

THINGS TO KNOW BEFORE APPLYING FOR A DIVORCE

Getting a divorce is a complicated legal process.

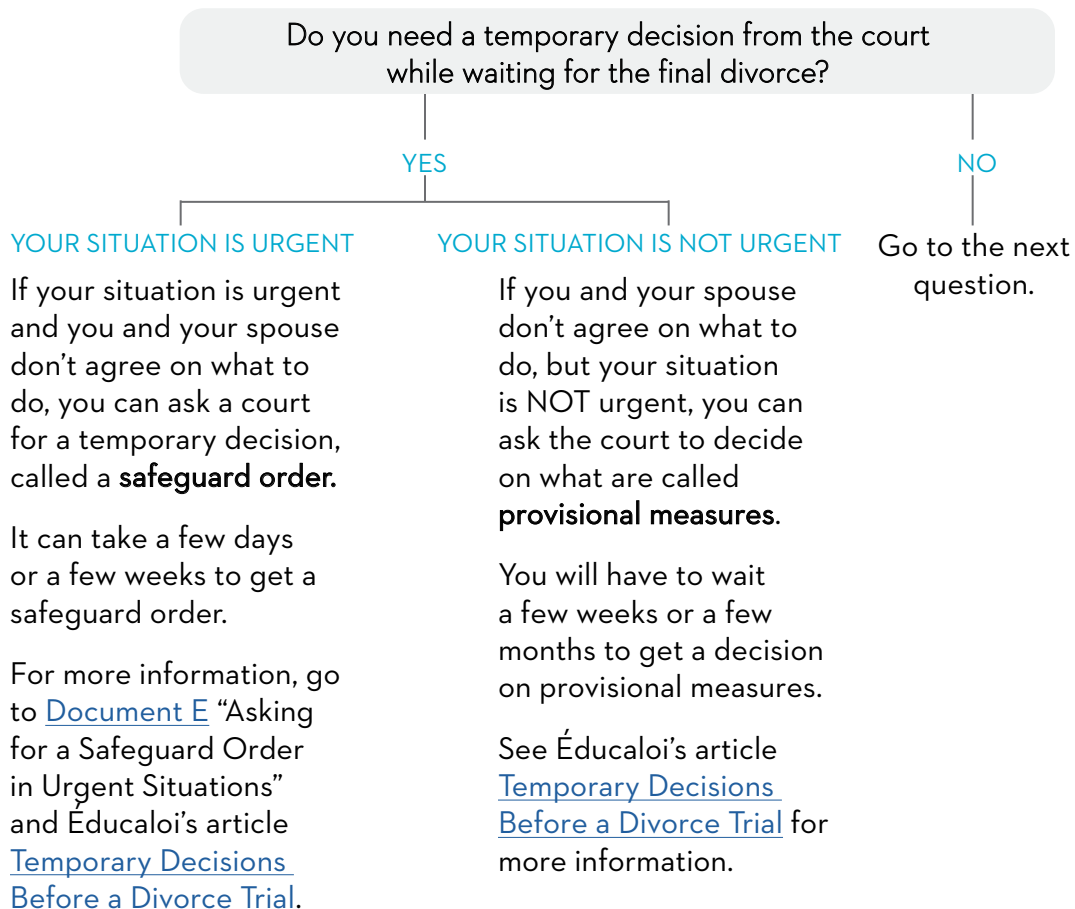
It might involve negotiation or dealing with issues that are urgent. The information below will help you understand your options.

SECTION 1 - SPECIAL SITUATIONS

TEMPORARY DECISIONS

Getting a divorce decision from a court can take several months or even years.

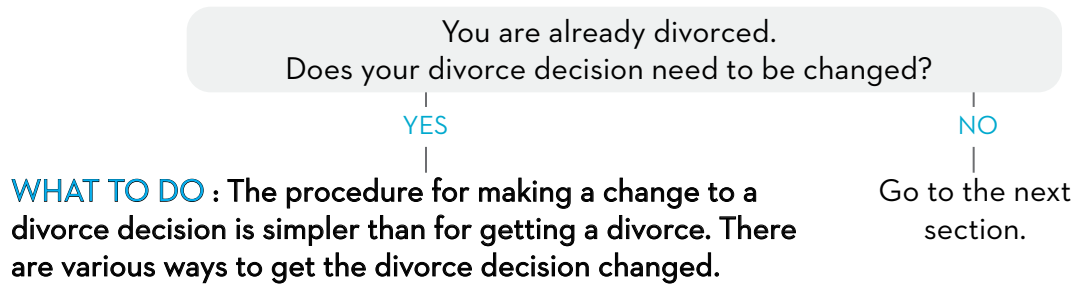
But some decisions can't wait, such as living arrangements for children, financial support for one of the spouses, or who will be allowed to live in the family home.



