

Before you Sign

Separation and Divorce

Welcome to the Before You Sign podcast. This podcast was made to help you better know your legal rights in the province of Ontario. If you know your rights and responsibilities, you will be able to make choices that impact your life in Canada. It is important to know these podcasts are not legal advice for your situation, they give information about general legal topics that apply to your situation.

If you still have questions about this topic please consider going back to the service or agency who told you about these podcasts. If you have access to a computer, you can also go to stepstojustice.ca or settlement.org for more information. If you already know you need legal advice, support or representation please call Legal Aid Ontario at [1-800-668-8258](tel:1-800-668-8258) Monday to Friday from 8:00 a.m. to 5:00 p.m. (EST) for help in over 300 languages. This podcast is financially supported by The Law Foundation of Ontario, the YWCA St. Thomas-Elgin is solely responsible for the content.

Today we will be talking about divorce and separation in Ontario. Are you thinking of getting separated or divorced? If so, it is important to understand the steps involved.

The first step to getting a divorce is to be separated. Being separated means you start acting like you want to end your relationship. Together with your partner you should decide on a date for your separation; it is important to agree on a date that your separation begins. Your date of separation, for example, can be the date when you stopped sleeping in the same room, sharing meals, or going on vacations together. Once you have decided on a date, you can write a separation agreement, a simple document that says how you will deal with issues that will come up in your divorce. You can find a sample separation agreement on the steps to justice website. A divorce will not be given unless you have been separated from your spouse for at least one year. Separation is the most common ground for divorce. While it is possible, on the rare occasion an application may be made sooner than one year if your reason for filing for divorce is adultery, or mental or physical abuse. To be considered separated you do not have to live in different houses.

Once you or your partner decide to separate or divorce, you must make important decision and choices. For example, who will stay in the family home? If you have children, how will they be cared for and where will they live? Who will make decisions for your children? What financial support will be available for the children or partner? How will you divide your property and other things you own together? If you're not a Canadian citizen, you also need to think about how your immigration status will be affected. In some cases, your partner might say they will have you deported from Canada if you separate or divorce them. "Deported from Canada" means being forced to leave the country. Your partner **cannot** have you deported. Only federal immigration authorities can force someone to leave Canada. Talk to a legal professional if you are not a Canadian citizen so you can get the correct information specific to your situation. It is important you know if a divorce or separation will, or will not, affect your immigration application.

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It is important to realize that there is a difference between separating spouses that are married as opposed to those who live together. For example, if you are married to your spouse, you can ask for an equalization of net family property but if you are only common-law with your spouse you cannot. Couples that live together but are not married don't have the same rights to share in property, unless the property is in both of their names or they paid for it together. Both married and common-law spouses can request spousal support.

In order to complete your divorce and legally end your marriage, you must apply to the court for a divorce. An application for divorce can only be filed in a Superior Court of Justice or Family Court branch of the Superior Court of Justice. Only one person must file for divorce, but you can also choose to do it together. The divorce process will be completed in the municipality where you live.

There are court fees you must pay to obtain a divorce in Ontario. The first payment is made when the application for divorce is filed. Additional court fees are paid before the divorce is reviewed by the court. It is important to understand these are only the fees related to court and the processing of the paperwork. If you require the support of a lawyer this could make it more expensive to get a divorce.

We hope you have found this podcast a good source of legal information about divorce and separation in Ontario. If you have questions about custody and access of children following separation or divorce, please take the time to listen to our podcast on this topic.