



**LEAVING AN
ABUSIVE PARTNER:**

Family Law Information for Women With Children

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Family Law Information for Women With Children

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Leaving an Abusive Partner:

Family Law Information for Women with Children



This guide is for women with children who have experienced abuse from an intimate partner (spouse, boyfriend, lover, etc.).

Leaving a relationship is difficult. If you have experienced violence or abuse from your intimate partner, it may get worse if you threaten to leave or actually leave. You may be frightened and, of course, you will want to protect your children.

This booklet provides you with information that will help you:

- Reduce any risks you may face from leaving your intimate partner.
- In navigating the family law system.

What is Abuse?

Abuse can take many forms, including physical and psychological abuse. In British Columbia, the Family Law Act has a specific definition of abuse. If you are engaged in the legal system with your partner, the court will refer to the definition of “family violence” in the Family Law Act to determine if you have been abused. (See the chart on the next page to understand the different types of abuse defined in the law and what the words mean.)

How the Family Law Act Defines Family Violence

The Family Law Act (section 1) defines family violence as:	What does this mean?
<p>(a) Physical abuse of a family member, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm</p>	<ul style="list-style-type: none"> • Any kind of physical contact that does or could hurt you or your child's body, including pushing, pulling hair, kicking, biting, etc. • Restraining you or your child from leaving your home or any place. This includes physically restraining you by sitting on you or locking you in a room for even a brief period of time. • Refusing access to basic necessities like food, water, heat, a bed, etc. <p><i>Note: It is not considered physical abuse if you try to protect yourself, your children, or your pets from getting hurt, and you use reasonable force to do so.</i></p>
<p>(b) Sexual abuse of a family member</p>	<ul style="list-style-type: none"> • Rape. • Unwanted sexual touching. • Forced sexual interactions (such as forcing you or your children to watch or listen to sexual interactions).
<p>(c) Attempts to physically or sexually abuse a family member</p>	<ul style="list-style-type: none"> • Any attempt or threat to hurt you or a family member (for example, a missed punch, throwing an object at you, trying to rape or force sexual interaction). <p><i>Note: Even if you have not actually been physically hurt, any attempt to do so is abuse.</i></p>
<p>(d) Psychological or emotional abuse of a family member, including:</p>	
<p>(i) intimidation, harassment, coercion or threats, including threats respecting other persons, pets, or property</p>	<ul style="list-style-type: none"> • Pressuring you into staying or leaving your relationship or home, or to do things against your will. • Making you fear for the people you love, as well as your pets or objects you cherish. • Threatening that you will lose your children if you pursue a court case or call the police. • Calling you names repeatedly or berating you or your family continually. • Convincing you by force to do things you don't want to do, such as selling all your RRSPs, transferring your home into someone else's name, using drugs, or leaving your children unattended. <p><i>Note: Threats do not have to be realistic or carried out to constitute family violence. Any threat, even if made only once, can be family violence. If your partner tries to use the court process against you, that can be considered harassment and intimidation.</i></p>

How the Family Law Act Defines Family Violence, *continued*

The Family Law Act (section 1) defines family violence as:	What does this mean?
(ii) unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy	<ul style="list-style-type: none"> • Preventing you from working. • Sabotaging your employment (for example, forcing you to miss work or refusing to take care of the children if you go to work). • Taking your money away from you. • Not allowing you to have a credit card or bank card. • Refusing to pay child support in order to make you suffer.
(iii) stalking or following of the family member	<ul style="list-style-type: none"> • Following you wherever you go. • Asking people to report where you are. • Showing up to your place of work. • Sending repeated text messages or emails or calling you more than necessary.
iv) intentional damage of property	<ul style="list-style-type: none"> • Destroying sentimental or valuable items • Damaging the home (punching holes in walls, breaking door locks).
e) in the case of a child, direct or indirect exposure to family violence	<ul style="list-style-type: none"> • Doing anything listed above to a child (physical abuse, sexual abuse, attempts to physically or sexually abuse, or emotional/psychological abuse). • Doing anything listed above to another person where a child could witness it (which includes hearing it).



Where to Get Help

Women's Centres and Transition Houses

Women's centres offer support and various resources to women who need information and help. Transition houses provide free temporary housing in a safe and secure environment and are open 24 hours every day of the year.

Some women's centres have legal advocates who can help you with legal issues and provide emotional support. Legal advocates are not lawyers, however. They are laypeople with some experience with family law issues, and they can help you through the process of leaving a relationship, including referring you to Legal Aid.

To find a transition house or women's centre, call VictimLink toll free at 1-800-563-0808. This number is staffed 24 hours a day, every day of the year.

The Police

If you are in immediate danger, call 9-1-1. If English is not your first language, tell the 9-1-1 operator what language you speak, and you will be transferred to a translator.

In some cities, the police department has a Domestic Violence Unit. When you call the police, ask if it is possible to speak to someone from this unit who can give you information and provide support. Some Domestic Violence Units may not assist you until after you've talked to a regular officer.

If you want the police to come to your home, but you are afraid your partner will overhear your request and make you hang up, call the police from your landline so they can trace your number to your home address if necessary. If you make a 9-1-1 call from a landline and do hang up, the police will likely come to your home, and the 9-1-1 operator may call back. You do not need to spend a lot of time on the phone with 9-1-1 in order to have the

police come to your home.

Alternatively, you can call or text a friend and ask that person to call the police. You can also call the police, tell them your address, and then say “Help!”

If you are a woman from a marginalized community or are afraid of how the police may respond to your call, and you do not need help immediately, you can ask an advocate or support person to be with you when you call the police to report a past incident of family violence. To find an advocate, you can ask a transition house worker, call VictimLink 1-800-563-0808.

Family Justice Counsellors

If your partner takes you to court, or if you decide you want to take your partner to court, or you are looking for a way to resolve your situation, you may be directed to speak to a family justice counsellor by your lawyer, the court, or a support person.

Family justice counsellors are located in communities throughout British Columbia and at some courthouses, and their services are free. They are not lawyers or judges and they cannot provide legal advice or make decisions about your case. Their role is to provide you with basic information about accessing the family law system, to help you and your partner mediate an agreement, and in some cases, to prepare a report that recommends what the parenting arrangements should be (called a “Section 211 report”). You can meet with a family justice counsellor several times.

Usually, your first meeting with a family justice counsellor will be an intake interview where the counsellor will ask you questions to determine if domestic violence has occurred and to assess whether it is safe to proceed with mediation between you and your partner. Once the mediation process begins, you can choose to stop it at any time. (See page 21 for more information on mediation where there has been abuse.)

To contact a family justice counsellor, you can call Service BC at:

- 604-660-2421 (in Greater Vancouver)
- 1-800-663-7867 (toll-free, elsewhere in BC)

Ask to be transferred to a family justice counsellor near you.

