Referral Service, which provides a short consultation with a lawyer for a modest fee.

1-800-240-9798 or 902-892-0853

info@legalinfopei.ca

Family Legal Aid: This program provides low-income applicants with free legal representation for some family law issues. There are criteria that you must meet to be accepted.

Charlottetown 902-368-6540

Summerside 902-888-8066

Recalculation Officer: If you have a child support order or agreement, you can register your order or agreement with the Recalculation Officer to get your child support recalculated annually.

902-368-4109

Child Support Guidelines Officer: This free service will give you information on the amount of child support your child is entitled to under the Child Support Guidelines. The Officer will help you make an application to the Court for child support or for a variation of child support. This office also has forms for cases proceeding under the *Interjurisdictional Support Orders Act.*, If the other parent lives in another province or country, you may be able to complete your application on PEI and have it forwarded to the other location.

902-368-6220

Maintenance Enforcement Program: 902-894-0383 or 902-368-6010. This office collects and distributes child and spousal support and takes steps to enforce support orders and agreements when they are not paid. You must register your order or agreement with this service to use it.

Positive Parenting from Two Homes: Free education sessions are offered in various Island communities for parents separating or divorcing or parenting from two homes. Sessions help parents deal with

concerns about children getting caught in the middle of parental conflict. If both parents participate, they attend separate sessions. There is a program for children in some age groups to help them with their parents' separation or divorce.

1-877-203-8828 or 902-368-4333.

Triple P Parenting: Triple P is a parenting program that provides ideas and healthy approaches when parenting children and teens. Clients choose the strategies that will work best for their families.
www.triplep-parenting.ca/pei

Community Mental Health: Offers counselling for individuals and families who are having mental health difficulties.

Charlottetown 902-368-4430

Summerside 902-888-8180

Montague 902-838-0960

Immigrants and Refugees Services Association (IRSA): Provides short-term settlement services, and long-term inclusion and community integration programs for new immigrants in the province of Prince Edward Island.

<https://www.irsapei.ca/>

902-628-6009

Moncton Refugee Clinic: Free English and French legal services to refugee claimants who do not have the financial means to hire a private lawyer. The Moncton Refugee Clinic will support people living in PEI.

<https://nbrc-crn.ca/>

506-204-5781

info@nbrc-crn.ca

Halifax Refugee Clinic: Free education, legal and settlement services to refugee claimants who are unable to afford a private lawyer. The Halifax Refugee Clinic will support people living in PEI.

<https://halifaxrefugeeclinic.org/>

902-422-6736

halifaxrefugeeclinic@gmail.com

More Publications

CLI provides many free resources available online at www.legalinfopei.ca and in paper copies. Other family law publications include:

- Adoption
- Becoming a Parent
- Parenting and the Law
- How to Go to Family Court Without a Lawyer
- Grandparents Parenting on PEI
- Names
- Resolving Conflict Outside of Court
- Family Violence and the Law
- Court Orders for Your Protection
- Making a Safety Plan

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Community Legal Information is a registered charity that receives funding from Justice Canada, the Law Foundation of PEI, the Law Society of PEI, the PEI Department of Justice and Public Safety, and other sources. Community Legal Information provides understandable and useful information about the law and the justice system in Prince Edward Island.

For more information on other legal topics, visit www.legalinfopei.ca, email us at info@legalinfopei.ca, or call us at 902-892-0853 or 1-800-240-9798. You can also find us on social media.

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