



**Legal
Services
Society**

British Columbia
www.legalaid.bc.ca



**Provincial Training Conference:
Legal Information and Resources for Settlement Workers**
Legal Services Society and The Law Foundation of BC
Tuesday, March 24th and Wednesday, March 25th, 2015

AGENDA – Tuesday, March 24th 2015

Time	Session	Speakers
7:30 – 8:30	Registration & Continental Breakfast	
8:30 – 9:00	Opening Ceremony	Debra Sparrow Representative, Musqueam
	Welcome and Announcements (Oceanview 5 – 8)	Mark Benton Executive Director, Legal Services Society Wayne Robertson Executive Director, The Law Foundation of BC Baljinder Gill Community Training and Outreach Coordinator, Legal Services Society
9:00 – 10:30	PLENARY – Family Law Update (Oceanview 5 – 8)	Agnes Huang Lawyer, Agnes Huang Law Facilitator: Lois Shelton
10:30 – 10:45	Break	
10:45 – 12:15	Break Out Sessions: <ul style="list-style-type: none"> Welfare Law (Oceanview 4) Dealing With The Police (Oceanview 3) Best Practices of Providing Legal Help to Clients (Oceanview 7 and 8) Family Law: Parenting Time and Mobility Rights (Oceanview 5 and 6) 	Alison Ward Lawyer, Community Legal Assistance Society Facilitator: Silvia Tobler Josh Paterson Executive Director, BC Civil Liberties Association Facilitator: John Simpson Assunta De Ciantis Lawyer, Assunta De Ciantis Law Facilitator: Alex Peel Silvia Tobler Legal Information Outreach Worker, Legal Services Society Rhona Lichtenwald Lawyer, Hillcrest Law Facilitator: Baljinder Gill
12:15 – 1:30	Lunch	

AGENDA – Tuesday, March 24th 2015

1:30 – 3:00	Legal Resources and Services for Settlement Workers Facilitator: Alex Peel (Main Room)	Lois Shelton Legal Advocate Training Manager, The Law Foundation Alex Peel Publications Development Coordinator, Legal Services Society Dave Nolette Communications Manager, Justice Education Society Kathryn McCart PLE Service Coordinator, People's Law School Audrey Jun Clicklaw Program Coordinator, Courthouse Libraries BC Priyan Samarakoon Program Manager, Access Pro Bono
3:00 – 3:15	Break	
3:15 – 4:45	Break Out Sessions: <ul style="list-style-type: none"> Helping Clients Who Are Being Treated Unfairly (Oceanview 4) Residential Tenancy Legislation (Oceanview 3) Helping Clients Dealing With Violence (Main Room) 	Lobat Sadrehashemi Lawyer, BC Public Interest Advocacy Centre Facilitator: Silvia Tobler Parveen Khtaria Project Manager, Tenant Resource & Advisory Centre Facilitator: Lois Shelton Joshua Prowse Lawyer, Community Legal Assistance Society Facilitator: Lois Shelton Gisela Ruebsaat Legal Analyst, Ending Violence Association Facilitator: Baljinder Gill Laura Wood Program Manager, Ending Violence Association Ram Sidhu Legal Advocate, SOURCES

Some thoughts on the *FLA* two years later

Presentation by Agnes Huang
for the Provincial Settlement
Conference
March 24, 2015

Appointing a Guardian (parent)

Mother has sole custody per interim consent Order. Father has “contact” with child three days per week from 10:00 am to 4:00 pm.

All parental responsibilities given to mother, but judge reluctant to make father only a contact parent. Father made a guardian.

T.F. v. A.D., 2013 BCPC 205 (Judge Brown)

Terminating Guardianship

Removal/termination of guardianship done only in the most extreme circumstances

Court should first see if with redistribution of parental responsibilities it is still in best interest of child to terminate guardianship.

D. v. D., 2013 BCPC 135 (Judge Merrick)

A guardian who has no parental responsibilities still has legal rights under the *FLA* that confirm and promote their involvement in their child's life. ... Termination of guardianship should be a final recourse only and then only where no other means of protecting the best interests of the children (particularly, by reallocation of parenting responsibilities) is available.

J.W.K. v. E.K., 2014 BCSC 1635 (Punnett J.)

Appointment of a PC

Parenting Coordinators may assist only in implementing an agreement or order re parenting arrangements, contact or other prescribed matters: s. 15(2)(b)

The appointment of a PC would not remove the need for the parties to communicate and consult about M. And where the child's needs are being met by her parents through joint decision, arrived at by discussion, and where the issue of finances has been raised, the cost of a PC does not seem warranted.

K.V.B. v. O.B.C., 2015 BCSC 171 (Master Scarth)

Conscious Coupling



“When you have more than a one-night stand,
write it in your diary...”

Date of Cohabitation/Separation

Does it matter?

Spouse

Limitation periods

Property / Debt

Spousal support

Excluded property

... and Conscious Uncoupling



When have parties separated?

There is no such thing as a “legal separation”

Spouses may be separated even if they continue to live in the same residence: 3(4)(a)

Evidence of separation: 3(4)(b)

- Communication by one spouse to the other of an intention to permanently separate
- Action, taken by a spouse, that demonstrates intention to separate permanently.

Interim distribution of property

If not harmful to the interests of a spouse, the Court may make an interim distribution of family property to provide money to fund family dispute resolution or obtain information or evidence: s. 89

I am satisfied that the application [for an interim distribution of \$200,000] is a reasonable request, both in terms of amount and its necessity for her to deal with the difficult issues of asset division and parenting issues on an equal basis with the claimant.

M.A.L. v. N.A.L., 2014 BCSC 203 (Melnick J.)

Duty to disclose

A party to a family law dispute must provide the other party full and true information for the purpose of resolving a family law dispute: s. 5

Failure to disclose can result in penalties being imposed under s. 213.

The provision is intended to equip the court with more tools to address willful non- and late disclosure.

J.D.G. v. J.J.V., 2013 BCSC 1274 (Punnett J.)

Penalties for failing to disclose

Notice of intention to seek a fine must be given.

- \$2000 where information given was “incomplete, false and misleading”

MacGrotty v. MacGrotty, 2014 BCSC 317

- \$2,500 because delay of 11 months and failure to take even preliminary steps toward producing a financial statement

Cully v. Cully, 2013 BCSC 2457

- \$2,880 for failing to disclose basic information, aggravated by wish to avoid child support (reduced from \$4000 because of limited financial resources)

J.C.P. v. J.B., 2014 BCPC 297

\$13,617.00

... that is the amount Judge Challenger fined a party for failure to disclose under s. 213(2)(d)(i)

With respect to reasons for non-disclosure, no legitimate reasons were ever provided.... I find that Mr. B. must be penalized for his abuse of the court process and wasting of court time and Ms. F's resources. ... For this proceeding alone she has incurred legal bills that amount to \$13,617.00.

T.J.B. v. B.A.F., 2014 BCPC 290 (Judge Challenger)

Court ordered counselling

The court may order a party, or a child (with or without consent), to participate in counselling or other specified services or programs: s. 224(1)(b)

...I am of the view that Mr. P. needs to change his behaviour. The family violence must stop. There must be increased cooperation. Conflict must be minimized...

Therefore... Mr. P shall attend, participate in, and successfully complete counselling, including psychological counselling and parenting courses, and provide proof of his attendance at counselling.

J.C.P. v. J.B., 2013 BCPC 297 (Judge Merrick)

Restricting Communication

Unless more appropriate to make a Protection Order, the Court may restrict communications between parties. The Court may make such an Order on its own motion: s. 225

Parties not to speak derogatorily about each other in front of the children, or speak about the proceeding.

Ferguson v. Ferguson, 2014 BCSC 216

Communication only via text or email.

Hughes v. Erickson, 2014 BCSC 1952

Communication on child-related subjects only.

L.D.M. v. R.H.M., 2014 BCPC 98

Misuse of Court process

The court can prohibit a party from making further applications without leave of the court if satisfied the party is making trivial applications or misusing the court process: s. 221

Repeatedly attempting to revisit an issue that was finally determined by the highest court in this country amounts to misuse of the court's process.

Dawson v. Dawson, 2014 BCSC 44 (Barrow J.)

Denial of Parenting Time

Denial of parenting time or contact not wrongful when guardian reasonably believes child might suffer family violence or that other guardian is under the influence of drugs or alcohol, for example: s. 62

Court cannot make a prospective order sanctioning the denial of parenting time.

D.J.S. v. J.M.D., 2014 BCSC 1143



Legal Issues for Newcomers:
Information about Income Security
and Government Services
for Newcomers to Canada
Residing in B.C.

MAY 2014

Updated Third Edition 2013-2014

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November 2008

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In Canada, both federal and provincial governments offer a range of services. These often have different citizenship or residency requirements and, in some cases, the use of government services may affect an immigration application. This guide offers some basic information about important government services and how they relate to immigration status. These materials are not intended to replace legal advice; those who need help should consult a qualified legal professional.

Some referrals are provided at the end of the document.

Laws are subject to change at any given time and the most current legislation or policies should be always consulted.

FINANCIAL SUPPORT

Welfare

Welfare (also sometimes called social assistance or income assistance) is money and/or other benefits that the Ministry of Social Development and Social Innovation ("the ministry") in B.C. gives to people who can't afford the basics of life, like housing, food and medicine. It's mostly given to people who can't work or find a job or can only find part-time work.



To qualify for welfare benefits, a person's "family unit" must earn less than a specified amount of money per month, and have assets (money and belongings) that are worth less than a specified amount. The ministry considers a "family unit" to include an individual (the applicant), their spouse/partner, and their dependent children who live with them. For a spouse/partner and children to be included in the family unit, they must be living with the applicant and, in the case of children/dependants, must be under 19 years of age.

There are four types of welfare programs in B.C.:

- Income assistance. What most people get when they receive welfare.
- Hardship assistance. Temporary assistance for people who can't get income assistance but are in need and meet other requirements.
- Persons with persistent multiple barriers benefits. For people with a medical condition that makes it difficult to work. Recipients must have been on income assistance and/or hardship assistance for 12 out of the last 15 months to qualify.
- Persons with disabilities benefits. For people with disabilities and their family units.

A person can apply for welfare if they:

- are an adult (19 years or older, with limited exceptions);
- live in B.C.; and
- meet the citizenship requirements for welfare, meaning that they (or one adult family member living in their family unit) must be:
 - a Canadian citizen;
 - a permanent resident (with landed status),

- a convention refugee or a person in need of protection under the Canada Immigration and Refugee Protection Act;
- in Canada on a temporary resident permit; or
- subject to a removal order that can't be executed.

There is one exception to the citizenship requirements for welfare above. A single parent without any immigration status in Canada may get welfare if:

- at least one of their children is under 19, lives mostly with them, AND is a Canadian citizen;
- the parent has left an abusive spouse;
- the parent has made an application for permanent resident status in Canada; AND
- the parent cannot leave BC with their child(ren) because of one of the following:
 - another resident of BC has parenting rights (also called custody and access) or contact (visitation) rights with one or more of their children through a court order, agreement, or other arrangement, and it would probably violate the order, agreement, or other arrangement if the parent left BC with the children
 - another resident of BC is claiming parenting or contact rights with the child; OR
 - you or one of your children is being treated for a medical condition and leaving BC would be dangerous to that person's physical health.

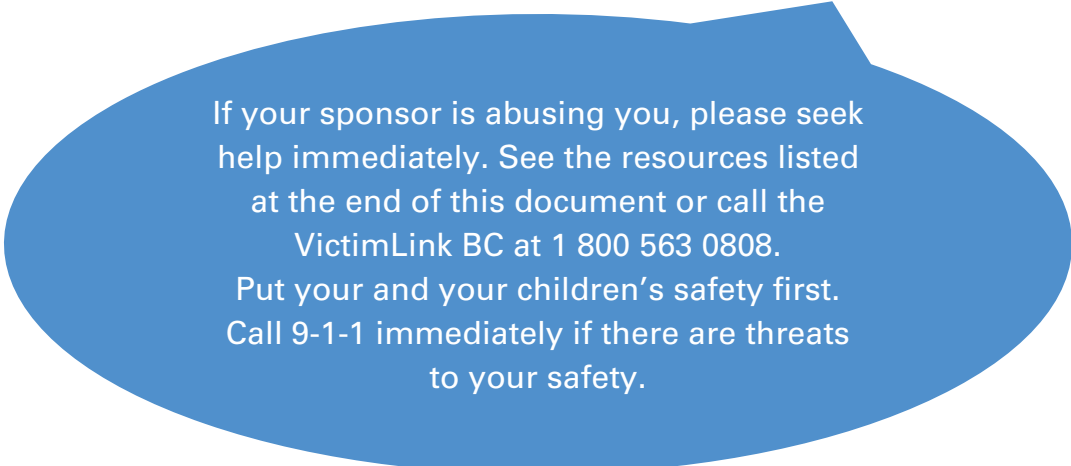
If a spouse living in the family unit doesn't meet these citizenship requirements, the ministry won't pay any welfare benefits for that spouse. In B.C., visitors, students and workers that are here on temporary work permits aren't eligible for welfare.

If a person is receiving welfare, they can't be outside B.C. for more than 30 consecutive days per year. If they break this rule without getting permission in advance, they won't be able to collect welfare unless they requalify for it. The ministry may give permission to be outside BC for more than 30 days in a row for the following reasons:

- to study at a recognized school;
- for medical treatment prescribed by a doctor; or
- for special cases where it would be unfair to prevent the person from leaving B.C.

Sponsored Spouses or Dependants:

If an individual or their dependants were sponsored to come to Canada, their sponsor made a promise to support them for a certain number of years (either three or 10 years). Sponsorship is considered a legally binding contract. If a sponsored person applies for welfare during these years, they must prove to the ministry that their sponsor can't or won't support them. **The only instance where a person doesn't have to prove this is if they have been abused by their sponsor.**



If your sponsor is abusing you, please seek help immediately. See the resources listed at the end of this document or call the VictimLink BC at 1 800 563 0808. Put your and your children's safety first. Call 9-1-1 immediately if there are threats to your safety.

Work Search:

Almost all people must complete a work search before they can get welfare benefits. If you or your spouse have never received welfare benefits in BC before, the work search lasts for five weeks. If you have received only hardship benefits in the past, your work search is also for five weeks. If you or your spouse have received welfare benefits in BC before, your work search lasts for three weeks.

There are some people who are not required to complete a work search before they can get welfare. These include:

- people who are leaving an abusive spouse, or other abusive relative;
- a single parent with at least one child under three years of age;
- someone with a physical or mental health problem that the ministry believes prevents them from looking for work;
- people who are 65 or over;
- family units in which at least one person has been found to be a Person with Disabilities; and
- people who can't legally work in Canada (e.g. someone seeking refugee-protection status who don't have a permit to work in Canada. In this case, the person must provide the ministry with documentation of their claim for refugee protection). If a

person is applying to waive the work search rule on the grounds that they're seeking refugee protection, but their spouse can legally work in Canada (even if they can't), then the spouse must do the work search.

Immediate Needs Assessment

A person who must do a work search (either 3 or 5 weeks) usually does not get any welfare benefits until their work search has been completed.

There is one exception: if a person must do a work search but they have an immediate need for food, shelter or urgent medical attention, then:

- the ministry must schedule their eligibility interview (to see if the person is eligible for welfare) on an urgent basis;
- the ministry must give the person some help (like food vouchers if they have an immediate need for food, or referral to a shelter if they have an immediate need for shelter) while the person is waiting for their eligibility interview date; AND
- after their eligibility interview, the person may be able to receive money from the ministry called "hardship assistance" while they complete their work search.

Employment Plan:

Most people who apply for and receive welfare must take part in an employment plan that assists them in their search for employment while on welfare. If you do not have to do a work search (see above) you do not have to have an employment plan. If you live with a disabled spouse or child who you must care for, this may also mean you don't have to have an employment plan.