Lawyers

If you are leaving an abusive relationship and you have children, you should talk to a lawyer at least once. Finding a lawyer can be difficult and sometimes expensive, but options are available:

- Call a legal advocate or transition house (see page 44) and ask if they know of any lawyers who help women fleeing abuse.
- Talk to friends and family and ask if they can recommend a good lawyer.

Before hiring a lawyer, try to meet in person to assess whether you are comfortable with the particular person. If English is not your first language, ask for an interpreter. Once you decide to use a particular lawyer, use your time wisely and prepare for your next meeting (see the section Tips for Working with Your Lawyer, below).

If you don't have enough money to pay for a lawyer, you can apply for Legal Aid (see the section Legal Aid Can Help, page 10). If you do not qualify for Legal Aid, there are still options. You can call one of the programs that offer free legal assistance or Family Duty Counsel:

- Access Justice: 604-878-7400 (in Greater Vancouver) or toll-free 1-877-762-6664
- Law Line: 604-408-2172 (in Greater Vancouver) or toll-free 1-866-577-2525
- Family Duty Counsel: 604-660-1508 to make an appointment (at Vancouver Family Court)
- Justice Access Centres:
 - Vancouver: 604-660-2084
 - Victoria: 250-356-7012
 - Nanaimo: 250-741-5447

Family Duty Counsel

Family duty counsel are lawyers who work in courthouses and who provide very limited legal advice for free. They can give you advice or check over forms, and they can speak for you in court on simple matters. However, they won't represent you or handle your whole case. In Vancouver, you can book an appointment with duty counsel (see phone number above). For more information on the location and hours of family duty counsel offices, call the Legal Services Society of British Columbia toll free at 1-866-577-2525 or 604-660-1508 in Vancouver.

What Your Lawyer Needs to Know

Your lawyer can represent you best if you tell the complete truth about your situation and you answer any questions he or she may have fully and honestly. Here are some tips:

- When you first meet with your lawyer it is important to describe your situation fully and truthfully.
- You do not need to provide “documentary evidence” (i.e., usually written evidence that someone else verifies) or witnesses to relate your story of abuse. Your personal verbal or written evidence is good evidence especially if you can remember dates and details.
- Abuse often escalates after you leave, so tell your lawyer about any escalation or any warning signs that the abuse might get worse or become more frequent.
- Tell your lawyer if your partner has ever threatened to kill you, himself, or the children, or if he has ever tried to commit suicide.
- Tell your lawyer if your partner has access to any guns or other weapons, has mental health issues, or has issues with drugs or alcohol.

Remember that your lawyer must follow proper legal procedures; don't ask him or her to do something that is improper under the law. Trust your lawyer if he or she tells you what is and isn't possible under the law. For example, that you cannot ask the courts for improper relief, such as asking a Provincial Family Court judge for a divorce, to divide assets, or to make an ex parte order for a non-emergency issue (see page 16 for a description of the jurisdiction of the different courts, and page 20 for more information on ex parte orders).

How Legal Aid Can Help: Contacting Legal Aid

In British Columbia, Legal Aid is provided through the Legal Services Society to people with low incomes. To reach Legal Aid call:

Toll free outside Greater Vancouver: 1-866-577-2525

In Greater Vancouver: 604-408-2172

When you call Legal Aid, tell the person who answers the phone that your intimate partner has abused you (and/or your children) and that you need help to stay safe. You can ask to be assigned to a lawyer, or you can request a specific lawyer. (Ask an advocate or transition house worker to recommend a lawyer, as not all lawyers will have the same level of experience or sensitivity to your issue. If Legal Aid assigns a lawyer to you and you are not happy with the services, speak to an advocate about how to change lawyers.)

As soon as Legal Aid tells you that you have a lawyer, you should call him or her right away. Remember that even if you have not contacted or been contacted by the lawyer, once Legal Aid confirms that you have been assigned a lawyer, you are legally represented.

What does Legal Aid pay for?

Legal Aid does not provide a lawyer for everything. It does not provide a lawyer for you to only get a divorce, but it does pay for the lawyer to help you get a protection order to stay safe (see the section How to Protect Yourself and Your Children, page 12), and/or to make sure that your children do not have to see your partner in an unsafe way.

If Legal Aid tells you that you do not qualify for a lawyer, ask for a written explanation — and then phone an advocate (see the section Where to Get Help, page 6) who can help you explore options (including appealing the decision). Note that if you have received a large lump sum of money, like the sale of a home or a lump sum payment from your ex-partner, Legal Aid may ask for some of that money to help pay for your lawyer.

Note: If you are turned down for Legal Aid, you can reapply if something changes in your situation (e.g., a new assault, you have less money, or there is a new incident of abuse).

Tips for Working with Your Lawyer

- Ask to meet your lawyer in person for your first meeting so you can both get to know each other and decide if you are a good fit for each other. Remember that you don't have to stay with the first lawyer you meet with. If you have Legal Aid, it may be difficult to change lawyers, but it can be done in some circumstances. Ask an advocate to help you if you want to change lawyers.
- Prepare a written account of your relationship with your intimate partner, including the dates of any abuse and a list of witnesses and medical reports or other relevant documents. Include any issues you have with your partner about parenting time if you have been sharing the children's time with your partner (e.g., your partner yells at you when he picks up or drops off the child; he tells the child to misbehave or spy on you; he steals the child's things to inconvenience you).
- Write down all your questions for your lawyer.
- Remain calm when talking to your lawyer and focus on the issues - your lawyer is not a support worker or counsellor, and you want to use your time wisely. If you are with Legal Aid, your lawyer is given very limited time in which to help you, so try to stay on task.
- Keep telephone calls to your lawyer to a minimum. Every call costs money, and if you are on Legal Aid, these calls use up your Legal Aid hours.
- Keep copies of all correspondence from your lawyer, and from your partner and his lawyer, and keep copies of all court orders.
- Be sure to respond to your lawyer promptly. If you stop communicating with your lawyer for a long period of time, he or she may get "off the record," which means you will no longer be represented by a lawyer.
- If you move or change your phone number, be sure to give your lawyer your updated information.

How to Protect Yourself and Your Children

If you are afraid for your safety, you can apply to the court for a protection order or a peace bond, or no-contact conditions:

- A **protection order** is an order made by the court against your partner to keep you and your children safe. You can ask your lawyer to help draft a protection order and then apply to the court to enforce it. While it is always better to have the help of a lawyer, you can apply for a protection order yourself by telling the judge about the history of family violence and about the different types of violence (use the chart on pages 4 and 5 to help you describe the violence in the correct terms). Also remember to tell the judge that you continue to fear for your and your child's safety. If the abuser violates a protection order, he may face criminal charges.

