

# Services Guide

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## Lawyer in Family Law

*\*NOTE 1: This information is pulled from credible sources. This information is a guide. Any information used from this guide must be re-contextualized (no copying and pasting). Re-contextualize information incorporating SEO and business specifics.*

*\*NOTE 2: For MCP websites, stick to general information and avoid specifics.*

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# 1. LAWYER IN FAMILY LAW OVERVIEW

## 1.1 GENERAL INFORMATION

- Family lawyers, like all lawyers, must follow professional advertising guidelines. We can't promise results.
- The general tone of family lawyers is compassionate/sympathetic/caring/studious – not like those “bulldog” criminal defense lawyers who “fight” for you.
  - The focus tends to be on resolution and fairness.
  - Writer can emphasize the complexity of family law and the stressfulness of family legal matters.
- Many lawyers will litigate (go to court), but the focus is often on achieving out-of-court resolution whenever possible.
- When lawyers provide their own copy, we have to be very careful about changing it. Even when the writing isn't pretty, lawyers tend to be very precise about their jargon and the way they word things. Only fix full-blown mistakes; otherwise, leave provided copy exactly as is.
- Laws differ from province to province. Each province has their own acts that govern family law, and these acts can be looked up online on the respective governmental websites.
  - Don't get too technical with the laws unless client provides copy. Focus on client benefits (although remember not to promise results).
  - The names of acts should be italicized, i.e. *Divorce Act* or *Family Law Act*
- Generally speaking, *most* family law issues stem from divorce and separation (which leads to support, custody, division of assets, etc.).
  - Not *all* family law issues come from divorce – there's also adoption, adjudication of minors, paternity, etc.

## 1.2 SEO

### Keywords (First Row – BEST, Last Row – LEAST)

• Child support	• Lawyer	• Attorney	• Mediation
• Divorce	• Civil law	• Guardianship	• Legal Guardianship
• Paternity	• Restraining order	• Custody	• Prenup
• Grandparents Rights	• Divorce Papers	• Power of Attorney Form	• Visitation
• Divorce Lawyers	• Family Law Attorney	• Legal Separation	• Joint Custody
• Divorce	• Family Court	• Prenuptial	• Divorce Court

## 2. SEPARATION AND RELATED ISSUES

### 2.1 DIVORCE

<http://www.fbfamilylaw.mb.ca/divorceprimer.html>

<http://divorce-canada.ca/legal-grounds-for-divorce-in-canada>

#### General:

- The term “divorce” applies only to people who are legally married, but many couples who live together become common-law partners (whether they realize it or not).

#### When Does a Partnership Become Common Law?

- The exact definition of common law differs by province and whether or not you have children, but the Canada Revenue Agency defines common law as:
  - Living together in a conjugal relationship for 12 continuous months or more
  - Having a child together (birth or adoption)
  - One partner has custody/control of the other partner’s child, and that child is wholly dependent for support
- In many cases, couples in marriage-like relationships have the same rights as married couples under federal law. Various federal laws include "common law status," which automatically takes effect when 2 people (of any gender) have lived together in a conjugal relationship for 5 full years. Common-law partners may be eligible for various federal government spousal benefits.
- Some information regarding provincial laws can be found here [https://en.wikipedia.org/wiki/Common-law\\_marriage#Canada](https://en.wikipedia.org/wiki/Common-law_marriage#Canada)

#### Aspects of Divorce:

Steps	Description
1. Filing for Divorce	<ul style="list-style-type: none"><li>• Either party can file for divorce at any time, even before physically separating. Except in cases of adultery or cruelty, the decree will have to wait until there has been a separation of at least 1 year.</li><li>• Only real advantage to hurrying divorce (rather just waiting 1 year) is that it allows partners to remarry.</li><li>• Grounds for divorce<ul style="list-style-type: none"><li>○ Marriage breakdown – this is proven by a year of separation and</li></ul></li></ul>