CHANGING A DIVORCE JUDGMENT

If you are already divorced, it is possible that your situation, or the situation of your ex-spouse or your children, has changed.

If so, you can ask the court to change its decision about spousal support or parenting time with children.



For more information, see the guide [“Changing a Divorce Judgment”](#) and these articles on Éducaloi’s website:

- › [Changes in Child Custody](#)
- › [Changing or Cancelling Spousal Support](#)
- › [Using the SARPA Administrative Service to Change Child Support Payments](#)

SECTION 2 - GOING TO COURT VERSUS NEGOTIATING

Going through a divorce trial isn’t the only way to get a divorce and settle issues resulting from a breakup. Sometimes, it’s better to negotiate with your spouse and come to an agreement that meets your needs and your children’s needs, if you have children.

Here are a few of the differences between these options.

	DIVORCE TRIAL	DIVORCE BY AGREEMENT
What is it?	<p>You begin by applying for a divorce.</p> <p>During the court case, your spouse can argue against what you are asking for.</p>	<p>You and your spouse can agree on issues resulting from the divorce without having to go through a court trial.</p> <p>However, after you reach an agreement, the court must approve it. This is called “homologation.”</p>
Usually the better option if...	<p>... there is little chance you and your spouse can reach an agreement.</p> <p>This is the case, for example, if you are not speaking to each other or if there is violence.</p>	<p>... you feel that you and your spouse can reach an agreement.</p>
Who decides on the issues resulting from the divorce?	<p>The court</p> <p>You don’t know in advance what the court’s decision will be. You can’t predict the result.</p>	<p>You and your spouse (usually)</p> <p>You can’t predict what will happen during the negotiations, but you can accept or refuse to enter into an agreement.</p> <p>i Good to know! The court can change or refuse your agreement if, for example, it doesn’t respect the law.</p>
Amount of time for getting a divorce	<p>Longer</p> <p>Several months, sometimes a few years.</p>	<p>Shorter</p> <p>A few weeks to a few months.</p>
Cost	Usually higher.	Usually lower.
Stress	<p>Higher</p> <p>A trial is stressful, even for experienced lawyers.</p> <p>It’s also stressful for children if they have to come to court.</p>	<p>Lower</p> <p>Negotiations take place outside court.</p> <p>The children aren’t usually present.</p>

	DIVORCE TRIAL	DIVORCE BY AGREEMENT
Warning!	<p>Be prepared for the unexpected.</p> <p>It's impossible to know the result of the court case in advance.</p> <p>There could be some surprises, even if you think you have an excellent chance of getting what you asked for.</p>	<p>Don't rush things.</p> <p>Agreeing to just anything to get a quick divorce is not a good idea.</p> <p>Keep in mind that the agreement must meet your needs. Also, it must be realistic, so that you and your spouse will be able to respect it.</p> <p>Take time to get what you want and what you are entitled to. If possible, ask a lawyer to read over the agreement.</p> <p>i Important! Negotiation is not the best option in all situations. For example, it should be avoided if one spouse has more power in the relationship, or if there is family violence.</p>
It is never too late to ...	<p>... negotiate.</p> <p>Sometimes negotiating gets easier with time. You can negotiate with your spouse at any time, even the morning of the court trial.</p> <p>If you agree on some of the issues involved, you can ask the court to approve your agreement.</p> <p>Then, on the day of the court trial, you only present arguments on the issues you still disagree about.</p>	<p>... go to trial.</p> <p>You can always go to court if the negotiations aren't working.</p>

	DIVORCE TRIAL	DIVORCE BY AGREEMENT
Getting help to negotiate	<p>A mediator is a neutral third person who can help you discuss things with your spouse and reach an agreement.</p> <p>If you and your spouse have a child, you will probably be required to attend an information session on parenting and mediation. You can also participate free of charge in several family mediation sessions.</p> <p>For more information, visit the website of Justice Québec or see Éducaloi's article Family Mediation: Reaching an Agreement Without Going to Court.</p>	

SECTION 3 - WITH OR WITHOUT A LAWYER?