Protection orders are typically given for a limited time, anywhere from a few weeks to one year. You can apply for a protection order either in Provincial Family Court or Supreme Court. The judge will listen to the facts of your situation and then decide whether to grant a protection order. If the judge does grant a protection order, it will be registered with the Protection Order Registry, which means the police will have access to it and can enforce it. Once you get a protection order, make several copies and keep them with you and others that may need them, such as the children's school, friends or family members who frequently have the children with them.

Having a protection order does not mean that you can't see your partner. If you voluntarily spend time with him while the order is in place, you will not get in trouble or be arrested. But having the order protects you. For example, if after you get a protection order you meet with the abuser and that meeting goes badly (he tries to abuse you in some way), you are protected by the order.



Note: if you have any other orders under the Family Law Act, a protection order overrules them. For example, if there is an order that says your partner can see the children, but the Protection Order says that your partner is not allowed to communicate in any way with your children, the Protection Order is the one that must be followed.

- A **peace bond** is similar to a protection order, but it is granted under the Criminal Code of Canada in a criminal law proceeding. It is considered a preventive order because its goal is to prevent an assault or another assault. To get a peace bond you do not have to show that a person has already committed an offence, but there does have to be a reasonable fear (such as a threat). To get a peace bond you must call the police and they will apply for a peace bond to be ordered by a judge or justice of the peace in Criminal Court. Peace bonds apply across Canada for one year and you can reapply for another peace bond if you still fear for your safety.

No-Contact Conditions explained:

Many people in the legal system use the terms “no-contact conditions,” “no-contact order,” and “no-go orders” interchangeably. The actual order that a judge makes is called a “recognizance of bail,” and it sets out “conditions” about what your partner can and can’t do while he is out of jail, waiting for his court date.

The recognizance of bail conditions can include things like an order saying your partner cannot have contact with you, or with your children; can’t go to certain places (such as your home or workplace); can’t have any weapons; or can’t use drugs or alcohol. In this booklet, we use the terms “no-contact conditions” because that is the most widely understood term.

- **No-contact conditions** are made by a judge in a criminal case. If your partner has been arrested and charged with threatening or assaulting you and he is not a flight risk or does not have a significant criminal record, he will likely be released on bail, but with a number of conditions, including having no contact with you. This means he cannot go to your workplace or residence. If your partner violates the conditions, he may be re-arrested.

The judge may order that your partner can have specified contact with you for communicating about family law matters. If you do not believe it is safe for the parenting time to continue, or if you would have to do the exchange yourself, tell this to Crown Counsel (the prosecuting lawyer in a criminal case), who may tell the judge.

If you have any other specific conditions you would like in your partner’s bail condition in a criminal case, tell the Crown Counsel (for example, to stop the abuser if he is in the habit of bothering members of your family).

If you have a protection order, peace bond, or are protected by no-contact conditions, be sure to make copies of the order or document and put one in every purse you carry and in your children’s backpacks. Take a copy to your children’s school or daycare and ask the teacher or other responsible person to keep it in a safe place.



Orders made before the new Family Law Act

In 2013, a new Family Law Act came into force in British Columbia. Before 2013, civil restraining orders were used to prevent contact between partners to keep them safe. Under the new Act, these orders are no longer made. The order that now prevents contact and keeps you safe is a protection order. However, if you have a restraining order that was put in place before the Family Law Act was enacted, and there is no expiry date on it, then that order is still valid.

What the Courts Can Do to Help

Courts in real life function quite differently from what you may have seen on TV shows, or what you may have heard from friends. You need to have a general idea of how the courts work in British Columbia and how they can help you. If you have any questions about how the court system works, speak to a lawyer or an advocate.

Different courts are responsible for different types of cases. In a family proceeding, you will go to either Provincial Family Court or Supreme Court. If you want to get a divorce or to divide the property, you must go to Supreme Court. If you are dealing with issues such as child support, spousal support, parenting time and protection orders, you can go to Provincial Family Court or Supreme Court. If you are not asking for a divorce, and you think that you won't have any issues about dividing property, you may want to file your case in Provincial Family Court as there are no filing fees and the process is simple compared with Supreme Court.

If your case ends up in both Criminal Court (because of abuse by your ex-partner against you or your children) and Provincial Family or Supreme Court (to resolve family law issues between you and your ex-partner), you or your lawyer need to be sure to tell the family court judge of any criminal court proceedings. That information is not automatically provided to the judge. Under the Family Law Act, when a court is considering what is best for the child, it must take into account “any civil or criminal proceeding relevant to the child’s safety, security or well-being,” so the judge needs to have all the information in front of him or her to make a decision. For example, if you have gone to Criminal Court and an order has been made against the father, the judge needs to know that.

Criminal Court

Criminal Court hears cases where a crime has been committed (e.g., your partner has threatened you or hurt you). You cannot take a case to Criminal Court yourself. Instead, the police will gather information and give it to Crown Counsel. Crown Counsel is the prosecuting lawyer who takes the criminal case to court; he or she is not your lawyer and does not take any instructions from you. Crown Counsel will proceed with the case if there is a reasonable likelihood of a conviction, or if doing so is “in the public interest” (usually this means keeping society safe from dangerous people).

In a criminal case, keep in mind that there does not need to be any external evidence or witnesses to your abuse. Your own evidence can be enough to result in your partner being convicted of a crime. However, it is helpful for you to document your abuse by taking a picture or going to the doctor so there is a report of it.

Criminal Court judges cannot grant family law orders such as orders for parenting time or for who provides care for the child.

It is important to realize that Criminal Court proceedings can change quickly. Very often, no contact conditions that are attached to a bail order will be cancelled if the charges are dropped against your partner. Sometimes Crown Counsel will try to have a peace bond put in place in this case.

Because charges are very often dropped for many different reasons, including a lack of evidence, it is a good idea to apply for a protection order in conjunction with no-contact conditions to be sure that you will always be protected under the law even if the no-contact conditions are later cancelled.

Tips for Going to Court

- Take a friend, family member or support person to court with you for support and to take notes about what the judge says and orders.
- Take your own notes during the proceedings and ask your lawyer any questions you have after the court appearance.
- If you need to say something to your lawyer while he or she is speaking to the court, write a very short note and pass it to him or her.
- Do not attempt to record the court proceedings; this is not allowed.
- If you are afraid that your spouse is going to follow or harm you when you are in the courthouse or if your spouse does follow you into the courthouse, let a sheriff know. The sheriff may then take measures to ensure your spouse stays away from you.
- Court appearances are formal, so dress appropriately in conservative business casual attire.
- Remain calm; it is normal to be nervous or even cry. However, getting angry, making faces, rolling your eyes, or yelling in court will disrupt the court process and harm your case. Tell friends, family, and support people to also remain calm and behave appropriately.
- If you are asked questions or are testifying, be brief and direct your answers to the judge.

Provincial Family Court

Provincial Court is divided into three courts: Criminal Court, Family Court, and Small Claims Court. In larger urban centres these courts may be in separate buildings; but in smaller communities, all three courts may be in the same building.