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	<p>is usually called a No Fault or Uncontested divorce</p> <ul style="list-style-type: none"><li>○ Adultery or Cruelty - a divorce on the grounds of adultery or cruelty is what is referred to as a For Fault divorce. One spouse is trying to prove that the other is solely at fault for the breakdown of their marriage. Courts will generally require evidence to be submitted as the burden of proof is on the filing party.</li></ul>
<b>2. Hearing</b>	<ul style="list-style-type: none"><li>• Usually, the court will require testimony in a court room to grant a divorce and will want to be satisfied that appropriate arrangements have been made with respect to child support. The court will refuse the divorce unless it is satisfied with those arrangements.</li><li>• If the divorce is uncontested, the court will deal with it at a short hearing or, in the absence of the parties, by way of affidavit evidence. (An affidavit is a written statement used as evidence in court.)</li></ul>
<b>3. Certificate of Divorce</b>	<ul style="list-style-type: none"><li>• There is usually a 31-day waiting period after the divorce has been granted before it will take effect. The court will not issue a Certificate of Divorce until the waiting period has elapsed and the divorce has taken effect.</li><li>• Either party may remarry after 31 days. A Certificate of Divorce is evidence of the divorce, which is particularly useful when applying for a new license.</li></ul>

## 2.2 COMMON LAW

<http://www.cra-arc.gc.ca/bnfts/mrtl/menu-eng.html>

[https://en.wikipedia.org/wiki/Common-law\\_marriage#Canada](https://en.wikipedia.org/wiki/Common-law_marriage#Canada)

### General:

- A common-law relationship is a legal partnership created by mutual agreement and public behavior, rather than by marriage. This law can apply to unmarried couples who live together.
- The term “divorce” applies only to people who are legally married, but many couples who live together become common-law partners (whether they realize it or not).
- When a common-law couple breaks up, legal proceedings may follow.

### When Does a Partnership Become Common Law?

- The exact definition of common law differs by province and whether or not you have children, but the Canada Revenue Agency defines common law as:
  - Living together in a conjugal relationship for 12 continuous months or more
  - Having a child together (birth or adoption)
  - One partner has custody/control of the other partner’s child, and that child is wholly dependent for support

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- In many cases, couples in marriage-like relationships have the same rights as married couples under federal law. Various federal laws include "common law status," which automatically takes effect when 2 people (of any gender) have lived together in a conjugal relationship for 5 full years. Common-law partners may be eligible for various federal government spousal benefits.
- Some information regarding provincial laws can be found here [https://en.wikipedia.org/wiki/Common-law\\_marriage#Canada](https://en.wikipedia.org/wiki/Common-law_marriage#Canada)

### 2.3 SPOUSAL SUPPORT

<http://www.cra-arc.gc.ca/bnfts/mrtl/menu-eng.html>

[http://justice.gc.ca/eng/rp-pr/fl-lf/spousal-epoux/ug\\_a1-gu\\_a1/pdf/ug\\_a1-gu\\_a1.pdf](http://justice.gc.ca/eng/rp-pr/fl-lf/spousal-epoux/ug_a1-gu_a1/pdf/ug_a1-gu_a1.pdf)

#### General:

- “Spousal support” is the term for alimony Canada and the USA.
- Defined as “a legal obligation on a person to provide financial support to their spouse” upon separation.
- Spousal support is one of the most controversial and least predictable areas in family law. It is highly dependent on judicial discretion. It is particularly difficult to forecast the quantum of the award. There are two basic formulas: “without child support” and “with child support.”

