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Separation of Common-Law Couples

**DIFFERENT RULES THAN
MARRIED COUPLES**



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Setting the Scene

A common-law relationship is when two people make a life together without being married.

When these couples break up, the rules are different than for married couples.

This pamphlet explains these rules.

This pamphlet is up to date to November 11, 2019

It has general information only. If you need legal advice on a specific situation, consult a lawyer or notary.

Definition of Common-Law Couples

Even if a couple has been together for one, three or 15 years, and even if they have children together, they are never automatically married under Quebec law.

The official name in Quebec law for common-law couples is “de facto” couples.

Note that being a common-law couple and being in a “civil union” is not the same thing. For more on civil unions, see Éducaloi’s website.

Fewer Protections

Common-law couples who break up don’t have all the protections married couples have. Here are examples:

- They don’t benefit from the protection for the family residence if only one person owns it or only one person is on the apartment lease.
- There is no right to a division of property.
- Partners can’t ask for financial support for themselves from their ex-partners. (This is different than child support.)
- The partners don’t inherit from each other if they die without wills.

Important!

Couples can still come to an agreement between themselves about some of these issues. This is explained later.

Some of the Same Benefits

Common-law couples do have the same benefits as married couples in specific cases. For example, they often have similar benefits under pension plans, insurance policies, workplace accident compensation plans and tax laws.

But even with these benefits, there is no standard definition of a common-law couple. A couple can be considered common-law under one law, but not under another. It all depends on which law applies.

No Divorce Process

When common-law couples separate, they don’t have to get divorced. Divorce only exists between married couples.

But they still have to settle many issues. These issues include living arrangements and financial support for any children involved and how to divide a family home if they both own it.

Deciding Issues in Advance

Common-law couples can agree in advance about how to handle issues if they separate. They can do this by signing a written agreement called a contract. The contract can deal with a lot of things, as long as none of it goes against the law. A legal advisor can create or review a contract.

Issues to Settle on Separation: Examples

Children

- child custody (living arrangements)
- child support payments

After they separate, both parents still have the same rights and duties towards their children.

They must continue to discuss with each other important decisions involving children. This is true even if only one parent has custody.

Both parents must also provide financially for their children to the best of their abilities.

Property

- who will stay in the family home
- dividing a house that belongs to both people
- dividing furniture and other belongings
- dividing debts

If the partners can’t agree, here is what happens: Each person keeps his or her own property, even if it was bought while the couple was living together or the family used it.

If only one person owns the home or is on the lease, that person can stay in the home and ask the other person to leave. If there are children involved, the rules are more complicated. See Éducaloi’s website to learn more.

DID YOU KNOW?

Common-law partners don’t have a legal right to support payments for their own needs from an ex-partner.

Financial Support and Compensation

- support payments for one person in the couple (different than child support)
- compensation for a person placed at a financial disadvantage for the benefit of the other person

If the partners can’t reach an agreement about support payments, neither person has a legal right to claim them.

The other type of financial compensation only applies in very specific cases. We recommend talking to a lawyer or notary.

The Court: A Last Resort

If common-law couples can’t agree on issues arising from their separation, they can go to court.

But before going to court, couples can try to reach an agreement with the help of a mediator. A mediator is a neutral third person.

For certain couples with children, the government pays for a set number of mediation sessions. Otherwise, couples must pay for the mediator’s services.

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