Family Court deals with support, parenting issues, guardianship, relocation (moving away with your child), and protection orders. Provincial Family Court cannot grant you a divorce or divide your property.

The court process in Provincial Family Court is easier and more casual than in Supreme Court. You do not have to pay any filing or application fees in Provincial Family Court. If you do not have a lawyer, it is much easier to represent yourself in Provincial Family Court than Supreme Court. (You can also represent yourself in Supreme Court, but that is much more complicated.)

If you are asking the court to decide on parenting time and parenting responsibilities, you will be required to attend a one-time course called Parenting After Separation. This course is free, and is taken in a classroom setting. You will not be in the same class as your partner. Parenting After Separation classes are offered in many cities and in languages other than English. If there is no class that is accessible to you, you can apply for a waiver to not have to take the course.

Supreme Court

If you want to get a divorce or divide your family assets (things that both you and your partner both own or acquired during the relationship, such as the house, car, and money or other investments), you must apply in Supreme Court. The Supreme Court will also make custody/parenting arrangement orders as part of a divorce if you are married. Before a judge grants a divorce, he or she must be satisfied that appropriate arrangements have been made for the care of the children, including parenting arrangements and child support.

Supreme Court has more difficult and complex rules than Provincial Family Court. You will also have to pay application and filing fees in Supreme Court, but you can apply for “indigent status” if you don’t have enough money. You can ask the court clerk how to apply for indigent status if you cannot afford the court fees. Legal Services Society has an online guide to assist people to apply to waive fees in Supreme Court.

Family Case Conferences and Judicial Case Conferences

Unless you are applying for an emergency order or an ex parte order (see the text box below), usually you will have a Family Case Conference (in Provincial Family Court) or a Judicial Case Conference (in Supreme Court). Case conferences are typically held before any orders are made. A case conference has a judge and a clerk in a closed room with you and your ex-partner and/or your lawyers. The judge will often try to help you and your ex-partner come to a solution by agreement – much like mediation. These orders must be followed, just like any other order made by a judge.

The judge will also use this time to set out the issues that will be heard at a hearing.

Ex Parte Order

An ex parte order is an emergency order granted by the court without your partner having any advance notice and without appearing in court. This order is typically used for protection orders, emergency parenting arrangements, financial restraining orders (to stop your partner from selling, hiding or giving away assets or money), and non-removal orders (preventing a child from leaving the city or province). Either you or your partner can apply for an ex parte order.

The judge makes these orders sparingly because they only hear one side of the story, and often the judge will put a short expiry date on the order. If you do not have a lawyer but need an order on an emergency basis, you should talk to family duty counsel (see the information on Family Duty Counsel on page 9).

To get an ex parte order you need to explain to the judge why you need the order right away and why you cannot give the opposing party proper notice. There needs to be an element of an emergency to the situation. If the judge refuses to give you the order, you can ask for “short leave,” which means that your partner has to appear in court on short notice rather than the longer notice period required under the rules of court. For example, you can ask the judge for short leave of two days to give you time to notify your partner that you are applying for the order.

Mediation: The Right Option for You?

Going to court is not the only way to get an order. Instead, your partner, and sometimes the judge, may suggest mediation as a way to resolve your situation. But before you agree to mediation, you should be sure it is the best choice for you.

For couples who are separating and there has not been any abuse, mediation can offer an inexpensive way to deal with issues without going to court. But in an abusive relationship, mediation may present another opportunity for your partner to continue that abuse. It's unlikely that your partner will start treating you fairly in mediation if he never treated you fairly when you were together.

Be aware that your partner may use the mediation to make you feel scared or to pressure you into giving him what he wants. For example, he might tell you that if you don't come to an agreement at mediation, he will go to court where things will go really badly for you. If you are in mediation and you feel uncomfortable or pressured, do not agree to anything and take a copy of the proposed agreement to a lawyer to ensure you are comfortable with the mediated agreement.

If you do choose mediation with your partner, tell both the mediator and your lawyer about your concerns or fears. During the mediation, you do not need to be in the same room as your partner. Your lawyer can meet with the mediator and your partner while you remain in another room or even attend by phone.

If you come to a mediated agreement, the agreement can be filed in court and have the same force and effect as an order. Even if the agreement is not filed in the court, it is still considered to be binding under the Family Law Act. Always remember that courts are reluctant to change an agreement without a very good reason, so be sure you know what you are agreeing to.

If you are in mediation with your abusive ex-partner:

- Remember that you can ask for “shuttle mediation,” which means that you and your partner are not in the same room.
- Remember that you can walk away from mediation at any time if it is not meeting your needs.
- Ask the mediator to write out what is being proposed; sometimes it’s easier to understand what is said if it’s in writing.
- Request a break whenever you need one.
- Do not sign any agreement or order until you’ve spoken to a lawyer.

Note: Mediation is a confidential process. Neither you, your partner or your lawyers can tell the Judge what was said in mediation or the reason why mediation didn’t solve the issues.

Many women make agreements that they are unhappy with in mediation to try to have peace with their ex-partner. Often these women say that after they make the agreements there is still not peace and they are forced to live with an agreement that makes them very unhappy or makes their life more difficult. Make sure that any agreement you make is an agreement that will not cause you more difficulty.

What Will Happen to the Children?

Guardianship, Parenting Time, Contact, Parenting Responsibilities, Custody, and Access: What the Words Mean

Family Law Act Language:

- Typically both parents are **Guardians** under the Family Law Act. Only guardians are entitled to parenting time and responsibilities; however, if a parent has never lived with a child and does not regularly care for a child, they will typically not be a guardian. Even though a parent is a guardian, the amount of parenting time or allocation of parenting responsibilities is based on what are in the best interests of the child.

If both parents are guardians and you want to be the only guardian, you will be asking the court to remove the other parent as a guardian. This can be very difficult to do; it is always best to ask a lawyer if this is possible in your situation.

- **Parenting time** is the time a child spends with his or her guardian. Whether a guardian has short visits or has the child more than half of the time, it is all considered parenting time.
- **Contact** is time that a non-guardian, including a non-guardian parent, can have with a child. This means spending time with the child, but not having the responsibilities of a parent.
- **Parenting responsibilities** are those responsibilities that a guardian has, typically carried out during their parenting time. (Parenting responsibilities are described further on page 28.)

If your children are at risk of physical or emotional harm you can ask that there be **supervised parenting time** or **supervised contact**. This means that someone else oversees the visits. This person may be you, a friend or relative you trust, or someone from a professional agency that charges money to supervise the access visits. Typically these visits are time limited and move into unsupervised parenting time or contact if the visits go well.