#### Spousal Support Formulas:

Steps	Description
<b>Without Child Support</b>	<ul style="list-style-type: none"><li>• This applies in cases where there are no dependent children.<ul style="list-style-type: none"><li>○ Covers marriages of every length – short, medium and long – in which there were no children and marriages where the children are now adults.</li><li>○ This formula relies heavily upon length of the relationship to determine both the amount and duration of support. Both amount and duration increase with the length of the relationship.</li></ul></li></ul>
<b>With Child Support</b>	<ul style="list-style-type: none"><li>• 6 types of formulas for how this is determined:<ul style="list-style-type: none"><li>○ Basic formula</li><li>○ Shared custody formula</li><li>○ Split custody formula</li><li>○ Step-child formula</li><li>○ Custodial payor formula</li><li>○ Adult child formula</li></ul></li><li>• Basic is the most common: a higher-income payor pays child and spousal support to a lower-income parent with custody or primary care of the</li></ul>

children.

- When children are living in two households, support is designed to bring household living standards closer together.

### 2.4 CHILD SUPPORT

[https://en.wikipedia.org/wiki/Child\\_support](https://en.wikipedia.org/wiki/Child_support)

<http://laws-lois.justice.gc.ca/eng/regulations/sor-97-175/index.html>

#### General:

- An ongoing, periodic payment made by a parent for the financial benefit of a child following the end of a marriage or other relationship.
- “Obligor” pays the “obligee.”
- Differs depending on province, but it’s all laid out in the federal child support tables.
- The federal child support tables set out the amount of monthly child support payments for each province on the basis of the annual income of the spouse ordered to pay child support (the “support payer”) and the number of children for whom a table amount is payable.
- Child support formulas can be found here <http://laws-lois.justice.gc.ca/eng/regulations/sor-97-175/index.html>. The important things to know are:
  - Support differs in every province
  - Monthly award depends on income and number of children
  - There can be exceptions, such as: when the payer has a lower standard of living than the payee; when parents have split custody where they each have primary custody of a child; when the payer earns more than \$150,000; and other exceptional circumstances.

### 2.5 CHILD CUSTODY/MISITATION

<http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/cons/consdoc/bic-ise.html>

<http://www.fbfamilylaw.mb.ca/custodyprimer.html>

<http://divorce-canada.ca/child-custody-in-canada>

#### General:

- Family laws in Canada are based on the principle of the "best interests of the child." Those people making decisions that affect children during and after separation and divorce must take the children's best interests into account.
- Things to consider in regards to the best interests of the child:
  - The age of the child
  - The past history of care
  - Stability in the child's life
  - The parents’ respective custody plans
  - The willingness of the parents to involve one another

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- The specific needs of the child
- The notion that it is good to keep children together
- Financial, moral or religious issues

Types of Custody	Description
1. Joint Custody	<ul style="list-style-type: none"><li>• Joint custody means that each parent can make all of the decisions and has all of the same rights respecting the child as before the separation. When the parents separate, they continue to have joint custody of the children until they agree otherwise or a court makes an order.</li><li>• Courts will normally only awards this type of custody to parents who are able to cooperate on parenting matters.</li><li>• Residency/access arrangements may vary widely.</li></ul>
2. Shared Custody	<ul style="list-style-type: none"><li>• This is when both parents have joint custody of the children, and both parents spend at least 40% of the time with their children. This is also known as joint physical custody.</li></ul>
3. Sole Custody	<ul style="list-style-type: none"><li>• Sole custody usually means that one parent will have sole legal and physical custody with the other parent having "access" or "visiting rights."</li><li>• The parent with sole custody can make all major decisions respecting the child.</li><li>• Sole custodial parent may – but does not necessarily – have the right to move the child to another city, province or country.<ul style="list-style-type: none"><li>• Based on the best interests of the child.</li></ul></li></ul>
4. Split Custody	<ul style="list-style-type: none"><li>• Split custody is where there are at least 2 children, 1 of whom is living with each parent more than 60% of the time.</li><li>• Courts try to never split up younger children from their siblings. However, older siblings often choose to live with different parents.</li></ul>

### Grandparent/Family Member/Third Party Access:

- This refers to the rights of adults who are not the parents to have visitation access to a child.
- Differs between provinces.
- Often, grandparents or other relatives can apply to a court for visiting rights to a child.
- As with many other things in family law, it comes down to the best interests test.