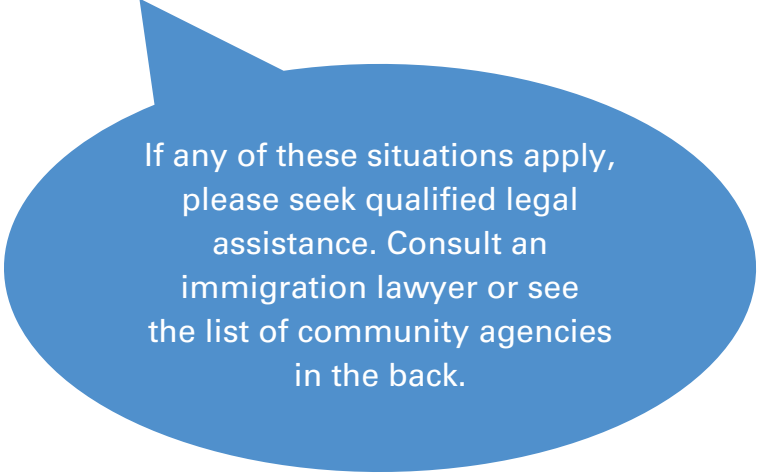
Thinking of Sponsoring a Family Member?

A person can't sponsor family members to come to Canada while that individual is receiving welfare. Immigration officers can't approve a sponsorship application if the potential sponsor is receiving welfare.

Exceptions: The following people who receive welfare can still sponsor a family member to come to Canada

- 1) a person receiving people with disabilities benefits;
- 2) a convention refugee or protected person, if they are still in the process of being reunited with their dependents or spouse if;
 - i. CIC is aware of their dependents; and

- ii. the convention refugee or protected person has named their dependents on their application for permanent residence.
- 3) an overseas refugee resettled in Canada if:
- i. the resettled refugee does not know where a dependent is; and
 - ii. the resettled refugee applies within one year of their arrival to Canada under CIC's One Year Window of Opportunity rules to be reunited with their spouse or dependant child(ren).



If any of these situations apply, please seek qualified legal assistance. Consult an immigration lawyer or see the list of community agencies in the back.

WHEN NOT TO APPLY FOR WELFARE:

If a person applies for permanent residency in Canada through any program other than as a convention refugee or a protected person, their immigration application will be negatively affected if they apply for and receive welfare.

If a person applies for welfare while living in Canada without legal status or has an expired visa or permit, the ministry can check that individual's immigration status, which could lead to an order for their removal from the country. A qualified legal professional should be consulted before applying for welfare, particularly if the person doesn't have proper status in Canada.

**For more detailed information about applying for and receiving welfare, see
"Your Welfare Rights: A Guide to Employment and Income Assistance"
at: resources.lss.bc.ca/pdfs/pubs/Your-Welfare-Rights-eng.pdf**

**For more information about applying for income assistance, visit
www.eia.gov.bc.ca/bcea.htm**

EMPLOYMENT INSURANCE

Regular Employment Insurance Benefits

Employment insurance (EI) is a federal program that gives people money if they lose their job so they can support themselves while looking for new work.

To be eligible and qualify for EI, a person must:

- have worked a certain number of hours during the 52 weeks before they became unemployed;
- be available for, willing to and actively looking for work;
- with some exceptions, the person must remain in Canada while collecting EI.

There are no formal residency or citizenship requirements for collecting EI; however, a person must have been working with a legal and current work authorization in Canada prior to becoming unemployed in order to qualify.

Currently in B.C. (excluding parts of northern B.C.), the required number of hours is approximately 700 (this number varies over time, and from one region to another). A person looking to collect EI must prove, through a record of employment from their former employer(s), that they worked the required number of hours in the 52 weeks before they became unemployed.

If the employer did not give the individual a record of employment, that person should still apply for EI right away using pay stubs as proof of income and hours worked. Any job where EI contributions are deducted from an employee's paycheque should count toward qualifying for EI. In some cases (for example, if an individual was hired as a contractor rather than an employee), the hours that person worked do not count toward qualifying for EI.

A person who has been working in Canada for less than two years may be considered a "new entrant into the labour force" (i.e., someone who has worked less than 490 hours in the year prior to the 52-week period). New entrants must have worked 910 hours in the 52 weeks prior to unemployment before they can collect EI.

Once a person has qualified, EI will pay a basic rate of 55% (to a maximum of \$514/week) of what that person was earning before losing their job. The payments will continue for a certain number of weeks, or until that person finds new employment. If a person has one or more children under 18 at home, and their net family income is below \$25,921 per year, they may



automatically receive an EI family supplement. With the EI family supplement, they could receive up to 80% of what the person was earning before losing their job.

The number of weeks that an individual is able to collect EI increases with the number of hours they worked in the previous 52 weeks. Currently, in B.C. (excluding parts of northern B.C.), this number ranges between 14 and 45 weeks.

There is a two-week waiting period after losing a job, for which no EI benefits are paid. A person should still apply for EI as soon as possible after losing a job. It may take up to four or even six weeks for an EI claim to be processed. Some people may qualify for a kind of welfare benefit called hardship assistance (see page 6) if the lack of income during the waiting period causes them financial difficulty.

EI can only be applied for online, at:

www.servicecanada.gc.ca

Information and assistance is available by phone at 1-800-206-7218

Lapsed Work Permits

Temporary foreign workers with an employer-specific work permit or an open work permit are required to pay taxes while working in Canada and, along with their employers, pay into EI. If an individual is unemployed because their work authorization in Canada isn't valid, and they're in the process of applying for a new work authorization, they *may* be able to get EI benefits, if they:

- are available for, willing to and actively looking for work.
- can prove they have access to a new work authorization (i.e., they must have applied for one and only administrative delays out of their control are preventing them from possessing a current work authorization).

This type of case is often rejected at first instance by the EI Commission; individuals who find themselves in this situation may have to apply for reconsideration of the decision or appeal it to the Social Security Tribunal with more evidence proving that they will receive or, by the time it goes to appeal, have received a new work authorization. It is strongly suggested that people in this situation seek qualified legal assistance.

Other Special Employment Insurance Benefits

If an individual has enough hours to qualify, they may be able to collect special EI benefits that include:

- Sickness benefits for those who can't work due to a very ill family member.

- To collect EI due to illness, an applicant must obtain a medical certificate from a doctor stating that they can't work, and may also have to undergo a medical exam.
- The maximum number of weeks one can collect EI due to illness is 15; pregnancy is also 15 weeks; and caring for a newborn (either parent) is 35 weeks.
- If a family member has a serious medical condition and a "significant risk" of dying within 26 weeks, people can collect compassionate care benefits from EI for six weeks in order to care for their relative. In some cases, people may collect this benefit if they have to leave Canada to care for a close relative.
- Please note: anyone who wishes to collect EI in any of these circumstances must still meet the hours worked requirements, which differ from regular EI hours-worked requirements.

For more information about applying for EI, visit
www.servicecanada.gc.ca/eng/ei/publications/process.shtml

SENIORS INCOME SECURITY

Canada offers several income security programs for seniors. Three of the most commonly used programs are the Canada Pension Plan (CPP), Old Age Security (OAS) and the Guaranteed Income Supplement (GIS). Service Canada administers all three of these programs.



**For information on income security programs for seniors, visit
www.servicecanada.gc.ca/eng/audiences/seniors/index.shtml**

**Information for seniors is available at
www.canadabenefits.gc.ca/f.1.2cl.3st@.jsp?geo=1&catid=11&searchallcats=52,53**

Canada Pension Plan

CPP operates throughout Canada. The province of Quebec administers its own program, called the Quebec Pension Plan (QPP), for workers in that province. The two plans work together to ensure all contributors are protected, no matter where they live.

To qualify for a CPP benefit, a person must have paid premiums to the CPP program through their employment. CPP provides basic benefits when a person become disabled or retires. If that person then dies, CPP may pay some benefits to their surviving spouse/partner and children.

There are three kinds of CPP benefits:

1. Retirement pension;
2. Disability benefits (for contributors with a disability and their dependant children); and
3. Survivor benefits (this includes the death benefit, the survivor's pension and the children's benefit).

CPP Retirement Pension

People who have made at least **one valid contribution** (payment) to CPP qualify for a CPP retirement pension. To get a full CPP pension, the person must be at least 65 years old. A person can start to receive a reduced CPP pension between the ages of 60 and 64. How

much a person will receive in monthly CPP retirement benefits depends on how much, and for how long, the person contributed to CPP while working.

CPP retirement pensions do **not** start automatically. People **must apply** for their retirement pension. The only exception is if someone already receives CPP disability benefits and turns 65. In that case, their disability benefits automatically change (convert) to a retirement pension.

For more information about CPP retirement benefits, visit
www.servicecanada.gc.ca/eng/services/pensions/cpp/retirement/index.shtml

CPP Disability Benefits

People who are unable to work due to a serious physical or mental disability may qualify for CPP disability benefits. The amount of the benefit depends on how much, and for how long, the person contributed to the CPP while working. If a person receives disability benefits, some benefits for their children are also available.

To get CPP disability benefits:

- an applicant must be under 65 years of age; and
- the person must have become disabled within certain deadlines of when they last worked and contributed to the CPP.

For more information about disability benefits, visit
www.servicecanada.gc.ca/eng/services/pensions/cpp/disability/index.shtml

CLEO's publication, "CPP Disability Pensions," can be found at
www.cleo.on.ca/en/publications/cppdisability

CPP Survivor Benefits

Survivor benefits may be paid after a person who contributed to the CPP dies. There are four kinds of survivor benefits, each with different eligibility criteria.

A) Allowance for the Survivor:

The CPP allowance for the survivor is a monthly amount that can be paid to someone aged 60 to 64 who was the spouse or common law partner of a CPP contributor when they died. In 2014, the maximum monthly amount of the allowance for the survivor is \$1,172.65. The actual

amount that someone may qualify for depends on how much, and for how long, the deceased person contributed to CPP.

To qualify, the survivor must also:

- have a low income (in 2014, under \$22,512);
- live in Canada;
- be a Canadian citizen or legal resident;
- have lived in Canada for at least 10 years since they turned 18; and
- be single (not re-married or living common law with someone else).

B) Survivor's Pension:

A CPP survivor's pension is a monthly amount that can be paid to a person who was the spouse or common law partner of a CPP contributor when they died. How much a surviving spouse or partner will receive, and when, depends on:

- how much, and for how long, the deceased person contributed to CPP;
- how old the surviving spouse or partner is when the CPP contributor dies; and
- whether the surviving spouse or partner is disabled or raising children under 18 that they had with the deceased person.

To receive a survivor's pension before turning 65 or becoming disabled themselves, a surviving spouse or common law partner must be either:

- at least 35 years of age, or
- under 35 and either disabled OR raising dependent children.

C) Death Benefit:

The CPP death benefit is a one-time payment intended to help with funeral expenses. In 2014 the maximum death benefit amount is \$2,500. The amount someone may actually qualify for depends on how much, and for how long, the deceased contributed to CPP.

To qualify for a death benefit, the deceased contributor must have contributed to CPP for at least 3 years, and often more. The death benefit is usually paid to a CPP contributor's estate, or the person who paid for the funeral expenses.

D) Children's Benefit:

The CPP children's benefit is a monthly amount that can be paid to the dependant children of someone who receives CPP disability benefits, or who contributed enough to CPP and has

died. Children can be either biological or adopted children, or a child who was in the care and custody of the disabled or deceased adult.

To qualify, the child must be under 18, or else between 18 and 25 and in full-time studies at a recognized school or university

In 2014, the maximum rate for the children's benefit is \$230.72 per month. The amount a child may actually qualify for depends on how much, and for how long, the parent contributed to CPP.

For more information about survivor benefits, visit
www.servicecanada.gc.ca/eng/services/pensions/after-death.shtml

International Benefits

Canada has agreements with many other countries for people who worked and lived outside of Canada. If such an agreement exists between Canada and the other country or countries where the person worked, they may be able to receive a pension or benefits from **Canada and/or the other** country(ies). Through the agreement, contributions they made in the other country(ies) may be added to their CPP contributions to meet minimum eligibility criteria. If they didn't live or work long enough in one of the countries to qualify, the time they spent in the other country may be added to meet the residency requirement for benefits.

For more information, visit
www.servicecanada.gc.ca/eng/services/pensions/international/index.shtml

Old Age Security Program

The Old Age Security Program offers retirement income to most Canadian seniors. Benefits include the basic Old Age Security Pension (OAS), the Guaranteed Income Supplement (GIS) and Allowance.

Old Age Security Pension (OAS)

OAS is a monthly benefit available to most Canadians 65 years or over. To receive the full OAS benefit, a person must have resided in Canada for at least 40 years after they turned 18. If they do not meet that requirement for the full benefit, they may still qualify for partial OAS if they have lived in Canada for at least 10 years after they turned 18 years of age. Employment

history is not a factor for OAS eligibility. OAS doesn't start automatically – it must be applied for.

Guaranteed Income Supplement (GIS)

GIS provides additional money to OAS to low-income seniors in Canada. To be eligible for GIS, applicants must receive OAS and meet income requirements. GIS doesn't start automatically – like OAS, it must be applied for.

The amount of GIS a person receives is based on a person's annual income or the combined annual income of the applicant and their spouse/partner. Since annual income can change from year to year, applicants must renew their GIS annually. If they file taxes with the Canada Revenue Agency prior to April 30, they will receive the reapplication form in the mail.

Allowance and Allowance for Surviving Spouse

The Allowance and Allowance for Surviving Spouse are both monthly benefits for low income people who are aged 60 to 64. The Allowance is paid to the spouse or common law partner of a low income person who receives OAS (i.e. who is 65 years old or more) and who is eligible for GIS. To be eligible, the spouse or common law partner must be a legal resident or citizen of Canada, and have lived in Canada for at least 10 years after they turned 18. In addition, the couple's combined annual income (not including OAS pension amounts) must be less than a specific amount (for example, in January 2014 this amount was \$30,912 per year). As of January 2014, the maximum amount of the Allowance is \$1,047.43 per month. The Allowance does not start automatically – it must be applied for.

The Allowance for Surviving Spouse is for people aged 60 to 64 whose spouse or common law partner has passed away. To qualify, the person must be single (not remarried or living with a new common law partner), and must be a legal resident or citizen of Canada. In addition, the person must have lived in Canada for at least 10 years since their 18th birthday, and their annual income must be below a certain amount (for example, in January 2014 this amount was \$22,512 per year). As of January 2014, the maximum amount of the Allowance for Surviving Spouse is \$1,172.65 per month.

Both the Allowance and the Allowance for Surviving stop when the recipient becomes eligible for an OAS pension at age 65. Recipients must re-apply annually. The Allowance and Allowance for Surviving Spouse are not considered income for income tax purposes. The Allowance and Allowance for Surviving Spouse are not payable outside Canada beyond a period of six months, regardless of how long the person lived in Canada.

Sponsored Immigrants and the Old Age Security Program

A sponsored immigrant is not eligible for GIS, the Allowance or the Allowance for Surviving Spouse during their sponsorship period unless the person has lived in Canada for 10 years or more since their 18th birthday. However, a sponsored immigrant is eligible for OAS benefits during their sponsorship period, if they meet all the criteria for OAS. In addition, a sponsored immigrant may be eligible for GIS, the Allowance or the Allowance for Surviving Spouse during their sponsorship period if their sponsor:

- declares bankruptcy;
- is jailed for more than six months;
- is convicted of abusing the sponsored immigrant; or
- dies.

For more information about the OAS program, visit
www.servicecanada.gc.ca/eng/services/pensions/oas/index.shtml

Senior's Supplement

The senior's supplement is a provincial monthly payment from the Ministry of Social Development and Social Innovation to seniors whose total income from federal pensions or other earned income is below a level guaranteed by the province. It's paid out automatically (no need to apply) to people who receive OAS and GIS. More information on how to apply to receive this benefit is available at www.eia.gov.bc.ca/factsheets/2005/seniors_supp.htm.