You can hire a lawyer to handle all or part of the divorce. You can also apply for a divorce on your own, without a lawyer.

	WITH A LAWYER	WITHOUT A LAWYER
Usually better for ...	<p>... more complicated cases</p> <p>Examples:</p> <ul style="list-style-type: none"> - You and your spouse strongly disagree. - You have children under the age of 18. - You have a lot of property and money to divide with your spouse. 	<p>... simpler cases</p> <p>Examples:</p> <ul style="list-style-type: none"> - Your spouse agrees to negotiate. - You don't have children under the age of 18. - You do not have much property or money to divide with your spouse.

	WITH A LAWYER	WITHOUT A LAWYER
Preparation of your file	<p>Your lawyer prepares the whole case.</p> <p>Most of the time, your lawyer is the one who goes to court.</p> <p>Your lawyer consults you and keeps you up to date on your file.</p>	<p>A divorce is not simpler just because you handle it on your own. You must follow the same steps and rules as if you had a lawyer.</p> <p>So, you must prepare a lot of documents, and go to the courthouse several times.</p> <p>To have a good understanding of the divorce process and the law that applies, you must read parts laws, including the <i>Divorce Act</i>, the <i>Civil Code of Quebec</i>, the <i>Code of Civil Procedure</i> and the rules of practice, which are rules about how courts function.</p> <p>Getting a divorce can take dozens of hours of work, and sometimes even more.</p>
On the day of the trial . . .	<p>. . . your lawyer presents your case to the judge.</p> <p>Your lawyer also questions you and any witnesses (other people asked to talk about the case).</p>	<p>. . . you must speak to the judge and present your case by presenting evidence to support it. You have to do more than just tell your story.</p> <p>You must also question the witnesses (for example, members of your family).</p> <p>You can't always expect help from the judge. Therefore, you must have a good understanding of the rules. You might decrease your chances of success if you don't present your case properly.</p>

	WITH A LAWYER	WITHOUT A LAWYER
Stress Level	<p>Lower</p> <p>A court case is stressful even if your lawyer speaks for you.</p> <p>However, you have a professional you can count on.</p>	<p>Higher</p> <p>A court case can be stressful, frustrating and very emotional. You need to stay calm and control your emotions.</p>
Communicating with your spouse	<p>Your lawyer can speak for you and communicate with your spouse or your spouse’s lawyer.</p>	<p>The law says you must cooperate with your spouse throughout the divorce process.</p> <p>You will have to talk to your spouse or your spouse’s lawyer several times.</p>
Costs	<p>Higher</p> <p>It will cost you a few thousand dollars.</p>	<p>Lower</p> <p>You don’t have to pay a lawyer.</p> <p>However, you do have to pay court costs and other fees.</p>
Getting a lawyer’s help for some of the steps	<p>You can do certain steps in the divorce yourself and hire a lawyer to take care of the rest.</p> <p>You can also hire a lawyer to give you advice and prepare you for court.</p> <p>This is called a “limited scope representation”.</p>	

<p>Where to find a lawyer</p>	<p>Visit the Web platform JurisRéférence or consult the Barreau du Québec's Directory of lawyers.</p> <p>Finding a lawyer within your budget: Contact different lawyers to compare their rates and services. You also need to feel comfortable with the lawyer.</p> <p>Hourly rate: Most lawyers charge by the hour. The fees you end up paying are based on the number of hours the lawyer works on your case. Your lawyer can give you an estimate of the cost, but you won't know in advance the exact amount.</p> <p>Flat fee: Some lawyers charge a flat fee, which is a set amount for the whole divorce or a part of the divorce. This amount won't change, no matter how long the case takes.</p>
<p>Legal aid</p>	<p>Visit the website of the Legal Services Commission to learn whether you can get the services of a lawyer free of charge or at a reduced rate. The Commission runs the government legal aid office. You can also visit a legal aid office to see whether you qualify.</p> <p>If you don't qualify for legal aid, there are other low-cost resources. To learn more, contact the Centres de justice de proximité (local legal information centres).</p>