## 2.6 PROTECTION/RESTRAINING ORDERS

<https://albertacourts.ca/resolution-and-court-administration-serv/family-justice-services/family-self-help/restraining-and-protection-orders-general-information>

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<http://www.fbfamilylaw.mb.ca/preventionprimer.html>

### General:

- Protection orders depend on province. There are different types of protection orders (those that forbid any contact, ones that grant sole occupancy of a residence, etc.) but the names and details differ between provinces.
- Restraining and protection orders are serious court remedies and should not be applied for in cases where you are simply being bothered by the other person.
- These offer protection from stalking, domestic violence, fear, harm, sexual abuse, confinement and threat when there is reason to believe this behavior may continue.
- Enforceable by police and can result in criminal charges.
  - They remain valid even if reconciliation is attempted. Many people have discovered, after an attempted reconciliation has gone sour, that an old order is still effective and can find them facing criminal charges.
  - These charges are dealt with in the criminal justice system and should be dealt with by lawyers who practice criminal law.

## 2.7 PROPERTY DIVISION

<http://divorce-canada.ca/property-divorce-laws>

[http://www.canlaw.com/divorce/propertydivorce.htm#.V\\_f88DXupZE](http://www.canlaw.com/divorce/propertydivorce.htm#.V_f88DXupZE)

### General:

- Property includes the property, assets and liabilities acquired during marriage. These must be divided upon separation.
- Includes debts, pensions, RRSP
- In the eyes of the law, a marriage is an equal partnership. So, whether a spouse is responsible for running the household or earning family income, their contribution to the relationship is equally important. When a marriage ends, the partnership is over and property has to be divided.
- It doesn't matter whose name property is in – if it was acquired during a relationship, it is jointly owned.
- Items like inheritances or personal gifts may not be considered family property.
- Exceptions:
  - Property that was brought into your marriage is yours to keep, but any increases in the value of this property during the duration of marriage must be shared.

### Aspects of Property Division:

Steps	Description
1. Matrimonial Home	<ul style="list-style-type: none"><li>• The matrimonial home is the place where you and your spouse</li></ul>

	<p>reside at the time of separation/divorce.</p> <ul style="list-style-type: none"><li>• It doesn't matter who has their name on the papers for the house, both spouses have an equal right to remain in the matrimonial home.</li></ul>
<b>2. Debts</b>	<ul style="list-style-type: none"><li>• Debts count as property division. If one spouse incurs debt during a relationship, both are responsible for it.</li><li>• This includes:<ul style="list-style-type: none"><li>○ Mortgages</li><li>○ Loans from family members</li><li>○ Bank lines of credit or overdrafts</li><li>○ Credit cards</li><li>○ Income tax</li><li>○ Repair costs</li></ul></li></ul>
<b>3. Pensions/RRSP</b>	<ul style="list-style-type: none"><li>• These count as property</li><li>• Pension and RRSP payments made during partnership must be divided</li><li>• Interest earned on pre-existing pension and RRSP must also be divided</li></ul>
<b>4. Net Family Property</b>	<ul style="list-style-type: none"><li>• Add up value of assets upon separation<ul style="list-style-type: none"><li>○ Including pension money you acquired during relationship</li><li>○ If you own a business, this is included. You may need a business evaluator to determine how much it's worth.</li></ul></li><li>• Subtract debts and liabilities on separation</li><li>• Deduct value of assets when you first got married (or became common law)</li><li>• Add value of assets you had on the day you got married</li><li>• Deduct value of items that are not considered family property</li><li>• The resulting figure in your net family property</li><li>• The spouse with the higher net family property must make an <b>equalization payment</b> to the other</li></ul>

## **2.8 COLLABORATIVE DIVORCE**

[http://www.familylaw.lss.bc.ca/help/who\\_CollaborativeFamilyLawyers.php](http://www.familylaw.lss.bc.ca/help/who_CollaborativeFamilyLawyers.php)