Divorce Act Language:

- Having **custody** generally means having the care and daily control of the children. In Supreme Court, where there may be proceedings under the Divorce Act, the court may make orders for custody. Parents are often given joint custody, which means that they share responsibility, but usually the children still live most of the time with one parent, who has **primary residence**, and spends time with the other parent.
- **Access** is the time the children spend with the parent who does not have custody or who does not have primary residency. In applications under the Divorce Act in Supreme Court, a judge may make an order for access. Access can include telephone calls and web cam calls. If you believe your children are in danger from your partner, you can ask the courts for supervised access.
- Note: even if you are getting a divorce, judges may still use concepts and language from the Family Law Act.

Deciding Parenting Time and Parenting Responsibility Arrangements

There is no one best parenting arrangement. Parenting arrangements are based only on the best interests of the child. However, if your application is based on the Divorce Act, the court will consider additional factors, such as providing children with maximum time with both parents and the likelihood that one parent will accommodate the relationship with the other parent.

You will not automatically get the majority of the parenting time (or custody) when you leave a relationship just because you are the mother. In addition to the father, other people may have rights in family law matters, such as step-parents and grandparents if they have helped out financially or emotionally in raising the children. As well, the provincial government, through the Ministry of Children and Family Development, has an obligation to make sure that a child is properly cared for. The ministry can remove children from a home where there is violence, even if the children are not the ones being physically hurt.

When thinking about how parenting arrangements are made, keep these points in mind:

- You do not need to ask a judge to decide on parenting arrangements if you and your partner are able to do so on your own – formally or informally, for instance if you decide through emails what the schedule will be, or if he doesn't reach out for visits at all.
- A parent who has never resided with the child and has not regularly cared for the child is not a guardian unless an order or agreement says otherwise. Only guardians have parenting responsibilities (see page 28) and parenting time. Non-guardians have contact with a child.
- Although each case is different, the parent who has looked after the children most of the time before the breakup of

the relationship may be the one who has more parenting time with the children, while the other parent will get to see the children as often as the judge thinks will be good for the children. If a child is very young (under five years), usually many short visits are granted. Older children are more likely to have longer visits including weekday time, overnights, weekends, and part of school holidays.

- Even if there is a history of abuse or violence, courts will still very often order that the child spend equal time with each parent if both parents were actively involved or if they believe both parents want to be actively involved.
- Typically, parenting responsibilities are shared, but sometimes it is not in the child's best interest for both parents to share certain parental responsibilities. For example, you may not want your partner to share the responsibility of keeping a child's passport if you are concerned that he may abduct the child; or you may not want to share responsibility for the child's health care if there is risk of your partner refusing permission to treat the child in some circumstances. If these examples or others are of concern to you, you can ask the court to divide parenting responsibilities in a particular way.
- Being the mother of your children doesn't give you any special privilege in family law matters. Men and women are seen as equals by the court. The judge will listen to the evidence and make a decision based on what is best for the child. **The judge is not there to decide what is best for the parents – only what is best for the child.** You need to clearly state what you think is best for your child and why.

It is always best to come to court with a proposal for how parenting time and parenting responsibilities should be divided. When you are developing your proposal, remember to consider how you will exchange the child for visits, especially if you are afraid that your partner will abuse you during an exchange. In your proposal, you can suggest how you think child exchanges should happen. This plan does not need to be permanent; this may be a plan for safety until a longer-term plan can be made (the next page has ideas on staying safe when transferring the child to the other parent).

Transferring the child to the other parent: Staying safe

Some men use the exchange of the child (pick up and drop off) to continue the abuse. For example, your partner may:

- Lie about what time you showed up for the exchange.
- Try to talk to you about getting back together, about the abuse, or about other things you don't want to talk about.
- “Push your buttons” to make you upset, sad, or angry.
- Follow you home after transferring the child.

If your partner does any of these things, consider making the exchange in a public place where there are witnesses. For example, you might meet at a mall with an escalator; you can be at the top and your partner at the bottom, and you can send the children down to meet him. Or you might choose to meet in a busy coffee shop. You might also want to bring a friend or family member with you as a witness, or have them transfer the child between you.

It can often be helpful to have the pick-up or drop-off location be the child's school or daycare, so that only the parent picking up or dropping off is attending. Older children may also be able to walk themselves to the exchange, or wait for the other parent in a public place.

Wherever the exchange takes place, try not to talk to your partner. It is enough to simply say “hello” and confirm the pick-up time. Use email, text, or a written message in a notebook to pass on any other necessary information about the children. If any problems arise, write down what happened right away.

If you are worried about being followed home, go somewhere else first to see if he is following you. Know where the nearest police station is, and if your partner follows you, go there and ask for help. If you have a protection order, peace bond, or no contact conditions and he follows you, call 9-1-1.

In dangerous or high-conflict situations, a judge can make an order for a supervised parenting time exchange. This means that there is a go-between who takes the children from one parent to another for the parenting time. This person could be a friend or family member, or it could be a paid professional. For the names of local professionals who provide supervised parenting time exchange, ask your lawyer, a woman's centre, or a transition house.

Parenting responsibilities

Under the Family Law Act, the following are “parenting responsibilities.” All guardians must carry out these responsibilities in the best interests of the child:

Family Law Act S. 41	Responsible for:
(a) making day-to-day decisions affecting the child and having day-to-day care, control and supervision of the child;	Daily decisions, like what the child eats or wears, and taking care of the child.
(b) making decisions respecting where the child will reside;	Where you will reside with the child, this does not give permission for a parent to know where the other parent lives. See page 43, for more information on relocating to another city.
(c) making decisions respecting with whom the child will live and associate;	Who the child will be around: friends, family members and babysitters.
(d) making decisions respecting the child’s education and participation in extracurricular activities, including the nature, extent and location;	The child’s schooling, such as where they go to school and what type of extra activities they will do, like sports and arts and tutoring. It also includes the decision about how many activities or courses they will take and where they will go to learn.
(e) making decisions respecting the child’s cultural, linguistic, religious and spiritual upbringing and heritage, including, if the child is an aboriginal child, the child’s aboriginal identity;	Decisions about French immersion or language lessons, religious instruction or attending a place of worship. It can also include attending cultural events.
(f) subject to section 17 of the Infants Act, giving, refusing or withdrawing consent to medical, dental and other health-related treatments for the child;	Making health care decisions for the child including medical, dental, and mental health – such as attending counselling.