Welfare

A senior may be eligible for provincial welfare if they don't qualify for federal benefits. More information about such benefits and entitlements is available from:

- the Legal Services Society's publication *Your Welfare Rights* at www.lss.bc.ca/publications/pub.php?pub=167; and
- the People's Law School of BC publication, "*When I'm 64: Benefits*" at www.publiclegaled.bc.ca/when-im-64-benefits/

Shelter Aid for Elderly Renters (SAFER)

SAFER is a provincial program that can help reduce rent costs for B.C. seniors with low-to-moderate incomes. To be eligible for SAFER, a person must:

- be aged 60 or over;
- have lived in British Columbia for at least 12 months right before they apply for SAFER;
- rent their home. People who live in subsidized housing or a public residential care facility, or who own shares in the co-op where they live, are not eligible.
- Meet the residency requirements. Any spouse or common-law partner they live with must also meet the immigration status requirements.
- Pay **more** than 30% of their gross (before tax) monthly household income on rent. If the person owns and lives in a manufactured home (trailer), the amount of pad rental they pay is included in the rent.
- Not be receiving any welfare benefits from the ministry, except "medical services only."

Immigration status requirements:

To be eligible for SAFER, a person must live permanently in BC when they apply. A person will not be eligible for SAFER if they are a sponsored immigrant and the period of their sponsorship is not over yet (unless their sponsorship has broken down). In addition, the person, and anyone they live with, must be:

- a Canadian citizen;
- a person lawfully admitted into Canada for permanent residence;
- an applicant for refugee status; or
- a person who was sponsored, but whose sponsorship has broken down.

**For questions and concerns regarding elderly adults,
please visit the BC Centre for Elder Advocacy and Support
at www.bcceas.ca.**

**BCCEAS's Seniors' Abuse and Information Line:
Phone: 604 437 1940 or 1-866-437-1940 (toll free)**

EMPLOYMENT

Employment Standards

B.C.'s Employment Standards Branch (ESB) has laws to ensure employees work in safe environments and receive all the benefits they're entitled to. The BC Employment Standards Act requires employers to provide workers with the following (please note: many of these rules are different for farm workers and live-in caregivers; see below for contacts specific to farm workers and domestic workers):



- a \$10.25/hour minimum wage (the liquor server minimum wage is \$9 per hour);
- payment twice per month;
- a 30-minute unpaid meal break for every five consecutive hours of work;
- regular wage plus half for every hour worked over eight hours a day and twice regular wage for every hour worked over 12 hours a day;
- after one year of employment, two weeks paid vacation per year; and
- if employment is terminated without cause (where the employee is not at fault) after three months of employment, the employer must give severance pay or advance notice of termination. The amount of severance or length of notice required depends on the length of employment.

These are just a few examples of the rights workers have, and are subject to change. For more information visit www.labour.gov.bc.ca/esb or call the ESB's information line at 1-800-663-3316. ESB office locations can be found at www.labour.gov.bc.ca/esb/contact/welcome.htm.

**A useful resource by the People's Law School,
"Working in BC: Your Legal Rights and Responsibilities,"
is available at
www.publiclegaled.bc.ca/working-in-bc/**

If an employer has not met the required employment standards, there are steps workers can take to resolve the problem. The ESB Self-Help Kit can help employees discuss the problem with their employer and inform their employer about their legal responsibilities. The kit is available at <http://www.labour.gov.bc.ca/esb/self-help>.

Employees who can't solve the problem themselves may file a complaint with the ESB. (using the self-help kit is not the same as filing a complaint). Complaints may be filed up to six months after the problem took place or after employment was terminated.

Individuals within 30 days of the end of the six-month period should file their complaint with the ESB first, and then use the self-help kit later to try to resolve the problem.

People are not required to use the self-help kit if:

- they are under 19 years of age;
- the complaint is related to pregnancy leave, parental leave, family responsibility leave, bereavement leave or jury duty;
- the business has closed or the landlord or bailiff has locked the doors, or the employee is concerned that assets may be removed;
- the person is a farm, textile or garment worker, or a live-in caregiver;
- they have significant language or comprehension abilities;
- they provide a letter that they have already sent to their employer identifying the issue or dispute under the Act and requesting a resolution; or
- the sole issue is that the final paycheque has not been received.

File ESB complaints online at
www.labour.gov.bc.ca/esb/facshts/complaint.htm

or visit your local ESB office.

After a complaint has been filed, the ESB will decide whether the employer has provided the employee with the wages and benefits they are entitled to. If the employer has not met the employment standards requirements, they may be required to pay the employee compensation for lost wages or other benefits.

Foreign Workers

Foreign workers in B.C. may be covered by the Employment Standards Act and are entitled to overtime pay, statutory holidays and holiday pay, annual vacations and vacation pay and minimum wage. An employer cannot provide goods or services in lieu of wages.

Foreign workers cannot be charged any fee to get help finding a job or be provided with information about prospective work.

A foreign worker CANNOT be required to:

- pay for immigration assistance as a condition of being placed in a job;
- post a bond or pay a deposit to ensure they will finish a work term or employment contract, or pay a penalty if they do not; or
- pay back any costs the employer paid to an employment agency or anyone else to recruit the worker.

An employer may only deduct wages as required by law (e.g., income tax, CPP, EI premiums, union dues). An employer can't ask the worker to pay any portion of a business cost, but the employer may deduct advances and overpayments from wages if the worker has given written authorization.

An employer or an employment agency can't force a foreign worker to return to their country of origin if they terminate the worker's employment contract before the work permit expires or if the worker finds employment with another employer. Only the federal government can legally remove a person from Canada.

Foreign workers with language difficulties are not required to use the Self-Help Kit before filing an Employment Standards complaint.

**There are specific employment standards rules that apply
to farm workers and live-in caregivers.**

For more information visit:

www.labour.gov.bc.ca/esb/domestics/

www.labour.gov.bc.ca/esb/agriculture

**Farmworkers and domestic workers can contact
the following organizations for legal help:**

<p>West Coast Domestic Workers Association 302-119 West Pender Street Vancouver, B.C. V6B 1S5 604-669-4482 or toll-free at 1 888 669 4482 www.wcdwa.ca</p>	<p>PICS Agricultural Workers Legal Advocacy Program 205-12725 80th Avenue Surrey, B.C. V3W 3A6 604-596-7722 http://pics.bc.ca/legal-advocacy-program/</p>
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Legal Work Authorization

Working without legal work authorization doesn't preclude a person from requesting money from their employer through Employment Standards; however there are risks that need to be addressed and weighed against a person's lack of immigration status.

When you're working in Canada without a work authorization, especially in B.C., people risk exposing themselves to exploitation and failing to pursue other possible immigration avenues that may be available.

People who work without status or under the table are working without a social insurance number (SIN) and are not eligible for any status workers' benefits like workers' compensation and EI. Without legal status, workers don't receive any opportunity for medical services and will be billed privately should they require medical assistance. If a worker working without status comes into conflict with the law and is asked to provide ID documents, they will trigger exposure to Canadian authorities.

What options do workers without legal status have if they are not paid their wages? Working without legal status doesn't prevent a person from filing a complaint with the Employment Standards Branch (ESB) for unpaid wages (see above). In fact, using the ESB to seek a remedy may be one of the only legal avenues available. Once a complaint is filed with the ESB, it's strictly confidential and subject to privacy. No one but the parties to the complaint will be informed. The ESB takes all complaints seriously and will attempt to resolve the issue through its complaints mechanisms.

For more information visit

www.labour.gov.bc.ca/esb/facshts/complaint_resolution.htm

What are the risks to filing a complaint with the ESB? Although the complaint process is private and confidential, as explained above, there are associated risks for those who lack immigration status. The biggest risk comes from the employer; it is possible that the employer will try to avoid paying the outstanding wages by informing *Canadian Border Services Agency* ("CBSA") of the worker's existence as an "illegal" living in Canada. In similar situations that have actually taken place, it has become a race to the finish to see if the employee gets paid before being removed from Canada. With this apparent reality, people must decide if they will continue to pursue a complaint with the ESB and have *some possibility* of leaving Canada with the money owed to them.

Once CBSA is informed of someone's lack of immigration status, the immigration consequences for a non-status worker include:

REMOVAL ORDERS: If a removal order has been issued, the person may be required to leave Canada. They will be informed of the reasons for the removal and given a copy of the order.

Family members in Canada who are dependants and are also without status (spouse and/or children) may be included in the removal order if they are not Canadian citizens or permanent residents 19 years of age or over. There are two types of removal orders that apply in this scenario:

DEPARTURE ORDERS: The person must leave Canada within **30 days** after the order becomes effective and must confirm their departure with CBSA and be issued a certificate of departure. They can return to Canada without restrictions. ***A departure order automatically becomes a deportation order if the person does not leave within 30 days or confirm their departure with CBSA.***

EXCLUSION ORDER: The person can't return to Canada for one full year. However, they can try to get permission from CIC to return sooner.

Any one of these removal orders is a very dark mark on someone's Canadian immigration record. No matter what remedy is sought, there's a greater likelihood that the person may be barred from entering Canada in the future as CIC visa-issuing officers have full discretion to deny entry visas and/or border officials may deny entry at a port of entry.

For more help with one's rights as a temporary foreign worker or one without proper immigration status consult (farm workers and domestic workers: see the above-mentioned agencies on page 19):

MOSAIC Legal Advocacy Program
1720 Grant Street, 2nd floor
Vancouver, B.C. V5L 2Y7
Phone: 604-254-9626; fax: 604-629-0061

www.mosaicbc.com/settlement-services/general-support/legal-advocacy

Workers' Unions

Depending on a person's profession and place of employment, a worker may be required or able to join a workers' union, which is an organization that represents employees when dealing with employers. A union negotiates employment terms and standards with the employer to cover all unionized employees; this is known as a collective bargaining agreement and, in all cases, the terms and standards negotiated are equal or better to those required by employment standards laws. Employees, their union and their employer are legally required to follow the terms set out in the collective bargaining agreement; the laws are set out by the Labour Relations Code as opposed to the Employment Standards Act.

Collective bargaining agreements differ greatly, so it's important to find out what rights and responsibilities one has as an employee and union member. If a worker believes their rights under the collective bargaining agreement have been breached, they can contact their union representative and file a complaint known as a "grievance." Though methods for filing and processing grievances vary, all unions are legally required to take grievances seriously and make an honest decision on the matter. If the union determines that the employer has breached the terms of the collective bargaining agreement, they will contact the employer to negotiate a resolution.

Please note: unionized workers should consult their union representative rather than the ESB when faced with a problem with their employer.

WorkSafeBC

Workers' Compensation

In B.C., the *Workers' Compensation Act* regulates payment to employees or their families for work-related injuries or diseases. WorkSafeBC administers the program in B.C.

Visit www.worksafebc.com/claims for information on the program and instructions for claims.

To be eligible for benefits from WorkSafeBC, workers must have been hurt or developed an illness while working, and the injury or illness must have been caused by something to do with the job.

Most people working in B.C. – whether full time, part time, on contract or as casual labour – are covered by WorkSafeBC. As a worker, you're covered even if your employer didn't register with WorkSafeBC.

WorkSafeBC
www.worksafebc.com

Call Centre: 604-231-8888 (Metro Vancouver)
1-888-967-5377 (within B.C.)

There are WorkSafeBC local offices in Courtenay, Nanaimo, Victoria, Abbotsford, Burnaby, Coquitlam, North Vancouver, Surrey, Vancouver, Kamloops, Kelowna, Nelson, Fort St. John, Prince George and Terrace. Locations and contact information can be found at www.worksafebc.com/contact_us/default.asp

For more information about claims with WorkSafeBC, see

www.worksafebc.com/publications/how_to_work_with_the_wcb/Assets/PDF/CM025.pdf

Other WorkSafeBC publications for workers are available at

www.worksafebc.com/publications/how_to_work_with_the_wcb/default.asp#workers

The Prevention Information Line makes available workplace-related information on health and safety regulations and worker and employer responsibilities, and can also be called to report an accident or incident.

Prevention information lines (WorkSafeBC)

Lower Mainland: 604-276-3100

Provincial: 1-888-621-7233

After hours: 604-273-7711 or 1-866-922-4357

www.worksafebc.com/contact_us/prevention_information_line

Reporting an Injury

If a person is injured at work, they must report their injury to their employer immediately, and to WorkSafeBC. They should also see a doctor right away and tell the doctor the injury or illness is work-related. It's illegal for an employer to tell a worker not to report an injury or disease to WorkSafeBC or to try to talk a worker out of reporting it to WorkSafeBC.

Workers' Advisers

Workers' advisers help workers who are having problems accessing workers' compensation in B.C. They do not work for WorkSafeBC and the service they provide is free.

For more information about the Workers Advisers Office, visit

www.labour.gov.bc.ca/wab

PUBLIC MEDICAL INSURANCE

Medical Services Plan (MSP)

In Canada, health and medical services are provided through a public health insurance system. Each province runs its own separate system.

In B.C., health and medical services insurance is provided through Health Insurance BC. To qualify, one must enroll in MSP and pay a monthly fee. If a person's previous year's income was below a certain amount, they will not be required to pay the monthly fee.

People who are new to B.C. must apply to Health Insurance BC in order to qualify for health insurance. New residents or people re-establishing residence in B.C. are eligible for coverage after completing a waiting period that normally consists of the balance of the month of arrival plus two months. Because of the waiting period, it is important to apply as soon as possible after arriving in B.C.

To qualify for health insurance, people must meet specific residency requirements:

- they are a "resident," which in this case means a Canadian citizen or a person legally admitted to Canada as a permanent resident;
- they make their home in B.C.; and
- they are physically in B.C. for six months of the year.

Please note: one does not need to wait six months before applying for health insurance. People can apply as soon as they meet the other two requirements. Once insured, an individual must meet the six-month rule to keep the insurance.

People who are not Canadian citizens or permanent residents may still be able to get health insurance. If they meet the two other rules above, and are in one of the following situations, they are "deemed" to have residency:

- they have a valid student or work visa of six months or more or are the spouse or child of someone in this position;
- they are the spouse or child of a Canadian citizen or permanent resident, have applied for permanent residence and their application has not been decided (**the application must be open and active with Citizenship and Immigration Canada**);
- they are a child being adopted by a Canadian citizen or permanent resident; or



- they applied for permanent residence status and were issued a permit by the Minister of Citizenship and Immigration Canada known as a Temporary Resident Permit issued on medical inadmissibility grounds. In this situation, not only the person who holds the Temporary Residence Permit may have deemed residency, but also their spouse and children. This is a category that is not well known. People in this situation may need help advancing their case from a qualified legal professional.

In most cases, a person maintains their health insurance if they live in B.C. for six months of the year. In a few cases one is able to keep their insurance when they are outside B.C. for more than six months. If a person is studying full time at a school outside B.C. that is recognized by the government, they can keep their insurance. The person must have lived in B.C. for six months of the year before leaving for school. The person's spouse and children will also keep their insurance if they are with the person when they are studying. If the person stops full-time studies and does not return to BC, they will lose their insurance one month after they are no longer a full-time student. If a person is leaving B.C. for more than six months in a year for work or vacation, they may be able to keep their insurance for up to 24 months. This requires:

- approval from the government before leaving;
- not becoming a resident of another province or country; and
- that the person lived in Canada for six months in the 12 month period before their departure.

Please note: There are limits on the number of times that a person can be “deemed eligible” within a given period, so pre-approval is highly advised for each out-of-province trip. Also, if one remains outside of Canada for longer than what they were pre-approved for, when they return they will be required to fulfill a waiting period before they can start receiving coverage again. Contact MSP directly to get specific questions answered.

**Contact information can be found at
www.health.gov.bc.ca/msp/infoben/contacts.html**

If a person has an occupation that requires them to travel routinely outside B.C. for more than six months in the calendar year, they can still keep their insurance if they:

- get prior approval from the government;
- do not establish residency outside B.C.;
- keep B.C. as the base location for their job; and
- are present in B.C. once a month, or enough for the government to believe they still reside in B.C.