<http://www.epsteinlawyers.com/advantages-collaborative-divorce/>

### **General:**

- A legal process enabling couples who have decided to separate or end their marriage to work with their lawyers and other family professionals in order to avoid the uncertain outcome of

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court and to achieve a settlement that best meets the specific needs of both parties and their children without the underlying threat of litigation

- You and your spouse agree to work together with lawyers who practise collaborative family law to find acceptable solutions that work for both of you.
- Both you and your spouse are represented by your own lawyer.
- You and your spouse must be willing to discuss and solve your separation issues with honesty and respect and without treating each other as enemies.

### Advantages of Collaborative Divorce:

Steps	Description
1. Avoid Court	<ul style="list-style-type: none"><li>• Both you and your spouse and your lawyers sign a written agreement to work together at resolving your issues without going to court.</li></ul>
2. Privacy	<ul style="list-style-type: none"><li>• Filing for a divorce in court will mean that all details of the relationship are made public.</li><li>• With collaborative law, details are restricted to just the parties involved and their legal teams.</li></ul>
3. Control	<ul style="list-style-type: none"><li>• While there will still be some compromises, you can work to find an agreement that works for both of you rather than leaving the decision up to the judge</li></ul>
4. Cost	<ul style="list-style-type: none"><li>• Can be faster and less expensive than a long court battle.</li><li>• This isn't guaranteed – the speed of the conclusion depends on how quickly the two parties can come to terms acceptable to both</li></ul>
5. Cooperation	<ul style="list-style-type: none"><li>• You and your spouse agree to open and honest communication, including sharing financial information</li><li>• You, your lawyers, and your coaches will work as a team to solve your disputes, whether the issues relate to support, division of property, or parenting.</li><li>• Be constructive and productive. You and your spouse work together instead of against each other, which can allow for emotional healing.</li></ul>

## 2.9 ADR – ALTERNATIVE DISPUTE RESOLUTION

<http://www.epsteinlawyers.com/advantages-collaborative-divorce/>

<http://www.courts.ca.gov/3074.htm>

General:

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- Alternative dispute resolution ("ADR") refers to any means of settling disputes outside of the courtroom.
- "Negotiation" is typically considered a form of ADR, but this is typically involved parties talking without a lawyer and isn't a formal process at all, so it isn't a service that a lawyer will usually offer.
- Collaborative divorce (above) can be considered a type of ADR, since it's a way of avoiding court battles.
- Advantages similar to the above table of collaborative divorce:
  - Faster
  - Most cost-efficient
  - Parties cooperate and work together, more cooperative than having lawyers pit the parties against each other and have a judge make a final decision
  - Further mediation can be scheduled if new items come into dispute

### Types of ADR:

Type	Description
<b>1. Mediation</b>	<ul style="list-style-type: none"><li>• In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.</li><li>• Useful when parties have a relationship they want to preserve.</li><li>• Mediation is effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner</li><li>• A mediator is a person who is specially trained to help people resolve conflict. They can be a lawyer, but do not have to be.</li></ul>
<b>2. Arbitration</b>	<ul style="list-style-type: none"><li>• In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed.</li><li>• Binding arbitration: the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision.</li><li>• Nonbinding arbitration: the parties are free to request a trial if they do not accept the arbitrator's decision</li><li>• Appropriate when parties need an experienced decision-maker and want to avoid formality, time and expense of a trial</li></ul>
<b>3. Neutral</b>	<ul style="list-style-type: none"><li>• In neutral evaluation, each party gets a chance to present the case</li></ul>

<b>Evaluation</b>	to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. <ul style="list-style-type: none"><li>• The evaluator is often an expert in the subject matter of the dispute.</li><li>• Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.</li></ul>
<b>4. Settlement Conferences</b>	<ul style="list-style-type: none"><li>• Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute.</li><li>• The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement.</li></ul>