Parenting responsibilities, continued

Family Law Act S. 41	Responsible for:
(g) applying for a passport, licence, permit, benefit, privilege or other thing for the child;	Applying for a passport, licence, permit, benefit, privilege or other thing for the child (can include child tax benefits, subsidies, Christmas hampers, fishing licences, and other items that your child will benefit from - but note that it is the government or agency policies that will determine eligibility)
(h) giving, refusing or withdrawing consent for the child, if consent is required;	Permission for school trips, consent for the child to travel with other people, consent to do activities, and other times where as a parent you need to say that it is okay for the child to do that activity
(i) receiving and responding to any notice that a parent or guardian is entitled or required by law to receive;	Notices that parents receive, like notices from the school, notices from the government or information about your child based on privacy legislation.
(j) requesting and receiving from third parties health, education or other information respecting the child;	Being able to get information from doctors, dentists, counsellors, teachers and other professionals in your child's life
(k) subject to any applicable provincial legislation, (i) starting, defending, compromising or settling any proceeding relating to the child, and (ii) identifying, advancing and protecting the child's legal and financial interests;	Proceeding with legal issues on behalf of your child. Ensuring that your child's financial future is protected, such as continuing contributions to a child's registered education savings plan (RESP).
(l) exercising any other responsibilities reasonably necessary to nurture the child's development.	Anything else that a parent has to do to make sure that the child is cared for and supported

What does “in the best interests of the child” mean?

When making decisions that affect children, judges consider **only** the best interests of the child, which is defined in the Family Law Act. The judge will consider many factors in determining what is best for the children both physically and emotionally, including the following:

- The child’s health and emotional well-being (for instance children who have specific health needs may need different parenting arrangements to meet those needs).
- The child’s views, unless doing so would be inappropriate (for instance when the children are very young).
- The nature and strength of the relationships between the child and significant persons in the child’s life (including parents, grandparents, and other people in the community).
- The history of the child’s care (what type and amount of care have guardians typically provided for the child in the past).
- The child’s need for stability, given the child’s age and stage of development (for instance young children, or children with special health considerations typically require a more consistent routine).
- The ability of the parent or guardian to be responsible with parenting time, contact or parenting responsibilities (for instance, if there is a significant mental health issue that is not controlled, parenting time with the child may have to be supervised).
- How family violence may have harmed the child, both for family violence towards the child or toward another member of the child’s family (for instance, if your ex-partner has engaged in violence around the child, there may be a requirement of supervision for future visits to ensure that he stops being violent in front of the child).
- Whether a person who has used family violence towards another family member is able to provide proper care for the child (for instance, is there a pattern of your ex-partner using the exchange of the child as an opportunity for harassment of you).



- Would making an order for both parents to cooperate to be co-parents cause safety issues or impact the child or other parent's security or well-being (for instance, if your ex-partner sends harassing text messages and will not consult on issues affecting the child, it may not be appropriate to have to cooperate).
- Any legal proceeding (civil or criminal) that may concern the child's safety, security, or well-being (for instance, a charge against your ex-partner for violence that impacted the child; or the breach of a protection order).

Judges will consider a parent's "bad behaviour" only if it seriously affects the children (for example, a judge may not stop visits with a parent with alcohol issues unless the parent drinks alcohol in an inappropriate way around the children.) However, if a parent is continuously uncooperative (for example, refusing to abide by court orders) a judge may consider that a reason to limit parenting responsibilities or parenting time.

If you are in an abusive relationship, and you plan to take the children with you when you leave, there are steps you can take to avoid allegations of wrongfully denying your partner parenting time with the children, or allegations of abducting the children.

- If possible, meet with a lawyer before leaving or as soon as possible after leaving to get legal advice about your specific situation (see page 6 for legal resources).
- Email, text, or leave a note for your partner (and take a screenshot, photograph or a copy of it with you if possible). This email, text or note should tell him that you are leaving and include a phone number where you can pick up messages (e.g., your parents' or friend's number, or a cell phone number).
- In the email, text or note, say that you want to work out an agreement for parenting arrangements. Leaving such a note may prevent the other parent from getting an ex parte order for sole parenting time by making an allegation that you “disappeared” with the children. If your partner does get an ex parte order, go to the courthouse as soon as possible to overturn this order (duty counsel should be able to assist with this).
- Get a lawyer as soon as possible. Having a lawyer does not mean that you must go to court, but they can help you to know your rights and responsibilities so that you can make informed decisions.
- Call a legal advocate, transition house, or women's shelter (see the section Where to Get Help, above), and ask for a list of recommended lawyers. If you have a low income, you may be able to get Legal Aid. Contact the Legal Services Society for information about Legal Aid (see the section How Legal Aid Can Help, above).
- Go to court to settle parenting arrangements as soon as possible. Without an order your partner can take your children (e.g., from school) and you might not be able to get them back without going to court.

If you don't take the children with you, immediately go to court for a parenting time order. This may be able to be done on an ex parte or short leave basis.

Please note: It might be safer to take the children with you when you leave. Some violent partners, even those without a history of directly abusing the children, escalate their behaviour when women leave.

Frequently Asked Questions

Will the abuse stop when I leave my partner?

Many people believe the abuse will stop once they leave their partner; however a woman is most at risk for two years after she leaves (as well as when she gets pregnant or has a baby). Many women find that there is different abuse when they leave and the abuse may escalate. Abusers can also use the courts and the police to harass their victim. Abusers sometimes use the children to continue the abuse or to force the woman to return. Abusers may also use money – such as child support or disposing of assets – as a way to control their partners. However, you can mitigate these factors by setting up a strong support network for you and your children and seeing a lawyer as soon as you can.

Do I have to let my children see my partner before I get a court order?

It is best to get an order first if there is any danger of your partner hurting your children or refusing to give them back after a visit. If you send your children to see your partner without having an order, and he doesn't bring them back to you, the police may not be able to help you. You may have to wait to go to court to try to get them back. If you are afraid for your children's safety, offer to give your partner parenting time by phone, web cam, or email.

If you **DO** decide to send your child on a visit with your partner, there are steps you can take to help ensure that you may be able to have the child returned through the courts. You can use email or text to have him confirm:

- That he is seeing the child just for a visit and the child is not moving in with him.
- The date and the exact time of the beginning and end of the visit.
- That if the child is not returned at the agreed time, you can go to court for an ex parte application for interim without-prejudice order for the return of the child. (Copy these words exactly.)
- That he agrees not to engage in certain behaviours (e.g., drinking alcohol, driving without a car seat, taking the child to be around unsafe people), if you are concerned about specific behaviours.

In order for this to be used in court, there must be a positive response in writing to the text or email for it to be considered an agreement.

You can write these details on a piece of paper. You can then go with him to a notary public to have the agreement notarized (it will cost \$25 to \$50). Take your ID and bring a friend with you.

By writing this agreement clearly, you might make your partner think twice about not bringing your children back because he will know that a judge could see this agreement.

BEWARE: An agreement like this is not a guarantee that your partner will return your children after a visit. If he does not return the children, take the email, screenshot of the text messages, or signed agreement to your lawyer or to family duty counsel at the courthouse immediately to seek help.

Emails or texts used for agreements can be useful evidence. Be sure to keep emails in a secure email address (make sure that the password and security questions do not reflect personal information he would know). If you communicate by text, take screenshots of them and email them to yourself immediately.

It is also useful to keep a journal of interactions with your partner. These descriptions do not need to be full explanations, just short notes that remind you of what happened on specific days.

Can my children decide which parent they want to live with?