Premium Assistance

B.C. provides a program for those who can't afford the monthly insurance payments (premiums) for health insurance. The Premium Assistance Program is only available to people who have lived in Canada for the previous 12 months and were citizens or permanent residents during that time. **Also, people recognized as convention refugees and who have obtained their permanent residence status are not required to pay the insurance premium for the first 12 months they are in Canada or until they get a job, whichever comes first. If a person receives welfare (see above), they do not have to pay premiums.**

If the government believes someone has left B.C. permanently, that person will lose their insurance:

- at the end of the month that they leave B.C., if they are moving outside Canada; or
- two months after the end of the month that they leave B.C., if they are moving within Canada.

For more information about Health Insurance BC, visit
www.health.gov.bc.ca/msp

For information about health insurance coverage
while studying, travelling or working outside B.C., visit
www.health.gov.bc.ca/msp/infoben/leavingbc.html#absence

Interim Federal Health Program (IFHP)

This is a temporary health-care benefits program for the following people who are not yet eligible for provincial MSP coverage:

- protected persons, including resettled refugees;
- refugee claimants; and
- certain other groups.

The IFHP does not cover services or products that a person may claim under a private insurance plan.

Benefits

The IFHP provides three basic types of benefits:

- health-care coverage;

- expanded health-care coverage; and
- public health or public safety health-care coverage.

Health-Care Coverage

This coverage is for:

- protected persons who are not receiving income support through the Resettlement Assistance Program (RAP) and have not yet qualified for MSP, including:
 - most Privately-Sponsored Refugees (PSRs);
 - refugees recognized as Convention Refugees; and
 - most individuals who have received a positive decision on a Pre-Removal Risk Assessment (PRRA);
- refugee claimants who are not from a Designated Country of Origin (DCO); and
- refugee claimants from a DCO who filed their claim before December 15, 2012.

People who are eligible for health-care coverage through IFHP and who need medical attention for a disease, symptom, complaint or injury, can receive:

- hospital services;
- services of a doctor or registered nurse;
- laboratory, diagnostic and ambulance services; and
- medications and vaccines **only when they required to prevent or treat a disease that poses a risk to public health, or to treat a condition of public safety concern.**

Once someone is eligible for MSP or health coverage from another province, they are no longer eligible for IFHP.

Expanded Health-Care Coverage

This coverage is for:

- people who are or were receiving income support through the Resettlement Assistance Program (RAP) or its equivalent in Quebec, including:
 - Government-Assisted Refugees, and
 - Joint Assistance Sponsorship Program Refugees.
- people who are or were receiving income support through the RAP, including:

- Visa Office-Referred Refugees who are part of populations nominated for blended funding arrangements where the government and private sponsors jointly provide funding support,
- certain people who are being resettled in Canada as a result of a public policy or humanitarian and compassionate considerations on the Minister's own initiative, and
- certain refugees sponsored by organizations with whom the department has entered into cost-sharing agreements.
- victims of human trafficking who have a valid temporary resident permit under section 24(3) of the Immigration and Refugee Protection Act.

People who are eligible for expanded health care coverage through IFHP and who need medical attention for a disease, symptom, complaint or injury, can receive:

- hospital services;
- services of a doctor or registered nurse; and
- laboratory, diagnostic and ambulance services.

In addition, if still under support of the RAP or Private Sponsorship, a person may be eligible for:

- prescribed medications and other pharmacy products;
- limited dental and eye care;
- prosthetics and devices to assist mobility;
- home care and long-term care;
- psychological counselling provided by a registered clinical psychologist; and
- post-arrival health assessments.

Public Health or Public Safety Health-Care Coverage

This coverage is for rejected refugee claimants and

- Refugee claimants from Designated Countries of Origin who filed their refugee claim after December 15, 2012.

People who are eligible for Public Health or Public Safety Health-Care Coverage through IFHP are only eligible for the following services **if** they require *diagnosis, prevention or treatment of a disease that poses a risk to public health or a condition of public safety concern*:

- services of a doctor or registered nurse;
- laboratory and diagnostic services; and

- medications and vaccines.

Immigration Medical Examination

IFHP also covers the cost of the Immigration Medical Examination for all refugee claimants as their claim is being processed.

For a summary of services, visit

www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp

IMMIGRATION STATUS

Canadian Citizenship

Canadian citizens enjoy all the rights, freedoms and protections of the ***Canadian Charter of Rights and Freedoms***. They have the right to have a Canadian passport and to re-enter Canada no matter how long they have been out of the country. They cannot be forced to leave Canada for any reason, unless they obtained their Canadian citizenship or permanent resident status by not telling the truth.



Rules surrounding citizenship are found in the *Citizenship Act*.

Permanent Resident Status

Permanent Residents

Permanent residents are immigrants, refugees and protected persons who have been given the right to live permanently in Canada. Permanent residents have more rights than visitors to Canada, but they do not have all the rights that Canadian citizens have (for example, they cannot vote).

Rules surrounding permanent resident status are found in the *Immigration and Refugee Protection Act*.

Rights of Permanent Residents

Permanent residents have the right to enter and live in Canada. They also have ***most*** of the rights set out in the *Canadian Charter of Rights and Freedoms* (commonly called the *Charter*). These rights include the freedom of religion and legal rights.

Rights of permanent residents include the right to:

- receive most social benefits, including health-care coverage;
- live, work and study anywhere in Canada;
- apply for citizenship; and
- protection under Canadian law and the Charter.

Responsibilities include:

- paying taxes; and
- respecting all laws.

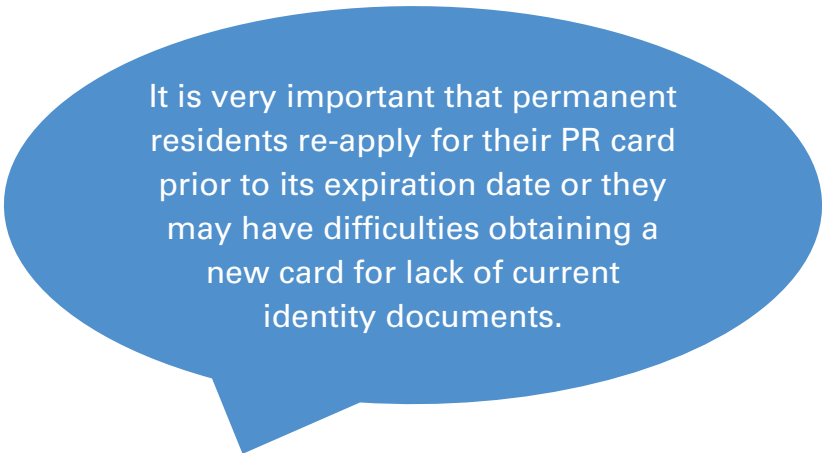
Permanent residents cannot:

- vote or run for political office;
- hold certain jobs; or
- remain in Canada if they are inadmissible, have been ordered to leave Canada and had their appeal of that order dismissed.

Permanent Resident Card

In 2002, CIC began to issue Permanent Resident cards as proof of status. The card is also called a “PR card.” It enhances the paper “Record of Landing” document. The card is valid for five years.

As of December 2007, most permanent residents must have the card if they are re-entering Canada in a commercial carrier (for example, a plane, bus or boat) or crossing the border by car. Since the card is only issued in Canada, permanent residents should get it before leaving Canada. If they do not have a card, they can go to a Canadian embassy or consulate and get a temporary travel document to re-enter Canada.



It is very important that permanent residents re-apply for their PR card prior to its expiration date or they may have difficulties obtaining a new card for lack of current identity documents.

If a person came to Canada as a permanent resident before June 2002, the card replaces the original landing papers.

For information on the PR card call 1-800-255-4541 (in Canada only) or visit www.cic.gc.ca/english/information/pr-card

Residency Obligation

Permanent residents must meet a residency obligation in order to maintain permanent resident status. They must meet the obligation for two out of every five years that they are a permanent resident. This means that the person must live in Canada for at least two years (730 days) in any five-year period. It does not have to be two years in a row.

If they have been a permanent resident for more than five years, only the last five years will be looked at.

People can meet their residency obligations while living abroad in the following circumstances:

- they are accompanying a spouse or common-law partner who is a Canadian citizen abroad;
- they are a child accompanying a Canadian parent;
- they work full-time for a Canadian business or the Canadian government;
- they are accompanying a spouse or common-law partner who is a permanent resident **AND** works full time for a Canadian business or the Canadian government; or
- they are a child with a parent who is a permanent resident **AND** works full time for a Canadian business or the Canadian government.

Conditional or Loss of Permanent Resident Status

Two-Year Conditional Permanent Residence for Sponsored Spouses

A sponsored spouse who filed an application for permanent residence after October 25, 2012, is subject to conditional permanent residence. This conditional permanent residence applies to:

- spouses, **common-law** or **conjugal** partners in a relationship of two years or less with their sponsor; and
- couples that have **no children in common** with their sponsor at the time they submit their sponsorship application.

The sponsored spouse must **live together** in a real relationship with their sponsor for two years from the day on which they receive their permanent resident status in Canada. If they do not remain in the relationship, the sponsored spouse's status could be revoked.

Other than the conditional two-year requirement, the sponsored permanent resident does not differ from normal permanent residence. These sponsored spouses have the same rights and benefits as other permanent residents. They are allowed to work and study without a work or

study permit, are not subject to different tuition fees in post-secondary schools and have the same access to health coverage and social benefits, including social security.

However, if the relationship breaks down, the sponsor remains financially responsible until the end of the three-year undertaking period, irrespective of the cause of the breakdown.

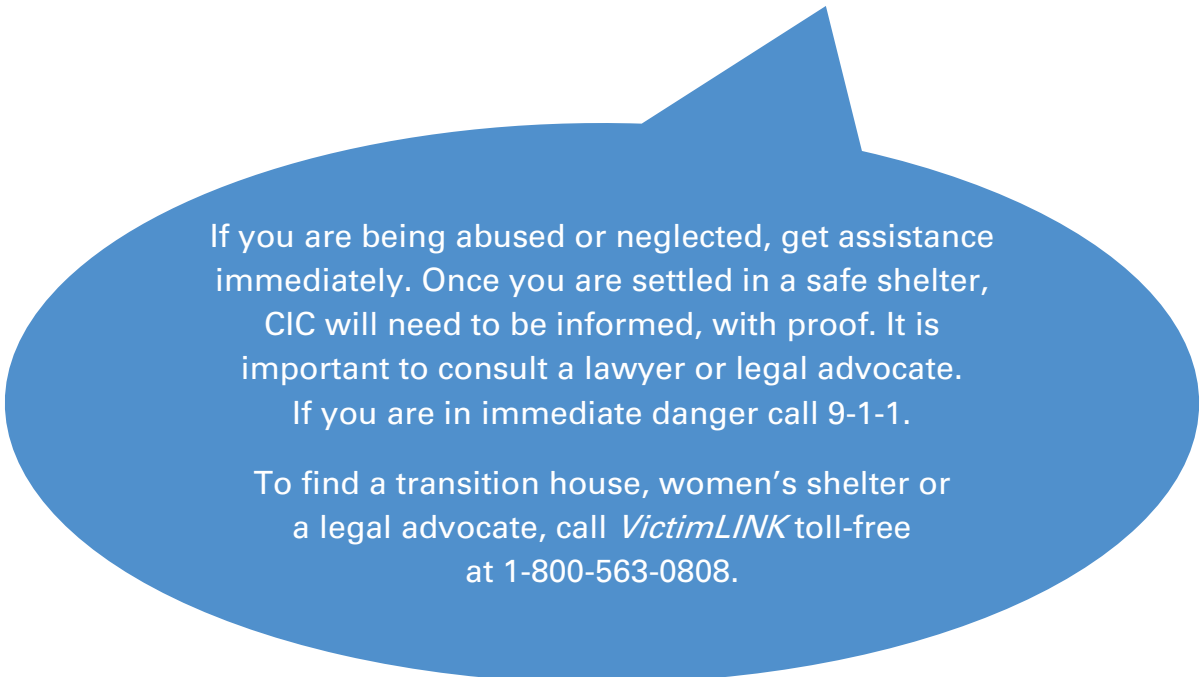
EXCEPTIONS to Two-Year Conditional Permanent Residence:

Exception for death of the sponsor

- The condition does not apply if the sponsor dies during the two-year conditional period and the sponsored spouse remained in a real, co-habiting relationship with the sponsor until the sponsor's death. CIC will need to be informed with proof; it is important that a lawyer or legal advocate is consulted in this situation.

Exception for abuse or neglect of the sponsored person

- Conditional permanent residence also does not apply if there is abuse or neglect by the sponsor or a failure to protect from abuse or neglect by a person related to the sponsor, **whether that person is living in the household or not during the two-year conditional period.**
 - Abuse can be: physical abuse, forcible confinement: sexual abuse, sexual contact without consent, psychological abuse, threats and intimidation or financial abuse, including fraud and extortion.
 - Neglect can be: failing to provide the necessities of life such as food, clothing, medical care or shelter and any other omission that results in a risk of serious harm.



If you are being abused or neglected, get assistance immediately. Once you are settled in a safe shelter, CIC will need to be informed, with proof. It is important to consult a lawyer or legal advocate. If you are in immediate danger call 9-1-1.

To find a transition house, women's shelter or a legal advocate, call *VictimLINK* toll-free at 1-800-563-0808.

Not Meeting Residency Requirements

A person who does not meet the residency obligations may lose their permanent resident status. A person does not lose their permanent resident status immediately and has the right to appeal to the Immigration Appeal Division and should get legal help as soon as possible, as an appeal must be filed within 60 days after receiving a decision from CIC.

Even if there is a failure to meet the residency obligation, CIC may determine that humanitarian and compassionate considerations justify the retention of resident status.

Inadmissibility

Permanent residents may also lose their permanent resident status if they are found to be inadmissible. **Permanent residents** may be inadmissible due to/for:

- security concerns;
- human rights violations;
- criminality;
- organized crime;
- financial reasons; or
- misrepresentation.

Criminality

Permanent residents are inadmissible if they have been convicted of a serious offence either in or outside of Canada.

Permanent residents are inadmissible if they are involved with organized crime, which is defined as “a pattern of criminal activity planned and organized by a number of persons acting in concert.” It includes people-smuggling, trafficking in persons and money laundering.

Misrepresentation

Permanent residents are inadmissible if they lied to CIC either by giving false **information or not providing all relevant information**.

If a sponsor misrepresented themselves then sponsored family members may be deemed inadmissible as well.

**For more information about inadmissibility, visit
www.cic.gc.ca/english/information/inadmissibility/who.asp**

If you believe there are reasons for you to be considered inadmissible, consult with a lawyer immediately.

PROTECTION

There are two types of refugees: inland refugees and overseas refugees. Overseas refugees are selected and sponsored by the Canadian government from outside of Canada. They fall within the *Refugee and Humanitarian Resettlement Program*. The majority of resettled refugees come to Canada with their permanent residence or, in some cases, with a Temporary Residence Permit. However, some refugees arrive in Canada on their own and seek asylum at the border, an airport or an immigration office. These refugees are said to be claiming refugee status.



Overseas Refugees

Refugee and Humanitarian Resettlement Program

CIC selects people from refugee camps around the world to move to Canada. Resettlement is the legal process of bringing a refugee to Canada to live as a permanent resident. CIC relies on the United Nations High Commissioner for Refugees (UNHCR) as well as other referral organizations and private sponsorship groups to identify and refer refugees for resettlement in Canada.

People in this program have to go through medical, security and criminal screenings and, in most cases, arrive as Permanent Residents.

If an overseas refugee is in need of urgent resettlement with some outstanding medical screening, they would arrive in Canada under a Temporary Resident Permit – a status they must keep valid until they are able to apply for Permanent Residence.

There are three overseas refugee classes:

- **Convention Refugees Abroad class:** People who are outside their home country (or the country in which they normally reside) and cannot return to that country due to a well-founded fear they will be persecuted because of race, religion, political opinion, nationality or membership in a social group (e.g., women or those who have a different sexual orientation).
- **Country of Asylums class:** People who are in a refugee-like situation but do not qualify as Convention Refugees, who are outside their home country (or the country in which they normally reside), are seriously and personally affected by a conflict or violation of

human rights, cannot find an adequate solution to the problem within a reasonable amount of time and will be privately sponsored or able to support themselves.