- Some mediators are lawyers, but not all are.
- A mediator is a person who is specially trained to help people resolve conflict. Unlike a judge, a mediator doesn't impose solutions on people, but helps them to find their own solutions to their problems. Unlike a judge, a mediator can't force a binding settlement.
- This process is typically voluntary.
- The mediator does not act as a lawyer (even if they are one) and they do not advise the parties of their legal rights or obligations. The mediator acts as a guide within the proceedings, attempting to maintain communication and consideration of the important issues between the parties.
- Advantages are similar to the above table of collaborative divorce:
  - Faster
  - Most cost-efficient
  - Parties cooperate and work together, more cooperative than having lawyers pit the parties against each other and have a judge make a final decision
  - Parties can look into the background of the mediator, which isn't the case with a judge

## **3. OTHER FAMILY LAW SERVICES**

### **3.1 PRENUPTIAL AGREEMENTS**

- <http://www.separation.ca/family-law/prenuptial-agreement>
- <http://www.torontodivorcelaw.com/Prenuptial-Agreement-In-Ontario-For-A-Matrimonial-Home>
- <http://www.prenuptialagreements.org/pros-cons/>

**General:**

- Often known as a "prenup"

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- Commonly includes provisions for division of property and spousal support in the event of divorce or breakup of marriage
- May include special terms in the event of adultery
- Can also cover what happens to spouse's estate in the case of their death
- Cannot deal with custody of or access to spouse's children

Advantages of Prenuptial Agreement	Disadvantages of Prenuptial Agreement
<ul style="list-style-type: none"><li>○ Gives spouses control over their future, rather than allowing courts to decide.</li><li>○ Can protect financial stability for you and your children.</li><li>○ Gives spouses a chance to discuss matters of property and support when their heads are cool, rather than once relationship has broken down.</li><li>○ Some believe that having consequences for divorce forces couples to work towards reconciliation.</li><li>○ Divorce rates are high, so this makes provisions for what will happen when and if this occurs.</li></ul>	<ul style="list-style-type: none"><li>○ Some people believe that it incentivizes divorce by putting expiration date on marriage.</li><li>○ Some people believe that discussing prenuptial agreements signals uncertainty about marriage.</li><li>○ May need updating, since financial and other life circumstances may change.</li><li>○ Not necessarily 100% binding, since prenuptial agreements are subject to a judge's opinion; some clauses could be thrown out.</li></ul>

[https://www.thestar.com/life/2012/04/09/cohabitation\\_agreements\\_help\\_give\\_commonlaw\\_spouses\\_same\\_rights\\_as\\_married\\_couples.html](https://www.thestar.com/life/2012/04/09/cohabitation_agreements_help_give_commonlaw_spouses_same_rights_as_married_couples.html)

### Cohabitation Agreements:

- Even if a couple doesn't get married, they can still sign an agreement for what will happen with property in the event of their separation.
- Can spell out what property can be split and how, how spousal support will be handled, and how joint debts will be paid.

## 3.2 ADOPTION/GUARDIANSHIP

<http://www.choicesadoption.ca/adoption/stepparents.php>

<http://www.reliableadoption.ca/the-adoption-process/>

<https://www.childwelfare.gov/topics/permanency/relatives/adoption/> (this is a U.S. source)

### General:

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- Prospective adoptive parent(s) usually retain lawyers to help them process their adoption application.
- Adoption is the legal and permanent transfer of parental rights from a person or couple to another person or couple. Adoptive parents have the same responsibilities and legal rights as biological parents.
- A matter of provincial jurisdiction.

### Reasons for Hiring an Adoption Lawyer

- You are trying to gain legal guardianship of a child that isn't biologically yours.
- Can help you find an agency to adopt from if you need one
- Can file any necessary paperwork
- Can represent you in court if necessary
- Can educate you about the adoption process and your province's laws. Can prepare you for any hearings.
- Can represent you if there are legal complications, like birth parents changing minds or trying to extort you.