The courts generally don't let children decide where they want to live until they are at least 12 years old. The courts do not want to put children in the middle of the parents' dispute and they recognize that young children may not be able to make the best decision. However, the courts must consider the child's views unless it would not be appropriate (for example, in the case of a very young child or a child who is alienated). Typically a report on the child's views are done through family justice counsellor interviews or "Hear the Child" reports.

Will the judge determine that because my partner hurt me he is dangerous to our child?

Judges in British Columbia must consider your partner's violence toward you as it relates to what is best for the child. Some judges might not think that the abuse seriously affected your child, or might think that because you and your partner don't live together anymore it isn't a problem. You should always tell the judge about any violence, and how the violence affected the child. See the section on best interests of the child to see other factors a judge will consider in making an order for parenting arrangements.

Will the judge let my partner have parenting time or contact if he has hurt my children?

A judge may allow some parenting time or contact if he or she feels like there is no immediate danger to the children. Indicators of immediate danger are convictions of hurting the children, credible witnesses who have seen or heard the abuse, the children disclosing abuse through video/audio recordings, and police reports or medical reports showing that the children have been abused.

If you feel that your child will be in immediate danger if parenting time is ordered, talk to a lawyer about what evidence you will need to build your case.

Even in cases where the child may be at some risk, the judge may allow your partner to have parenting time or contact. The judge may determine that parenting time or contact has to be supervised and/or that your partner needs to get counselling to have parenting time or contact.

My partner doesn't show up when he is supposed to see the children. What should I do?

Keep track of when he didn't show up either on a calendar or by sending yourself an email. If your planned meeting location is a public place, it is helpful to take a photo with your phone or purchase a small item nearby to show that you were at the location at the proper time. It is best to wait for 30 minutes in case he is late and to continue to be at the exchange place for a few times even if he keeps missing the exchange appointments. This way you cannot be accused of denying parenting time.

I don't want my kids going on visits with my partner. Can I stop them?

Don't stop sending your children for visits (there are exceptions, as discussed in the next FAQ). If you do, your partner could go back to court to force you to let the children visit him. You could even lose parenting time and parenting responsibilities for stopping the parenting time or contact without permission.

If you deny parenting time or contact without a very good reason (see the next FAQ), the courts have the power to make penalizing orders. Typically these orders will be made if there is a pattern of refusal without a good explanation. The judge can order dispute resolution or counselling. If the denial is extraordinarily bad and is ongoing, you may be ordered to make a payment of “security” to the court to ensure that you follow the order, or you may be fined or ordered to pay the other parent up to \$5,000. You can also be ordered to pay for expenses the other parent incurred because of the missed visit (such as childcare, transportation, or missed wages). The judge can also order that the missed parenting time must be made up.

If you want to deny parenting time, talk to your lawyer or an advocate. If parenting time is denied because the child is ill, be sure to get a note from the doctor.

If the child does not want to go to the parenting time, in some situations it may be appropriate to let the other party know and suggest an alternative (for instance there is a particular reason the child is nervous or it is the first time a child is refusing to go). You could also take the child to a counsellor or doctor who can write a note verifying that the child was upset or was suffering anxiety from the prospect of parenting time.

Is there a time when visits can be stopped?

Under s.62 of the Family Law Act, denial of parenting time is not wrongful:

- If you believe that the child may be affected by family violence if there is parenting time or contact (see pages 4 and 5 for a definition of family violence). This might be that your partner has been threatening to hurt you next time he sees you, or if he recently assaulted you or has been engaging in family violence against the child (which can include emotional abuse).
- If you believe that the other parent is drunk or high on drugs and he is due to have parenting time or contact.
- If you have a doctor’s note that says it is inappropriate for the child to have a visit at this time because the child is ill. It

is not enough to simply say the child is sick; a doctor needs to provide a note saying that the child can't have a visit because of illness.

- If the other parent repeatedly doesn't use his parenting time AND doesn't provide reasonable notice or excuses for missing the visits -- for example, if he frequently calls the night before saying that he will not be coming because there is a game he wants to watch.
- If your partner cancels the visit, but then changes his mind and doesn't give enough notice that he wants to have the visit after all.

You may have other important reasons for denying parenting time. As such, a judge may find it reasonable to deny parenting time in circumstances other than those listed above. If possible, consult with a family law lawyer before you deny parenting time, to ask if your reasons will likely be well-received by a judge.

If you had to unexpectedly deny parenting time, seek legal advice as soon as possible. To deny the parenting time, you, someone you trust or your lawyer should write to the other parent stating the reasons for the denial and how long the denial will last.

Tell the parent that you are able to deny access under s.62 of the Family Law Act. If you are in a situation that makes you feel it is unsafe to send your child to a visit, you can try to make alternate arrangements for a different time or to have the visit by phone or Skype® instead of in person.

If there is a significant change in circumstances (such as new threats against you, or your partner regularly showing up high or drunk), you may need to return to court to change the parenting time schedule.

My children don't want to go on a visit. Do they have to go?

If an order has been made, children under the age of 12 typically do not have a say in the parenting time arrangements. If your children tell you that they don't want to visit your partner, try to arrange for the children to talk to a counsellor (e.g., the school counsellor) or other safe person who will explore why they don't want to go. If there has been a significant change in circumstances (e.g., he is not caring for them or is engaging in abusive conduct with them), you may be able to return to court to change the parenting arrangements.

My children have seen my partner abuse me. What can I do to help them?

Witnessing abuse hurts children and can affect them emotionally. If your children have seen you being abused, you can get free help for them through the Children Who Witness Abuse program. Call the British Columbia Society of Transition Houses at 604-669-6943 or toll free 1-800-661-1040, or visit their website at bcsth.ca for information about the program nearest you.



What if my children tell me they were hurt or abused?

If your children tell you they have been abused, how you react is very important to your child emotionally, and it is also important for you to keep your child safe in the future.

DON'T:

- Underreact (e.g., by telling your children that they are imagining the abuse or by pretending it didn't happen).
- Overreact (e.g., by showing them how angry you are).
- Criticize or blame them.
- Ask for details or ask leading questions that may cause problems in a police or child protection interview, especially for younger children (e.g., "Did your dad touch your private parts?" "Did it happen at Dad's home?" "Did this happen many times?").

DO:

- Support them in their decision to tell you about the abuse, and reassure them that it is good that they told you.
- Reassure them that the abuse is not their fault and that you will help them.
- Call the Ministry of Children and Family Development from anywhere in British Columbia at 310-1234 (no area code needed) or call your local police.
- Tell your children that you need to tell someone about the abuse because you need to keep them safe.
- Tell them that it is okay to tell the truth to the social worker or police officer (children can call Kids Help Phone toll free at 1-800-668-6868 for more support).
- If there are visible injuries, such as bruises, take them to a doctor (preferably one you trust, but even a walk-in clinic will do). Let your child tell the doctor about the injury. Ask the doctor to record the injuries on the child's medical record (medical records can be used as evidence in court).
- Talk to your lawyer about your concerns, and he or she will determine if there is enough evidence to ask for supervised parenting time.

