

# SEPARATING IN VIOLENT SITUATIONS

## Consequences for the Family

### Reference Guide

Various issues can arise when a couple separates because of violence.



### Child custody

#### Who can file for custody?

Custody can generally be requested by the child's **legal parents** when they separate. As of now, a child in Quebec can have only a maximum of two legal parents.

In a few exceptional cases, a person who **isn't the child's legal parent** can file for custody. In all cases, a person who plays a significant role in the child's life can ask the court for the right to **maintain a relationship with the child**.

#### How does the court decide custody?

The court makes a decision that is in the child's **best interest** based on factors like:

- the child's age,
- what would ensure stability in the child's day-to-day life,
- the child's relationship with each parent,
- each parents' parenting abilities.

#### Will the parent who perpetrated the violence be granted less time with the child?

**Not necessarily**, but courts do have to **take family violence into account** when deciding custody. The final decision will be based on the child's best interest under the circumstances.

## Can a parent who experienced violence leave with the child and not let the other parent know?

Generally, a parent **can't take a child away** without the other parent's consent or prevent contact with the other parent. However, if they fear for the child's safety, they may ask for an **urgent court order** to prevent or limit contact.



For more information, read our articles:

- [Child Custody Decisions: Criteria Used and Types of Custody](#)
- [Child Custody and Visiting Rights During a Breakup](#)
- [Preventing or Limiting Contact Between a Parent and a Child](#)



## Pets

Pets don't have the same legal status as children.

To keep a pet after separation, a person will have to **prove they are the pet's owner**, i.e. that they personally adopted or purchased the pet, or that it was a gift from their partner. If they can prove this, they may ask the court to order the other partner to return the pet.

If neither partner can prove ownership, or if they adopted or purchased the pet together, the court can decide the issue.



## Property

When an unmarried couple separates, each partner usually gets to **keep their own property**. If they own property together, they have to agree on who gets to keep it and whether one person needs to compensate the other for it. If they can't come to an agreement, the court can decide the issue.

The rules are different for married couples.



For more information, read our articles:

- [Separation of Common-Law Couples](#) (for people who aren't married)
- [Separation of Married Couples](#) (for people who are married)



## Options that don't involve the court

In some cases, couples can come to an agreement about what happens when they separate without going to court.

### Preparing a written contract in advance

During the relationship, couples can make a written contract to decide various issues that could come up during separation, e.g., how their property will be divided.

### Reaching an agreement through family mediation

When separating, couples can attend family mediation to decide these issues. A family mediator will accompany them throughout this process.



For more information, read our articles:

- [Written Agreements Between Common-Law Couples](#)
- [Family Mediation in Six Steps](#)

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