- **Source Country class:** Person lives in a country that he/she normally lives in and this country is labelled as a source country for refugees by CIC.

For more information, visit
www.cic.gc.ca/english/refugees/outside/index.asp

Government-assisted Refugee Program (GAR)

Government-assisted refugees are Convention Refugees Abroad. Resettlement in Canada is entirely supported by the Government of Canada or with support coming from CIC-supported non-governmental agencies. The support usually lasts up to one year from the date of arrival.

Urgent Protection Program (UPP)

The UPP ensures Canada is able to respond to urgent requests by refugees facing the threat of being returned home or direct threats to their lives.

In 1988 Canada created the **Women at Risk Program** for refugee women in desperate circumstances. These women do not have family or friends to support or protect them and they may be at risk of rape or other violence.

More information on the GAR Program is available at
www.cic.gc.ca/english/refugees/outside/resettle-gov.asp

Sponsoring Refugees Overseas

Organizations and individuals can sponsor refugees who live abroad and are seeking resettlement in Canada. CIC can match refugees with groups interested in sponsoring refugees. Sponsors must be Canadian citizens or permanent residents and at least 18 years of age. **Refugee claimants who are already in Canada do not qualify for this type of sponsorship.**

Sponsoring groups must support the refugees for one year. This support includes housing, clothing and food. In special cases the sponsorship period can be extended for up to three years.

Inland Refugees

Protected Persons

A protected person is either a Person in Need of Protection or a Convention Refugee. All protected persons are granted refugee protection in Canada.

Persons in Need of Protection

Persons in need of protection are people who would face danger (torture, threat to life or risk of cruel and unusual treatment or punishment) if they were to return to their home country.

Convention Refugees

A convention refugee fits the *United Nations Convention Relating to the Status of Refugees* definition of refugee.

Canada's *Immigration and Refugee Protection Act* defines a Convention Refugee as:

- *a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,*
 - (a) *is outside each of his/her countries of nationality and is unable or, by reason of that fear, unwilling to avail him/herself of the protection of each of those countries; or*
 - (b) *not having a country of nationality, is outside the country of his/her former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.*

People asking for Convention Refugee status or protection in Canada are called **Refugee Claimants**.

Refugee Claimants

Most refugees travel to Canada on their own to make a refugee protection claim at the border, an airport or a CIC office. These refugees have no status when they arrive and must make a claim for refugee status.

Legal Counsel

Refugee claimants have the right to be represented, at their own expense, by legal counsel during the claim process. Limited legal-aid funding may be available for refugee claimants who cannot afford a lawyer.

**For information about legal aid in B.C., visit
legalaid.bc.ca/legal_aid/immigrationProblems.php**

**For more information on referrals for immigration problems,
or to apply for legal aid, call the
legal aid immigration line at 604-601-6076
or toll-free 1-888-601-6076**

Change of Address

Claimants who change residences must report their new address to the Immigration and Refugee Board of Canada (IRB) and CIC. If they do not report a change of address, they could miss important letters from either organization, which could lead to their claim being declared abandoned.

Social Insurance Number (SIN)

Refugee claimants can apply for a SIN – a nine-digit number used as personal identification for government programs that is needed to work in Canada. Employers must ask to see an employee's SIN card. In order to get a SIN, refugee claimants must have a work permit.

SIN numbers that begin with the number "9" are given to people who are not Canadian citizens or permanent residents. All new 900-series SIN cards have an expiry date that matches the expiry date on the card holder's immigration documents.

Work Permit

Refugee claimants can hold an open work permit, which does not require a job offer. An open work permit is not limited to a specific job or employer.

Once a claim has been referred to the refugee protection division of the IRB and a medical exam has been completed, most refugee claimants can apply to CIC for a work permit.

However, if a refugee claimant is from a designated country of origin, they cannot apply for work permits until either their refugee claim is accepted or 180 days have passed since their claim was referred to the IRB.

If a claimant has been ordered removed but the Canada Border Services Agency cannot enforce the order, the claimant may be able to get a work permit.

English Classes

A student permit is not normally needed to take English classes. Convention Refugees and Persons in Need of Protection can take government-sponsored ESL classes through English Language Services for Adults (ELSA). For more information, visit www.elsanet.org/index.html.

Refugee claimants are **NOT** eligible for ELSA classes. Refugee-serving agencies may offer free ESL classes for refugee claimants or may be able to refer refugee claimants to free or low-cost ESL classes in the community.

Temporary Residents

Temporary residents are people who come to Canada for a limited time to visit, work or study.

Visas and Permits

Visas and permits are NOT the same. A visa allows a foreign national to come into Canada while a permit allows a foreign national to perform an activity such as working or studying something in particular while in Canada.

For example, a foreign national who wants to study in Canada may need a visa to come to Canada (though some countries are visa exempt) and a study permit to attend school in Canada. There are, however, some exceptions where visitors can study in Canada without a study permit.

Visitor Visa

Generally, visitors need a valid passport that will not expire until they leave Canada.

Also, visitors must apply for a visa to travel to Canada unless they are from a visa-exempt country (visit www.cic.gc.ca/ENGLISH/visit/visas.asp).

Canada does not pay for hospital or medical services for visitors. Visitors should buy travel insurance.

If visitors want to stay in Canada longer, they must apply to extend their temporary resident status before their status expires. They can do this from within Canada.

Usually, individuals cannot come to Canada as visitors and then convert their visitor visa into a work permit. These individuals will likely need to apply for a work permit from outside of Canada.

Work Permit

In addition to applying for a visa (if not from a visa-exempt country), a person needs to apply for a work permit if they intend to work in Canada temporarily.

Foreign workers need work permits and must leave Canada when their temporary resident status expires.

In most cases, foreign workers need a job offer from an employer in order to obtain a work permit.

With some exceptions, foreign workers must apply for work permits from outside of Canada.

Usually, foreign workers can apply from within Canada to extend their work permits (if done before the original permit expires).

Student Permit

Foreign students need a student permit for any studies longer six months or longer.

If students have valid study permits, they may be able to:

- work on campus at their college or university; and
- apply to renew their study permit from within Canada if they want to continue studying in Canada.

To be eligible to study in Canada the person applying for a student permit must:

- have been accepted by a school, college, university or other educational institution in Canada;
- prove they have enough money to pay for their tuition fees, living expenses and return transportation;
- be a law-abiding citizen with no criminal record and not be a risk to the security of Canada;
- be in good health and willing to complete a medical examination if necessary; and
- satisfy an immigration officer that they will leave Canada when they have completed their studies.

Staying Permanently

People usually CANNOT come to Canada as temporary residents and automatically convert their temporary status into permanent residence status. In most cases, they must apply for permanent resident status outside of Canada. They can submit their permanent resident application to a visa post abroad while they continue to study or work in Canada.

However, qualified temporary residents may be able to apply for permanent resident status inside Canada under the **Canadian Experience Class** provided they meet specific criteria. This new immigration class was implemented in 2008 for certain skilled temporary workers and international students who possess a Canadian education and Canadian work experience.

Canadian Experience Class (CEC)

Foreign nationals who are international students and temporary foreign workers are now able to apply for permanent residence inside of Canada.

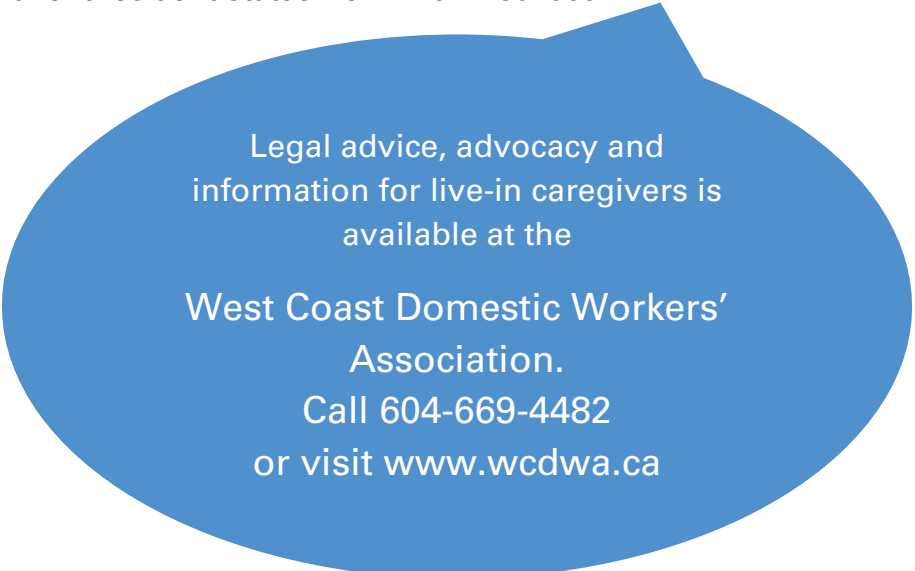
For more information, visit

www.cic.gc.ca/english/immigrate/cec/index.asp

Live-in caregivers

Live-in caregivers provide care for children, elderly people or people with disabilities in the home of the person being cared for (i.e., the employer's house).

A person interested in this program must first get a temporary work permit that allows them to work in Canada as a live-in caregiver. After working in Canada for two years, the live-in caregiver may apply for permanent resident status from within Canada.



Legal advice, advocacy and
information for live-in caregivers is
available at the

West Coast Domestic Workers'
Association.

Call 604-669-4482
or visit www.wcdwa.ca

To get a temporary work permit, live-in caregivers must meet the following conditions:

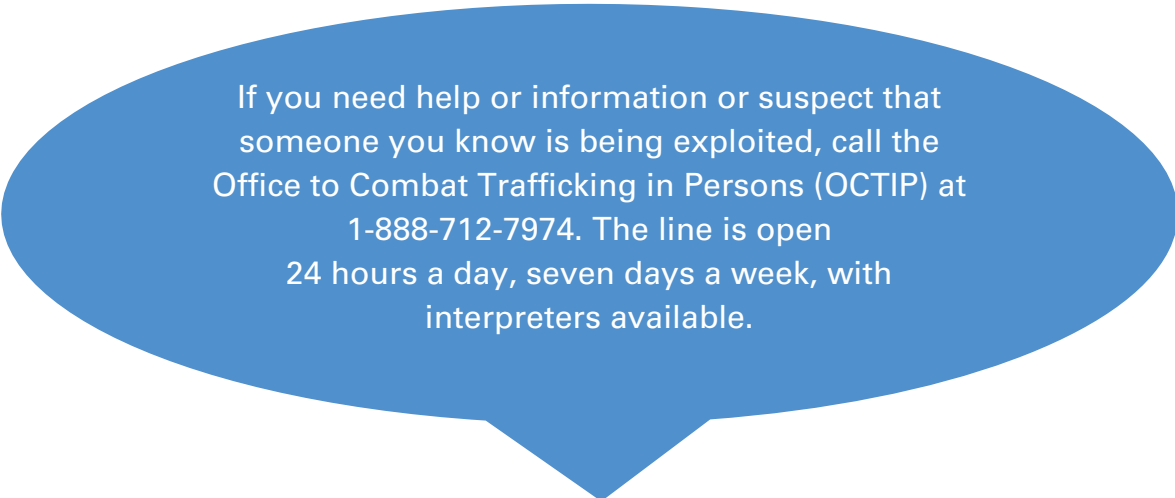
- successful completion of high school (or equivalent);
- at least six months of training or one year of paid work experience in a related field;
- can speak, read and understand sufficient English or French to communicate effectively in an unsupervised setting;
- must have an employment contract with their future employer; and
- must have a work permit before entering Canada.

CIC provides detailed information about the Live-in Caregiver Program at
www.cic.gc.ca/english/work/caregiver/index.asp

Assistance for Victims of Human Trafficking

Victims of human trafficking should visit their closest CIC office. If they need immediate help, they should contact the police.

Victims of human trafficking may be eligible for a 180-day temporary resident permit that can be renewed depending on the circumstances.



If you need help or information or suspect that someone you know is being exploited, call the Office to Combat Trafficking in Persons (OCTIP) at 1-888-712-7974. The line is open 24 hours a day, seven days a week, with interpreters available.

For more information, visit
www.cic.gc.ca/english/information/applications/trp.asp

EDUCATION

Public School (Kindergarten to Grade 12)

According to the law in British Columbia all children between the ages of five and 16 who live in B.C. must attend school. If a child is an “ordinarily resident” of B.C., the government must provide a spot for that child in a public school, free of charge. The government will provide education free of charge if:



- the child is a Canadian citizen or permanent resident;
- the child is a refugee claimant or convention refugee;
- the child’s parent has been admitted to Canada for permanent residence or has applied for permanent residence from within Canada and can prove this with documentation from CIC; or
- the child’s parent has been admitted for temporary residence in Canada for a term of one year or more and holds a student authorization or employment authorization from CIC.

**For more information about public education in BC
go to the government website below and click on “Education”:**

www2.gov.bc.ca

B.C.’s public education program is divided into school districts. Parents must enrol their children in a school within the district they live in. Parents must provide the school district with the following documents:

- immigration or citizenship documents for parents and child;
- a birth certificate, family register or other document showing the child's birth date and parents’ names;
- proof of residence in the school district (rental agreement, lease, purchase agreement or property tax statement);
- immunization records; and
- previous report cards.

If any of these documents are not in English, a certified translation is required. Procedures and deadlines for enrolment vary between school districts (the local school district office or school can provide more information). People can find out which school district they live in by visiting the Ministry of Education's website at www.bced.gov.bc.ca/apps/imcl/imclWeb/Home.do.

Once a child starts attending school, parents are entitled to be informed about their child's attendance, performance and behaviour, as well as to become part of the parents' advisory council at their child's school. This council advises the school's principal and staff on various matters relating to education and the functioning of the school.

Student Aid BC

If someone wishes to study at a college or university, the government of B.C. offers loans to help finance tuition costs. There are several basic eligibility requirements in order to qualify for a loan, including that the applicant must be:

- a Canadian citizen, permanent resident, convention refugee or protected person;
- a resident of B.C.; and
- registered to study at an educational institution recognized by Student Aid BC.

Eligibility for student loans is based on the residency of the applicant, not the location of the college or university. If a BC resident intends to study outside of B.C. or Canada, they should still apply for a loan in B.C.

The residency requirement for student loans varies depending on whether the applicant is considered a dependent or independent student. A person is considered an independent student if they:

- are married, separated, divorced or widowed;
- have been cohabiting in a marriage-like relationship for 12 months;
- are a parent;
- have been out of high school for four years;
- have worked full time for two separate 12-month periods; or
- have no parents or can show that they have been disowned by their parents.

An independent student meets the residency requirement if B.C. is the last province they lived in for 12 consecutive months (discounting time spent as a full-time post-secondary student). If the student has not lived in any province for 12 months, they must be living in B.C. when applying for a loan in order to qualify.

If a student does not meet the requirements for an independent student, they are considered a dependent student and a resident if B.C. is the last province in which their parents or

sponsor lived for 12 consecutive months. The student may also be considered a resident if they don't have a parent or sponsor living in Canada.

**For more information on how to apply for a student loan in B.C., visit
www.studentaidbc.ca/**

TAX

Residency Requirements

Everyone who earns income in Canada must pay income tax. However, the rules about what income is taxed and at what rate vary depending on whether a person is considered a resident of Canada. While residents are taxed on their worldwide income, non-residents are only taxed on income earned in Canada. **This residency requirement is unique to the tax system and is not directly linked to the immigration process or residency requirements for other government programs.** The law is set out in the *Income Tax Act of Canada*.