My partner won't pay his child support. Can I stop his parenting time or contact?

A father cannot stop paying child support because the mother won't let him see the child, and a mother cannot stop parenting time because the father won't pay child support. Child support and parenting time are separate issues. The child has both the right to see both parents and the right to be financially supported.

If you are having problems getting child support paid, talk to an advocate, transition house worker, or your lawyer about enrolling in the Family Maintenance Enforcement Program.

The judge has asked for a Section 211 report; what does this mean?

A Section 211 report is ordered by a judge when he or she needs more information to make a decision about what parenting arrangements are best for a child. You or your partner can also ask the judge to order a Section 211 report. Family justice counsellors can write this report for free, or some psychologists will prepare the report for a fee of \$5,000 to \$12,000. *In some limited cases Legal Aid will help pay for the report; however, your Legal Aid lawyer has to apply for payment and it will only pay for half the report.*

To prepare the report, the family justice counsellor or psychologist will meet with you, your partner, and the children separately, and then with each parent with the children. Sometimes the person preparing the report will visit each parent's house to evaluate the home. Psychologists may have you complete some tests to evaluate you. They may also talk to friends, extended family, teachers, and daycare workers about your family.

A judge takes this report very seriously. The person making the report only sees the parents for a short time, during which most people try to be on their very best behaviour. Consequently, the family justice counsellor or psychologist might not realize from the interview alone that a partner is abusive. For this reason, it is important to talk to a lawyer about whether a Section 211 report is a good idea in your situation, and to ask for an opinion on who would be the best person to prepare the report.

Tips for your Section 211 Report Interview

- The writer is not your friend. It is his or her job to assess you and make recommendations to the court.
- Dress conservatively for your meetings with the report writer.
- Try to communicate clearly.
- Appear calm, collected, and reasonable. Don't appear overly emotional.
- Avoid making negative remarks about your partner.
- Present your concerns, but focus on the children.
- Back up your claims about abuse problems with evidence, such as witnesses' names, and be prepared to provide their contact information.
- Assessors may believe that once your relationship has ended, the abuse has too. It's important to speak about important events in the past, but spend more time on issues in the recent past, particularly since the breakup with your partner.
- If you are not fluent in English you can request a translator to help you understand and answer the questions.
- Focus on the effect the abuse has had on the children rather than the effect it has had on you.

My partner says that he is the victim of “parental alienation syndrome.” What does that mean? What should I do about it?

If your partner is claiming to be a victim of parental alienation syndrome, it means that he believes you are to blame for “alienating” the children – or making the children not like him. It is certainly true that in some cases one parent does contribute to the children thinking the other parent is a “bad person.” However, there are many reasons why the children may not want to see an abusive parent: because they are afraid of him, or they have become estranged because he does not engage with them appropriately (for example, not spending time with them when they visit, or questioning children about

you.) Children may become estranged because your partner has used parenting time as a way to find out more about you or to talk badly about you.

To make sure that you are not accused of alienating your child from your partner, be careful not to speak badly about him in front of, or to, your children, even if your children say out loud that they don't like him. If, for example, your child says, "I am afraid of Dad," you can respond by saying, "I'm glad you are able to talk about your feelings." Or you can try paraphrasing, which means you repeat back what you have heard. For example, you might say, "You're feeling afraid of Dad." You could also ask your child if he or she would like to talk to somebody who can help with those feelings (e.g., a counsellor from Children Who Witness Abuse program).

If the children are expressing negative feelings about your partner, take them to a counsellor who can speak to a Section 211 report writer about the issue so you do not get blamed. If you are found to be alienating your children against your partner (as might be reported in a Section 211 report if your child says, for example, "Mom says Dad is mean and awful"), this will reflect negatively on you and you may lose some parenting time.

I want to leave our community with my child; can I leave with the children?

Usually in family law matters the focus is on maintaining stability for the children. To a judge, this means keeping the child in the same community, preferably in the same school and around the same people.

Generally, if there is parenting time or contact with the other parent, you can ask the other parent's permission 60 days in advance, and he then has 30 days to file an application to stop the move. If he doesn't file an application to stop the move, you are able to go.

If the other parent applies to stop the move, the judge will have to consider if the move is being made in good faith, that reasonable, workable alternatives have been made for parenting time, and that the move is in the best interests of the child.

Remember that you are not to blame for the abuse. If things start to become too much for you to handle, reach out for help. Your family and friends might become overwhelmed with the issues, but emotional support is available through women's centres, and sometimes transition houses. Hold on to your belief in yourself!

Other Resources

- For more information, go to clicklaw.bc.ca where you can find useful publications on family law and all other law matters, such as sponsorship and immigration, violence in the home, and First Nations issues.
- For legal information in a variety of languages, go to multilingolegal.ca.
- To speak to someone about the abuse and access resources call VictimLink at 1-800-563-0808 to find resources in your community.

Checklist: What to take when you leave

- Birth certificates (yours and the children's)
- Social insurance cards
- Service BC Card (Care Card/medical coverage forms)
- Driver's licence and/or photo identification
- Passports
- Permanent residence card/immigration permits/visas
- Relevant documents from another country to do with you or your children
- Marriage certificate
- Custody/family law orders
- Legal protection or restraining orders
- Medical records for all family members
- Children's school records
- Investment papers/records and bank account numbers
- Rental agreement/lease or house deed
- Car title, registration, and insurance information
- Cash (it may take months to get support payments)
- Credit cards
- ATM card
- Chequebook and bank book
- House, car, and safety deposit box or post office box keys
- Calling card
- Cell phone/laptop computer/tablet (be aware that some partners may use these devices to track you; leave them with a third party)*
- Address book
- One month's supply of all medicines you and your children are taking
- Copies of prescriptions
- Jewellery or small objects you can sell
- Pictures (make sure you have a picture of your spouse so you can serve legal papers)
- Keepsakes
- Children's treasures (e.g. stuffed animals or special blankets)
- Clothing for you and the kids

** You may also want to clear out the history on your computer so your husband or partner can't find out where you have been looking (e.g., if you have been searching for transition houses). If you are unsure how to clear your history, go to www.google.com and type "how to clear your history" in the search bar. If your partner is tech-savvy be aware that cell phones, computers, tablets and cars can all have tracking systems put in place. It may be useful to store items with a trusted friend or family member. You can have your items assessed by an expert to remove tracking software or to assess if there are devices installed.*



YWCA Vancouver is a registered charity, providing a range of integrated services for women and their families, and those seeking to improve the quality of their lives. From early learning and care to housing, health and fitness, employment services and leadership, YWCA Vancouver touches lives in communities throughout Metro Vancouver.