### Types of Adoption:

Steps	Description
<b>1. Public</b>	<ul style="list-style-type: none"><li>• Adopting an infant, child, or youth from the Canadian child welfare system.</li><li>• Children in foster care are crown wards. This is the process of adopting them into families.</li><li>• A public agency is the local branch of your provincial or area social service department.</li><li>• This has fairly minimal costs for applying parents.</li></ul>
<b>2. Private</b>	<ul style="list-style-type: none"><li>• Privately adopting a child from a parent who is unwilling or unable to look after their own child.</li><li>• Private adoption agencies are provincially licensed.</li></ul>
<b>3. International</b>	<ul style="list-style-type: none"><li>• Adopting a child from another country</li><li>• This is the most expensive option.</li><li>• The process and regulations vary according to the country you're adopting from.</li></ul>

	<ul style="list-style-type: none"><li>• Some private agencies may specialize in this.</li></ul>
<b>4. Stepchild(ren)</b>	<ul style="list-style-type: none"><li>• Becoming an official parent to your partner's child(ren).</li><li>• "Absent parent": this refers to the child's birth parent (the one who is not your spouse).<ul style="list-style-type: none"><li>○ If absent parent consents or is deceased, this should be a smooth process</li><li>○ If absent parent can't be found, it's a bit more complicated, since you have to make efforts to find parent and you may need to claim that parent isn't fulfilling parental obligations</li><li>○ If absent parent won't consent, this may be difficult or impossible</li></ul></li></ul>
<b>5. Kinship</b>	<ul style="list-style-type: none"><li>• Adopting a child related to you by family ties (birth) or through a prior relationship connection.</li><li>• Placement with relatives or kin is often the first option considered by workers in foster care when children cannot safely remain in their parents' home or cannot be reunited with them.</li></ul>

**Open vs. Closed:**

- Open adoption refers to any situation where the adoptive parents and the birth mother know each other and exchange identifying information.
  - Child may be in contact with birth parent(s)
  - Most birth mothers prefer going this route since it gives them more of a say in the process
- Closed adoptions are when the birth parent(s) and child/adoptive parents are not in touch and do not have contact information.
  - Court records sealed, preventing the child from tracing his/her roots
  - Birth parents unable to find out what became of child.

**3.3 PATERNITY**

<http://macleanfamilylaw.ca/2012/04/06/bc-child-paternity-and-child-parentage-test-lawyers-how-do-i-prove-if-i-am-the-father-of-a-child/>

**General Information**

- For various reasons, DNA testing may be requested to prove whether a man is the father of a child.
- Reasons for paternity testing
  - Father resists obligation to pay child support because he doubts if he is the parent
  - Father wants to gain access and parental rights to child by proving that he is the father

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- “Paternity fraud”/ “child identity fraud” – the fraud that occurs when a mother names a man to be the biological father of a child when she knows or suspects that he is not the father

### 3.4 WILLS, ESTATES, TRUSTS & POWER OF ATTORNEY

[https://en.wikipedia.org/wiki/Power\\_of\\_attorney](https://en.wikipedia.org/wiki/Power_of_attorney)

[https://en.wikipedia.org/wiki/Will\\_and\\_testament](https://en.wikipedia.org/wiki/Will_and_testament)

[https://en.wikipedia.org/wiki/Trust\\_law](https://en.wikipedia.org/wiki/Trust_law)

#### General Information

- This isn't always covered under family law, but some family lawyers do advertise it.
- A will or testament is a legal document by which a person, the testator, expresses his or her wishes as to how his or her property is to be distributed at death.
- A trust is a relationship whereby property is held by one party for the benefit of another. The trustee holds that property for the trust's beneficiaries.
- Power of attorney is written authorization to represent or act on another's behalf in private affairs, business, or some other legal matter, sometimes against the wishes of the other. Is often used when person becomes incapable of managing own affairs.
- For more detailed information, [see civil law services guide](#).