There are two types of residents: *factual* and *deemed*. Canadian courts have held that a person will be considered a *factual* resident if, "Canada is the place where they, in the settled routine of their life, regularly, normally or customarily live." In order to determine this, Canada Revenue Agency looks for residential ties, the most significant of which are owning or renting a residence or having a spouse, common-law partner or children living in Canada. Even if these conditions do not exist, a person can still be considered a resident if enough secondary residential ties are found. While a single, secondary residential tie is rarely enough for a person to be considered a resident, a combination of several can be. Secondary residential ties include having:

- personal property in Canada (furniture, cars, etc.);
- social ties in Canada (membership in Canadian organizations);
- economic ties with Canada (employment, Canadian bank accounts, retirement savings plans, credit cards, etc.);
- permanent resident status or work authorization;
- medical insurance from a province or territory;
- a vehicle registered in a province or territory;
- a driver's licence from a province or territory;
- a seasonal dwelling place or leased dwelling place;
- a Canadian passport; or
- membership in a Canadian union or professional organization.

These residential ties are used to determine when a person becomes a resident and when they stop being a resident for the purposes of the Canadian tax system. In order to become a

resident, residential ties must be established; to become a non-resident, all significant residential ties must be severed.

A person may still be *deemed* a resident for tax purposes if **(and only if)** they are not considered a factual resident. The main difference between factual and deemed residents is that deemed residents are not considered residents of any Canadian province and therefore do not have to pay provincial income tax. A deemed resident does have to pay a federal surtax, which may be more or less than provincial income tax. That person cannot also collect provincial tax credits or benefits. If the person does not establish residential ties but stays in Canada for more than 183 days per year, they may be deemed a resident for the entire year.

If a person lives overseas and works for the Canadian Armed Forces, a federal or provincial government agency (if that person was a resident before beginning their employment) or on an international development project of the Canadian International Development Agency (if they were a resident before beginning their employment), that person is considered a deemed resident and their dependent children are also considered deemed residents.

The last type of deemed resident is someone who receives a substantial tax exemption through a tax treaty from the country in which they reside because a family member is a resident of Canada.

In a limited number of circumstances, a person who would otherwise be considered a factual or deemed resident can be deemed a non-resident. If they are considered a resident of both Canada and another country and Canada and that country have signed a tax treaty, that person may be deemed a non-resident of Canada if they are a resident of the other country under the tax treaty.

**To apply for a residency determination from the Canada Revenue Agency
and to get more information about residency for tax purposes, visit
www.cra-arc.gc.ca/tx/nrrsdnts/cmmn/rsdncy-eng.html**

Child Tax Benefits

The Canada Child Tax Benefit (CCTB) is a monthly payment administered through the national tax system to low-income families with children under the age of 18. To qualify, an individual must meet the following requirements:

- must live with a child under the age of 18;
- must be the person primarily responsible for the care of the child;
- must be a resident of Canada for tax purposes; and

- both they, and any spouse or common law partner they live with, must be a Canadian citizen, permanent resident, convention refugee, protected person or a temporary resident who has resided in Canada for the previous 18 months and has a valid permit for at least the 19th month.

Note: If someone receives CCTB benefits when they are not entitled to them (for example, if they don't have the required immigration status), they will have to pay the benefits they receive back to the government.

If both mother and father are living with the child, the mother is usually considered the primary caregiver and should be the one who applies for CCTB. If the father is the primary caregiver and wishes to apply, a note from the mother stating he is the primary caregiver is required.

In order to receive CCTB, **both the applicant and their spouse or common-law partner** must file income tax returns every year, regardless of whether they have earned any income.

The amount of the monthly CCTB payment is determined based on the following factors:

- family income;
- number of qualifying children;
- province of residence; and
- the child's eligibility for disability benefits.

Universal Child Care Benefit

A Universal Child Care Benefit is available to families with children under the age of six. It provides \$100 per month per child to help pay for child-care expenses. If a person applies for CCTB, they will automatically be considered for the Universal Child Care benefit (no application is required).

**For more information on child and family tax benefits
and to obtain the application forms for the Canada Child Tax Benefit,
visit the Canada Revenue Agency at
www.cra-arc.gc.ca/bnfts/menu-eng.html**

**More detailed information about both CCTB
and the Universal Child Care Benefit can be found at
www.cra-arc.gc.ca/E/pub/tg/t4114/t4114-e.html**

Child and Spousal Support

Separation and divorce can give rise to financial rights and obligations for children and spouses. In Canada, both parents are financially responsible for their child's upbringing. After a separation, if a child lives mostly with one parent, the other parent is required to pay child support to bear the costs of raising the child. Child support is used to cover such expenses as school fees, food and clothing for the child.

Child Support

Parents have a legal duty to take care of their child, and that includes financial support.

If a person has stood in place of a parent (e.g., a step-parent), they may also have an obligation to pay child support.

When parents separate, one parent has to pay money to the parent with whom the child primarily resides. This money pays for the day-to-day needs of the child and is called **child support** or **maintenance**.

A parent cannot deny access to the other parent just because the other parent fails to pay or falls behind on child support payments.

The *Federal Child Support Guidelines and Tables* apply to all separated parents, including married and common-law couples. The Guidelines and Tables set out the usual amount of child support a parent must pay, based on the parent's gross annual income.

If the parents have shared custody and the child is with the other parent for 40% or more of the time, the amount of child support may be reduced below the usual amount. Other factors that may justify a reduction in child support include the financial hardship to the paying parent, high costs of access visits, and duties to support other children or disabled relatives.

Entitlement

Child support is the right of the child, not the parent.

Children in B.C. are entitled to support if they are younger than 19. Once a child turns 19, they may still be entitled to support IF they need financial support due to illness, disability or another cause (e.g., attending a full-time post-secondary educational institution, such as college or university).

Legal Parents (Step-parents)

Step-parents may be considered **legal parents** and may have an obligation to pay child support after separation. A step-parent is a person who lived with the child's parent and

helped the child's parent(s) with the cost of raising the child for at least one year. Married spouses and common-law partners can be considered legal parents.

A parent of a child who wants to get child support from a step-parent must act quickly. The parent must apply to the court **within one year** of the last contribution to the support of the child by the step-parent. If a step-parent is ordered to pay child support, the amount may be less than the usual amount in the Federal Child Support Guidelines.

Child Support Guidelines

The *Federal Child Support Guidelines and Tables* are rules used to make sure families in similar situations pay and receive the same amount of child support. The *Federal Child Support Guidelines* consider how much money the paying parent earns and how many children need support. Parents who wish to sort out a child-support arrangement themselves should refer to the *Guidelines and Tables*, which set out the amount of child support to be paid in situations where the paying parent has the child(ren) for less than 40% of the time.

The courts *must* follow the *Federal Child Support Guidelines*, which are available at:
www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide

Enforcement

If a parent has a court order or filed separation agreement that requires the other parent to pay child support, the parent can enforce it through the Family Maintenance Enforcement Program (FMEP). FMEP is a provincial government program that collects money owing under child and spousal support orders and separation agreements. Any resident of BC with a support order or filed agreement can enroll it with FMEP for free.

**For more information about FMEP,
including how to enroll an order or agreement with them, see**
www.fmep.gov.bc.ca

FMEP InfoLine:

Greater Vancouver: 604-775-0796

Greater Victoria: 250-356-5995

Elsewhere in B.C.: 1-800-668-3637

Extraordinary Expenses

Under the *Federal Child Support Guidelines*, in addition to basic child support, there may be other extraordinary expenses that need to be paid. Such expenses include child care expenses, private-school fees, expensive sporting activities, medical and dental expenses, and costs for college, university or other post-secondary education. These expenses are shared proportionate to each parent's income. To calculate each parent's income in this situation, spousal support is included in the income of the parent who receives it, and deducted from the income of the paying parent.

Child Support, Spousal Support, and Welfare

There are government rules for parents who receive welfare and who either receive, or have a legal claim to, child and/or spousal support. They must sign a form that gives the Ministry of Social Development and Social Innovation ("MSDSI") the right to take legal action on child-support and spousal support issues. This is called "assigning authority" to the ministry. It means the ministry can go to court to get a child-support or spousal support order or to change the order. The ministry can also decide how to collect the money from the other parent if that becomes necessary.

If the relationship between the parents was abusive, it is very important to tell MSDSI this. If MSDSI agrees that contacting the other parent about child or spousal support would put the person at risk, MSDSI will not contact them.

Child-support and spousal support payments are counted as income for a parent who applies for or receives welfare. This means any support payments received are deducted from the amount of the person's welfare cheque.

Income Tax Rules

Child-support payments are NOT an income tax deduction for the paying parent and are NOT reported as income by the parent who receives them¹.

The Canada Revenue Agency has more information about child support payments and taxes on its website at:

www.cra-arc.gc.ca/supportpayments

¹ The rules around income tax and child support changed on May 1, 1997. If a child-support order was made before May 1, 1997, then the payments ARE a tax deduction for the paying parent and ARE reported as income by the receiving parent.

Spousal Support

Spousal support is money paid by one spouse to the other to help meet their basic living expenses. Spousal support is also sometimes called *maintenance* or *alimony*. Spousal support is usually an amount that is paid every month. The provincial *Family Law Act* and the federal *Divorce Act* both state that the court can order one spouse to pay spousal support to the other spouse.

Those who were sponsored for immigration by the other spouse should bring their sponsorship agreement and undertaking to the attention of their lawyer, mediator and/or judge.

Spousal support may be available to people who:

- a. are or were married;
- b. have lived together for at least two years; or
- c. who have lived together for less than two years but who have a child together.

This applies to both opposite sex, and same sex relationships. There are deadlines for applying to court for a spousal support order. A married spouse must apply for spousal support within two years after getting a divorce or annulment. Spouses who lived together for two years or more, or who had a child with someone they lived with for less than two years, must apply to court for a spousal support order within two years of the date they separated. Not all spouses have the right to receive spousal support. Both spouses have a responsibility to try to become self-sufficient after separation. Sometimes spousal support is ordered for a year or two, to allow one spouse to return to school, retrain or otherwise upgrade their skills so they can become self-supporting. If, however, self-sufficiency is not possible due, for example, to an extended absence from the workforce or disability, then spousal support may continue indefinitely.

There are spousal-support advisory guidelines that help determine the duration and amount of spousal support that should be paid if a person is found to have a right to receive spousal support. People should consult family duty counsel or a lawyer to find out more about the spousal-support guidelines.

Couples can agree on spousal support themselves or with the assistance of a mediator, or have a judge decide for them. In each case the terms should be written down either as an agreement or an order and filed in court. Once filed, the agreement can be enrolled with FMEP for enforcement.

In making a determination on the issue of spousal support, judges will look at a number of factors. However, the behaviour of one spouse will not affect the amount of support ordered. The reasons for the breakdown of a relationship do not change the amount of the spousal support that must be paid.

Judges use the spousal-support guidelines to decide how much spousal support should be paid.

Spousal-support orders can be enforced if the ex-spouse does not make payments when required.

Income Tax Rules

The person paying spousal support can deduct the same amount for income-tax purposes. The person receiving the support must declare it as income. All child support that is payable **must** be fully paid before any amounts paid as spousal support can be claimed as a deduction.

Canada Revenue Agency Support Payment:
www.cra-arc.gc.ca/supportpayments

Changing Orders or Agreements

Separated spouses may need or want to change their separation agreement or court order if there is a change in their situation (e.g., the person who receives spousal support no longer needs it).

Changing an Agreement

If the separated spouses can come to an agreement about the changes, they can sign a new agreement setting out the changes they have agreed to and file it in court. If the couple does not agree, then they must go to court and ask a judge to change the agreement and make an order.

Changing a Court Order

Couples who had their separation issues decided by the court or set out their agreement in a consent order must return to court to make changes to the order. Changing a court order is called **varying** an order.

The couple must show the judge they have a good reason to vary an order about custody, access or support. A good reason, for example, is that one parent's income has changed significantly. Some support orders have time limits. Applications to vary or extend such an order must be made before the order expires.

Property Division

Court orders about property division are almost never changed by a judge.

Agreements about property division will only be changed by a judge if unfair to one party; however, if the two individuals had independent legal advice that resulted in the original agreements, the judge will usually not change them. If you want to change an order or agreement about property division, see a lawyer for legal advice.

For more information on Family Law matters, visit:

www.familylaw.lss.bc.ca

The Guide to the New Family Law Act in B.C. can be found at:

resources.lss.bc.ca/pdfs/pubs/Guide-to-the-New-BC-Family-Law-Act-eng.pdf

Legal Service Society Family Telephone Advice Lawyers

Family law lawyers will give brief “next step” advice over the telephone:

Call 604-408-2172

or toll-free (in B.C.) 1-866-577-2525.

LEGAL RESOURCES

BC Civil Liberties Association

Provides direct assistance to individuals with complaints about civil liberties violations by government, employers or other organizations.

550-1188 West Georgia Street
Vancouver, B.C. V6E 4A2
Phone: 604-687-2919
www.bccla.org



BC Centre for Elder Advocacy and Support

Legal Advocacy Program and Elder Law Clinic for senior adults 55+ unable to access justice due to low income and other barriers. Referrals are taken through the Seniors Abuse and Information Line.

1199 West Pender Street
Vancouver, B.C. V6E 2R1
www.bcceas.ca

Seniors Abuse and Information Line:
1-866-437-1940

BCCEAS Business line:
604-688-1927

BC Human Rights Coalition

Offers information, education, training, consultation, investigation, mediation, research and advocacy for human rights.

1202-510 West Hastings Street
Vancouver, B.C. V6B 1L8
Lower Mainland: 604-689-8474
Elsewhere in B.C.: 1-877-689-8474
www.bchrcoalition.org

BC Public Interest Advocacy Centre (BCPIAC)

A non-profit society that advances the interests of groups generally unrepresented or underrepresented in issues of major public concern.

Suite 208-1090 West Pender Street
Vancouver, B.C. V6E 2N7
Phone: 604-687-3063
www.bcpiac.com

Employment Standards General Enquiries

Call toll-free in B.C.: 1-800-663-3316
www.labour.gov.bc.ca/esb/contact/welcome.htm

Community Legal Assistance Society (CLAS)

Litigates test cases and seeks to reform laws relating to people who are economically, socially, physically and mentally disadvantaged. Processes EI appeals, WorkSafeBC appeals and judicial reviews for welfare tribunal appeals and charitable tax law.

Suite 300-1140 West Pender Street
Vancouver, B.C. V6E 4G1
Phone: 604-685-3425
Toll-free: 1-888-685-6222
www.clasbc.net

Court Information Program for Immigrants (CIPI)

The Justice Education Society provides information and referral to Chinese, Vietnamese and South Asian immigrants and refugees who may be appearing in court as victims, witnesses, accused or as parties involved in a civil suit.

Vancouver Provincial Court
222 Main Street
Vancouver, B.C. V6A 2S8

Chinese and Vietnamese worker: 604-660-6087
South Asian worker: 604-760-5727
www.lces.ca/CIPI2

Dial-a-Law

This telephone service provided by the Canadian Bar Association is a library of tapes that give people information about family law in B.C. The scripts of the tapes can be downloaded and printed. Scripts are available in Chinese and Punjabi.

Lower Mainland: 604-687-4680
Elsewhere in B.C.: 1-800-565-5297
www.dialalaw.org

Justice Education Society

Offers orientations at courthouses around the province and information about the Canadian justice system.

260-800 Hornby Street
Vancouver, B.C., V6Z 2C5
Phone: 604-660-9870
Fax: 604-775-3470
www.JusticeEducation.ca

Law Student's Legal Advice Program (LSLAP)

Free legal clinics operated by UBC law students and supervised by lawyers. Clinics at various locations throughout the Lower Mainland provide legal assistance.

Phone: 604-822-5791
www.lslap.bc.ca

Lawyer Referral Service

Provides names and telephone numbers of a lawyer; makes an appointment with a lawyer for 30 minutes, for \$25 plus tax.

Lower Mainland: 604-687-3221
Elsewhere in B.C.: 1-800-663-1919
www.cbabc.org/Advocacy/Initiatives/Lawyer-Referral-Service

Legal Services Society (LSS) – Legal Aid

Provides legal aid for people who cannot afford a lawyer. Legal aid is only available for serious legal problems under limited circumstances affecting one's life and livelihood and only in the areas of law such as family, criminal, refugee and immigration. Also offers many booklets and brochures about the law and has legal information outreach workers. There are many legal aid offices throughout B.C.

Lower Mainland: 604-408-2172
Elsewhere in B.C.: 1-866-577-2525
www.lss.bc.ca

MOSAIC Legal Advocacy Program

Provides advice, legal representation and referral to *low-income* newcomers (regardless of status), immigrants and refugees in immigration, employment standards and poverty law.

1720 Grant Street, 2nd floor
Vancouver, B.C. V5L 2Y7
Phone: 604-254-9626; fax: 604-629-0061
www.mosaicbc.com

Multilingolegal.ca

Lists B.C.'s public legal education materials offered in nine different languages (Arabic, Chinese, English, French, Korean, Persian, Punjabi, Spanish and Vietnamese). The publications are available for downloading.

www.multilingolegal.ca

People's Law School

Provides free classes and produces booklets about the law. Offers services and publications in different languages.

150-900 Howe Street
Vancouver, B.C. V6Z 2M4
Phone: 604-331-5400
www.publiclegaled.bc.ca

PICS Agricultural Workers' Legal Advocacy Program

This program is designed to help agricultural workers with multiple barriers and assists them in dealing with legal issues related to Employment Insurance, Workers Compensation Board, Old Age Security, Guaranteed Income Supplement and Disability Cases; also with non-payment of wages.

205-12725 80th Avenue
Surrey, B.C. V3W 3A6
604-596-7722
www.pics.bc.ca

Workers' Advisor Office

Provides help for workers who are having problems with WorkSafeBC compensation claims.

Phone: 1-800-663-4261
www.labour.gov.bc.ca/wab

Access Pro Bono

Promotes access to justice by offering free services in B.C.

Phone: 604-482-3195
www.accessprobono.ca

Victoria Law Centre (UVIC Law Students)

Provides advice, assistance and representation to clients who cannot afford a lawyer.

225-850 Burdett Ave.
Victoria, B.C. V8W 0C7
Phone: 250-385-1221
www.thelawcentre.ca

West Coast Domestic Workers Association

WCDWA is a non-profit association that provides free legal assistance in the form of advocacy, support and counselling to live-in caregivers based in British Columbia.

302-119 West Pender Street
Vancouver, B.C. V6B 1S5
Phone: 604-669-4482
Toll-free: 1-888-669-4482
www.wcdwa.ca

COMMUNITY AGENCIES

This is not a complete list of British Columbia's services and organizations for newcomers.

AMSSA, Enquiry BC, Service Canada, the Red Book, the Victim Information Line and PovNet can all provide information about available services and organizations.



Affiliation of Multicultural Societies and Service Agencies of BC (AMSSA)

AMSSA is a coalition of over 80 organizations providing multicultural programs and immigrant settlement services throughout B.C. AMSSA can refer you to a settlement agency in your community.

Lower Mainland: 604-718-2780
Elsewhere in B.C.: 1-888-355-5560
www.amssa.org

Battered Women Support Services

BWSS provides support, advocacy, information and accompaniment to women who have experienced violence and who are involved in the legal system. The BWSS Legal Advocacy Program also provides advocacy with other systems, including social assistance and child protection. The BWSS Legal Advocate does not give legal advice.

Crises and Intake Line: 604-687-1867
Business Line: 604-687-1868
TTY: 604-687-6732
www.bwss.org

Service BC

Service BC can help you find a program, service or person within the B.C. government.

Lower Mainland: 604-660-2421
Victoria: 250-387-6121
Elsewhere in B.C.: 1-800-663-7867
TDD – Lower Mainland 604-775-0303
TDD – Elsewhere in B.C.: 1-800-661-8773
www.servicebc.gov.bc.ca

MOSAIC Multicultural Victim Assistance Program

The Victim Services Program delivers multilingual, culturally sensitive support to victims of crime, whether or not the police/justice system are involved. They provide immigrants, refugees and newcomers of all backgrounds the following services: justice-related information, advocacy, accompaniment and public education. The workers give **emotional support** by listening and helping you deal with trauma.

1720 Grant Street, 2nd floor
Vancouver, B.C. V5L 2Y7
Phone: 604-254-9626; fax: 604-254-3932
www.mosaicbc.com

MOSAIC Stopping the Violence Counselling Program

The STV Counselling Program provides free individual and group counselling to women experiencing abuse. The STV program is for women enduring physical and/or sexual violence; and women dealing with the long term effects of childhood trauma, including childhood abuse. STV counsellors have the knowledge and skills to provide aid and support to women who have endured traumatic violence and abuse. They are also specially trained to work within multicultural communities, with women from different language and cultural backgrounds.

1720 Grant Street, 2nd floor
Vancouver, B.C. V5L 2Y7
Phone: 604-254-9626; fax: 604-254-3932
www.mosaicbc.com

REACH Community Health Centre Multicultural Family Centre (MFC)

(604) 254 6468
1145 Commercial Drive, Vancouver, BC V5L 3X3
General e-mail: info@reachcentre.bc.ca
www.reachcentre.bc.ca

BC 211

Online guide to community, social and government agencies and services across the Lower Mainland.

www.bc211.ca

Service Canada

Service Canada is a delivery network for federal government services and information.

www.servicecanada.gc.ca

Vancouver & Lower Mainland Multicultural Family Support Services Society

5000 Kingsway Plaza III
#306-4980 Kingsway, Burnaby
B.C. V5H 4K7
Phone: 604-436-1025 Fax: 604-436-3267
www.vlmfss.ca

VictimLink BC

Informs victims of crime about local community agencies.

Toll-free: 1-800-563-0808
TTY: 604-875-0885 or text 604-836-6301
VictimLINK: www.victimlinkbc.ca

PovNet Advocacy Resources

Provides a comprehensive list of community based advocates in British Columbia, as well as resources to advocates, community groups and the public.

www.povnet.org

**Welfare Law and Issues for Newcomers to Canada
Settlement Workers Conference
March 24, 2015**

Welfare law resources:

- a) Welfare law consists of the following Acts and Regulations:

Employment and Assistance Act
Employment and Assistance Regulation
Employment and Assistance for Persons with Disabilities Act
Employment and Assistance for Persons with Disabilities Regulation
Employment and Assistance Forms Regulation
Child in the Home of a Relative Program Transition Regulation

Except for the *Forms Regulation*, these are all available online at <http://www.eia.gov.bc.ca/ministry/leg.htm>

The *Employment and Assistance Forms Regulation* is available online at http://www.bclaws.ca/civix/document/id/complete/statreg/11_95_2012a

- b) Welfare Policy:

The Ministry of Social Development and Social Innovation (MSDSI) has a public policy manual called the Online Resource. It is located at http://www.gov.bc.ca/meia/online_resource/

The best way to search the Online Resource is by using the index at http://www.gov.bc.ca/meia/online_resource/or_index/

Remember that policy is NOT law. This policy manual is only MSDSI's *interpretation* of the law.

- c) PovNet listserv on welfare issues:

This is a closed list-serve for welfare advocates maintained by PovNet. To subscribe, email penny@povnet.org with a request to be subscribed to the welfare lists, the name of the agency you work for, and a brief description of the work that you do.

- d) *Your Welfare Rights: A Guide to BC Employment and Assistance*

This is a 196 page booklet published by the Legal Services Society for people who are applying for, or receiving, welfare benefits, and their advocates. The current version is up to date as of March 31, 2014. To order, see <http://www.lss.bc.ca/publications/index.php>

Your Welfare Rights is also available for free online at <http://www.lss.bc.ca/publications/pub.php?pub=167>

THIS IS NOT LAW & ORDER
USA

THIS IS LAW & ORDER
CAN

CAN: LAW&ORDER

- No Miranda Rights
- No Grand Jury
- No GRAND THEFT AUTO!!!!
- No Attorneys
- Etc etc etc etc

CCC

- **Canadian Criminal Code of Canada**
 - A private citizen does not PRESS or LAY charges
 - In B.C. the police send a report to the Crown (government prosecutors) and the Crown decides whether or not to proceed with charges
 - For the Crown to proceed with charges, two requisites MUST be met:
 - 1) that it is in the public interest to prosecute AND
 - 2) there is a substantial likelihood of a conviction

Arrested? Detained?

- There is a difference:
 - “**detained**” means you are being “held” by an authority while they investigate what to do next (i.e. stopped for a traffic violation); you are let go after a determination whether to proceed or not to an actual arrest
 - “**arrested**” means that there are probable grounds to charge you; and you are either held in custody or let go with a promise to appear in court; if in custody, you must be brought before a justice of the peace or judge **WITHIN 24 HOURS**

WHETHER ARRESTED OR DETAINED

- YOU HAVE THE **RIGHT TO SILENCE**don't get tricked (there are some fine points of law here... but generally) **RIGHT TO SILENCE**
- The only information you HAVE TO provide is your ID
- And this because we have **THE CHARTER OF RIGHTS AND FREEDOMS**

THE CHARTER

- The full text of the Charter can be found at:
– laws-lois.justice.gc.ca/eng/const/page-15.html
- Important for our discussion are the Legal Rights:

SEARCH & SILENCE

- 8. Everyone has the right to be secure against unreasonable search or seizure.
- 9. Everyone has the right not to be arbitrarily detained or imprisoned.
- 10. Everyone has the right on arrest or detention
 - (a) to be informed promptly of the reasons therefor;
 - (b) to retain and instruct counsel without delay and to be informed of that right; and
 - (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

YOUR RIGHTS IF YOU ARE CHARGED

- 11. Any person charged with an offence has the right
 - (a) to be informed without unreasonable delay of the specific offence;
 - (b) to be tried within a reasonable time;
 - (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
 - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
 - (e) not to be denied reasonable bail without just cause;
 - (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
 - (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
 - (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
 - (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of sentencing and the time of sentencing, to the benefit of the lesser punishment.

OTHER LEGAL RIGHTS

- 12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
- 13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.
- 14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

WHAT HAPPENS IF.....

- ARREST OR DETENTION AT A BORDER CROSSING????? or
- IF IT'S IMMIGRATION CANADA WHO IS DOING THE DETAINING OR ARRESTING????
- **NOTE THAT THE ENTIRE CHARTER APPLIES TO CANADIAN CITIZENS; NOT ALL SECTIONS APPLY TO PR'S OR VISITORS; YOU CAN BE DEPORTED**

THE BORDER PEOPLE

- **Canada Border Service Agency:** adminlawbc.ca/tribunals/citizenship-rights-law-enforcement/canada-border-services-agency
- **Immigration and Refugee Board:** adminlawbc.ca/tribunals/citizenship-rights-law-enforcement/immigration-and-refugee-board-canada

COURTS IN CANADA

- **Supreme Court of Canada**
 - highest court in Canada
 - scc-csc.gc.ca
- **BC Court of Appeal**
 - appellate court of BC
- **BC Supreme Court**
 - court of inherent jurisdiction
- **BC Provincial Court**
 - court of statute (all BC courts: courts.gov.bc.ca)

FEDERAL COURT

- Federal Court
 - Immigration
- Federal Court of Appeal

cas-nrcr-nter03.cas-satj.gc.ca/portal/page/portal/fc_cf_en/Index

TRIBUNALS

- **BC Tribunals:** adminlawbc.ca/tribunals
- **BC Human Rights Tribunal:** adminlawbc.ca/tribunals/citizenship-rights-law-enforcement/bc-human-rights-tribunal
- **Employment Standards Tribunal:** adminlawbc.ca/tribunals/employment-labour/employment-standards-tribunal-bc

TRIBUNALS.....

- **Employment and Assistance Appeal Tribunal:** adminlawbc.ca/tribunals/employment-labour/employment-and-assistance-appeal-tribunal
- **Work Safe BC Review:** adminlawbc.ca/tribunals/employment-labour/worksafe-bc-%E2%80%93-review-division



FAMILY LAW ISSUES Custody/ Parenting Arrangements & Mobility Rights

Provincial Settlement Conference

March 24 and 25, 2015



**Legal
Services
Society**



Prepared and Presented by
Rhona M. Lichtenwald
Lawyer & Mediator
Hillcrest Law & Mediation



Custody & Parenting Arrangements



When couples separate, they need to make decisions about their children.



What is the law?

- **Divorce Act** – this is a federal law and only governs in the cases of married couples. Married couples can be either of opposite or same gender.



What is the law?

- **Family Law Act** – a BC provincial law and applies to married and unmarried couples. It also applies to parents of a children, even if there has been no on-going marriage-like or common law relationship between the parents.



What Court applies?

- **Divorce Act** – in BC, only the BC Supreme Court can make orders under the Divorce Act. So, any court order under the Divorce Act must be granted in Supreme Court. Provincial Family Court cannot make orders under the Divorce Act.



What Court applies?

- **Family Law Act** – both the BC Supreme Court and the Provincial Family Court can make orders under this act, although there are limitations. For example, only the BC Supreme Court can make orders under the FLA for the division of family property. For orders respecting “parenting arrangements” under the FLA, either court can make orders.

What are the alternatives to court?

Dispute Resolutions Processes

- **Mediation** – a process where a neutral third party, a trained mediator, works with the parents to facilitate an agreement.
- **Arbitration** – a process where a neutral third party, a trained arbitrator, makes a binding decision after a careful review of the situation.
- **Collaborative Law** – a process where each parent has a lawyer trained to work with the parents and the other lawyer in a collaborative way so as to facilitate an agreement.
- **Parenting Co-ordinators** – these are highly trained lawyers or counsellors who deal with more high conflict parents and sometimes even make decisions for them.

Divorce Act: “Custody & Access”

- The terms “custody and access” are from the Divorce Act. Under the Divorce Act, the BC Supreme Court can make orders for custody and access to a “child of the marriage”.



“Child of the marriage”

- A child of two spouses or former spouses who is either under the age of majority and has not withdrawn from the spouses’ charge (i.e. still dependent) or is over the age of majority but unable, due to illness, disability or other cause (i.e. attending post-secondary education) to withdraw from their charge or obtain the necessities of life.
- includes a child for whom both spouses “stand in the place of parents” or where one spouse is a parent and the other spouse “stands in the place of a parent” – these are typically stepparent situations.

Custody & Access

There is no clear definition of “custody” or “access” in the Divorce Act – it merely says:

“Custody” – includes care, upbringing and any other incidents of custody.

What does that mean?

“Access” is undefined



“Custody” means...

The courts have found a broad meaning that includes:

- the right to determine a child’s education, health care, religion, and other matters concerning the child’s general well-being;
and
- physical control over the child.



“Access” means...



- a form of temporary possession with the powers being limited to those necessary to ensure the well-being of the child during the visitation periods.
- Access confers no right in the parent to influence the upbringing of the child—that is for the parent with custody.
- A parent granted access has a right to make inquiries and to be given information as to the health, education and welfare of the child, unless otherwise ordered by a court.

Custody Orders Divorce Act s.16

- (1) The court may make an order for custody of or access to children – to either or both spouses or “any other person”.
- (2) An order for custody can be interim (temporary) until an application for an order is granted.
- (3) An application by a person other than a spouse may require the court’s permission.
- (4) The court can grant “joint” custody or access.
- (5) A spouse who has access can make enquiries and to be given information as to the health, education or welfare of the child.
- (6) The court can order terms and conditions, including restrictions.

Custody Orders s.16 (cont'd)

- (7) the court can make an order requiring that any person with custody of the child give at least 30 days' notice of a change of residence – more on this later.
- (8) Factors – court must take into consideration the “best interests of the children”, with reference to the conditions, means, needs and other circumstances of the child.
- (9) Past conduct of a person shall not be considered unless it is relevant to the ability of that person to parent.
- (10) The court shall give effect to the principle of “maximum contact” – a child should have maximum contact consistent with best interests of the children and considering the custodial parent's willingness to facilitate contact.

Sole vs Joint custody?

- A married spouse may get an order for sole or joint custody of a child of the marriage. The court may also order access to the child.
- If the court orders joint custody, it may designate one parent as having primary residence of the child.
- A joint custody order anticipates both parents participating in the decision-making process for the education, health, and well-being of the child.
- Under a joint custody arrangement, the parents continue to share the same duties, rights, and responsibilities toward a child, except the responsibilities of everyday parenting that go with physical care and control.

Can Custody & Access Orders be changed?

- Yes, a court can vary a Custody or Access under the Divorce Act s.17.
- The threshold test is a material change of circumstances.
- To be material, a change must be one that if known at the time would have resulted in different terms to the existing order.



The BC Family Law Act (FLA)

Guardianship, Parenting time and Parenting Arrangements

- The Divorce Act is silent on guardianship.
- married parents can seek orders under both the Divorce Act and the FLA and may elect to proceed using one law because its wording and attitude is different and perhaps more beneficial.
- if the parents were not married, only the FLA applies.

Family Law Act definitions

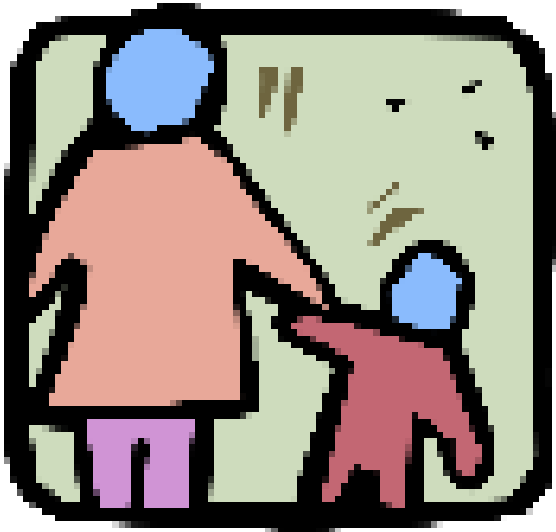
“child” (except regarding parentage and child/spousal support) – a person under 19

“contact with a child” – contact between a child and a person other than the child’s guardian



Part 4 of the FLA governs Care and Time with Children

S37 – in making an agreement or a court order for guardianship, parenting arrangements or contact, the parties and the court must consider the best interests of the child only.



What is best interests of the child?

- (a) health and emotional well-being
- (b) child's view, unless inappropriate
- (c) nature and strength of the relationship between the child and significant persons
- (d) the history of the child's care
- (e) need for stability, given the child's age



Child's best interests (cont'd)

(f) the ability of anyone applying to exercise their responsibilities

(g) the impact of family violence on the child's safety, security or well-being, whether the family violence is directed to the child or another family member

(h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child

(i) the appropriateness of an arrangement that would require the guardians to cooperate, where such cooperation may increase the any risk to the child's safety, security or well-being

(j) any criminal or civil proceeding relevant to the child's safety

Child's best interests (cont'd)

- an order or agreement is not in the best interests of a child unless it protects the child's physical, psychological and emotional safety, security and well-being. A person's conduct is only to be considered if it substantially affects a factor set out in these provisions.
- The FLA sets out the considerations the court must take in assessing family violence.

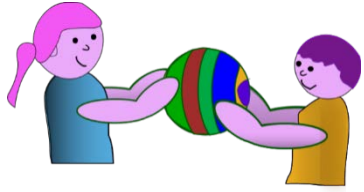
Parenting Arrangements

- presumption - if and while parents are living together, and after they separate, they are guardians, unless there is an agreement or order otherwise.
- a parent who has never resided with a child, is not a guardian, unless there is a parentage order, an agreement or the parent regularly cares for the child. A person does not become a guardian by marrying or living with a person who is a guardian.



Parenting Arrangements (cont'd)

- only a guardian may have parental responsibilities and parenting time. Each guardian's parental responsibilities may be exercised in consultation with the other guardian unless there is an agreement or order to the contrary. Parental responsibilities may be allocated, but there is no presumption as to an equal allocation.
- FLA - extensive list of what are parenting responsibilities, including making day-to-day decisions, medical decisions, cultural, ethical, religious decisions, extra-curricular activities, applying for a passport, essentially nurturing a child.



Parenting Time

- parenting time is the time that a child is with a guardian, by agreement or order. During parenting time, the guardian is to exercise the day-to-day parenting responsibilities for the child.
- Parenting responsibilities must be exercised in the child's best interests and an agreement respecting parenting responsibilities can only be made after separation or just prior to separation.
- the court can only make an order if the guardians are separated.

Can Parenting Arrangements be changed?

Yes, orders for parenting arrangements may be varied if there has been a change in the needs or circumstances of the child since the order was made, including as a result of a change in the circumstances of another person.



Contact with a Child



- a person who is not a guardian, including a parent who is not a guardian, may have “contact”. Contact is not included in the term “parenting arrangements”.
- The guardians may agree or the court may order that a person who is not a guardian have contact.
- A person who has contact has a right to written notice of relocation of the child, and to seek orders regarding contact, or change, suspend, or terminate orders.
- The court can order that the contact with the child be supervised.

Enforcing parenting time and contact

- Unreasonable withholding of parenting time or contact or a failure to exercise parenting time may be enforced and the court may make orders including requiring participation in a dispute resolution process, counselling, reimbursement of expenses incurred, and providing for make-up time when parenting time has been withheld.
- an additional extraordinary remedy is available for the court to order a police officer apprehend and deliver the child to a guardian with parenting time, as long as it is in the child's best interests.

Assessments

The court may appoint a person to assess the needs of a child, the views of the child, or the ability of a person to meet the child's needs, and allocate the costs of the assessment among the parties. The assessor must be a person approved by the court.



Incapacity and Death

- a guardian may appoint a person as guardian effective on the guardian's death by will or by a form to be prescribed by regulation.
- a guardian facing permanent incapacity may appoint a person as standby guardian effective when specified conditions are met, such as the guardian's incapacity, by a form to be prescribed by regulation.
- The death of a guardian does not vest guardianship in a parent who is not a guardian.

Mobility Rights – moving a child's residence



Mobility/relocation under the Divorce Act

What is a mobility case?

- the custodial parent wants to move to a new location with the children and the move is opposed by the other parent.
- There may be a term in the order under or an agreement that the custodial parent give notice of a change of residence.
- even if no order or agreement, the access parent can object.



What is the law under the Divorce Act?

A two-step test was devised by the courts ([*Gordon v. Goertz*](#), [1996]):

- (1) The applicant must demonstrate a material change in the circumstances affecting the child.
- (2) If yes, then the applicant must establish that the proposed move is in the best interests of the child, given all the relevant circumstances for the child's needs and the ability of the respective parents to satisfy them.

1. Material Change of Circumstances Test

- is often met merely by the proposed move itself. Then look at what is in the best interests of the child. Unless the custodial parent's reason for wanting to move is connected to their parenting ability, it should not be a consideration.
- Showing a material change in circumstances is not necessary where the mobility application relates to an interim (temporary) order.

2. Best Interests of the Child



- a. The Existing Custody Arrangement and the Relationship between the Child and the Custodial Parent
- b. The Existing Access Arrangement and the Relationship between the Child and the Access Parent
- c. The Desirability of Maximizing Contact between the Child and Both Parents

2. Best Interests of the Child (cont'd)

d. The Views of the Child

e. The Custodial Parent's Reason for Moving

f. The Disruption to the Child Given a Change in Custody/Removal from Family, Schools, and the Community He or She Has Come to Know



Mobility/relocation under the Family Law Act

1. Is There a Written Agreement or Order?

The FLA deals with relocation in different ways depending on whether there is an existing written agreement or order respecting parenting arrangements for the child.

2. Is the Person Objecting a Guardian?

Only a guardian can object.



If No Written Agreement or Order

If there is no written agreement or order in place, the court must consider the child's best interests as well as the reasons for the relocation. The court must not consider whether the guardian would move with or without the child.

**I ❤️ My
Parents**

If Written Agreement or Order

- “relocation” is a change in the residence of a child or child’s guardian “that can reasonably be expected to have a significant impact on the child’s relationship” with a guardian or other persons “having a significant role in the child’s life”.
- When a guardian plans to relocate, with or without the child, the guardian must give 60 days’ notice to all other guardians and persons having contact. After notice, the guardians and persons with contact with must use best efforts to resolve any issues relating to the relocation.

If Written Agreement or Order (cont'd)

- Guardians objecting to the move must file an application within 30 days for an order prohibiting the relocation, failing which the guardian may relocate. Only guardians can apply to prevent a move. Persons with contact with a child are entitled to notice of an application for relocation.
- The test for relocation is the best interests of the child. However there are additional considerations depending on whether the parents have substantially equal parenting time.

If Written Agreement or Order (cont'd)

No equal or near-equal parenting time

if the relocating guardian proves that



(a) s/he has proposed reasonable and workable arrangements to preserve the child's relationship with other guardians, persons with contact, and persons with significant roles in the child's life; and

(b) the proposed relocation is made in good faith,

then the move is presumed to be in the best interests of the child.

If Written Agreement or Order (cont'd)

equal or near-equal allocation of parenting time

the relocating guardian must prove:



- (a) That s/he has proposed reasonable and workable arrangements to preserve the child's relationship with the other guardians, persons with contact, and persons with significant roles in the child's life;
- (b) the proposed relocation is made in good faith; and
- (c) the relocation is in the best interests of the child – which must be demonstrated.

If Written Agreement or Order (finally....)

Is the move is in good faith?

- the reasons for the proposed relocation,
- whether the relocation is likely to improve the quality of life of the child or of the guardian, (increasing emotional well-being or financial or educational opportunities)
- whether notice was given, and any restrictions on a guardian's ability to relocate prescribed by an agreement or order.
- the court must not consider whether the parent seeking the move would do so without the child.

Effect of Order Allowing Relocation

The court may make or vary an order for parenting arrangements with the object of preserving, to the extent possible, the parenting arrangements in the original order or agreement.



Removal of a child



- The court may order that a person not remove a child from a specified area. If the court concludes that a person intends to remove a child and is unlikely to return, the court may also require the person to post security, surrender travel documents, transfer property to a trustee, or pay child support to a trustee.
- When a child has been wrongfully removed to BC and it is determined that the court lacks jurisdiction, the court may order that the child be returned to a specified place.
- the Hague Convention continues to have the force of law in British Columbia.

Mobility cases

Are very difficult for the parents and other family members and need to be handled sensitively.



Summary

Divorce Act

- Married
- Child of the marriage
- Custody/access
- Mobility = change in circumstances + best interests of child

Family Relations Act

- Married, unmarried, common law, parents of a child
- Guardianship, parenting arrangements, parenting time, contact
- Mobility
 - No agreement = best interests
 - Agreement/order = notice + tests based on unequal/equal parenting time.

Resources

- http://www.lss.bc.ca/legal_aid/
- http://wiki.clicklaw.bc.ca/index.php/JP_Boyd_on_Family_Law
- <http://www.justicebc.ca/en/fam/>
- <http://www.justice.gc.ca/eng/fl-df/divorce/sd.html>



Family Law Issues – Custody/Parenting Arrangements and Mobility Rights

March 25, 2015 Legal Services Society Provincial Settlement Conference

Prepared and Presented by Rhona M. Lichtenwald, Lawyer & Mediator

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I. Custody and Parenting Arrangements

What is the law?

Divorce Act – this is a federal law and only governs in the cases of married couples. Married couples can be either of opposite or same gender.

Family Law Act – this is a BC provincial law and applies to married couples and to unmarried couples. It also applies to parents of a children, even if there has been no on-going marriage-like or common law relationship between the parents. (Note the Family Law Act only came into force in March 2013, so it is very new and many lawyers, courts and individuals are still struggling with how some of the law will be applied).

What Court applies?

Divorce Act – in BC, only the BC Supreme Court can make orders under the Divorce Act. So, any court order under the Divorce Act must be granted in Supreme Court. Provincial Family Court cannot make orders under the Divorce Act.

Family Law Act – both the BC Supreme Court and the Provincial Family Court can make orders under this act, although there are limitations. For example, only the BC Supreme Court can make order under the FLA for the division of family property (this was likely covered in the Overview of Family Law presentation). For orders respecting “parenting arrangements” under the FLA, either court can make orders.

Alternatives to Court:

- **Mediation** – a process where a neutral third party, a trained mediator, works with the parents to facilitate an agreement.
- **Arbitration** – a process where a neutral third party, a trained arbitrator, makes a binding decision after a careful review of the situation.
- **Collaborative Law** – a process where each parent has a lawyer trained to work with the parents and the other lawyer in a collaborative way so as to facilitate an agreement.
- **Parenting Co-ordinators** – these are highly trained lawyers or counsellors who deal with more high conflict parents and sometimes even make decisions for them.

Divorce Act: “Custody & Access”

The terms “custody and access” are from the Divorce Act. Under the Divorce Act, the BC Supreme Court can make orders for custody and access to a “child of the marriage”.

“Child of the marriage” - child of two spouses or former spouses who is either under the age of majority and has not withdrawn from the spouses’ charge or is over the age of majority but unable, due to illness, disability or other cause (i.e. attending post-secondary education) to withdraw from their charge or obtain the necessities of life. A child under this definition also includes a child for whom both spouses “stand in the place of parents or where one spouse is a parent and the other spouse “stands in the place of a parent” – these are typically stepparent situations.

“Custody” – includes cares, upbringing and any other incident of custody – access is not defined.

Section 16 of Divorce Act is under the heading “Custody Orders”:

- (1) Court may make an order for custody of or “access to” children of the marriage – this order can be granted to either or both spouses or “any other person”
- (2) An order for custody can be interim (temporary) until an application for an order is granted.
- (3) An application by a person other than a spouse may require the court’s permission
- (4) The court can grant “joint” custody or access.
- (5) A spouse who has access has the right to make enquiries and to be given information as to the health, education or welfare of the child.
- (6) The court can order terms and conditions, including restrictions.

- (7) Order respecting a change of residence – the court can make an order requiring that any person with custody of the child give at least 30 days' notice of a change of residence – more on this later.
- (8) Factors – court must take into consideration the “best interests of the children”, with reference to the conditions, means, needs and other circumstances of the child.
- (9) Past conduct of a person shall not be considered unless it is relevant to the ability of that person to parent.
- (10) The court shall give effect to the principle of “maximum contact” – a child should have maximum contact consistent with best interests of the children and considering the custodial parent's willingness to facilitate contact.

So, a married spouse may get an order for custody of a child of the marriage. This may be an order for sole or joint custody. The court may also order access to the child. If the court orders joint custody, it may designate one parent as having primary residence of the child. A joint custody order anticipates both parents participating in the decision-making process for the education, health, and well-being of the child. Under a joint custody arrangement, the parents continue to share the same duties, rights, and responsibilities toward a child, except the responsibilities of everyday parenting that go with physical care and control.

Terms of orders often need to be fluid to account for changes in the children's circumstances as they get older. Access may be specific, such as every other weekend, and include holidays and summer vacations. In exceptional cases, access can be very restrictive and supervised. Any court order is reviewable if there is a significant change in circumstances of either the parents or the child.

Family Law Act – guardianship, parenting time and parenting arrangements.

The Divorce Act is silent on guardianship, which often makes it very confusing. Often when parents have separated and if they get married, they often seek orders under both the Divorce Act and the FLA. Sometimes they may elect to proceed on one that is more beneficial, the language and attitude is different. Of course, if the parties were not married, only the FLA applies. But if married, and a spouse wants orders under the FLA for guardianship, for example, then the spouse would apply under the FLA, but may also apply for custody under the Divorce Act.

Family Law Act definitions:

“child” (except regarding parentage and child/spousal support) – a person under 19

“contact with a child” – contact between a child and a person other than the child’s guardian

Part 4 of the FLA governs Care and Time with Children

S37 – in making an agreement or a court order for guardianship, parenting arrangements or contact, the parties and the court must consider the best interests of the child only. The best interests includes the child’s needs and circumstances, and:

- (a) health and emotional well-being
- (b) child’s view, unless inappropriate
- (c) nature and strength of the relationship between the child and significant persons
- (d) the history of the child’s care
- (e) need for stability, given the child’s age
- (f) the ability of anyone applying to exercise their responsibilities
- (g) the impact of family violence on the child’s safety, security or well-being, whether the family violence is directed to the child or another family member
- (h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child
- (i) the appropriateness of an arrangement that would require the guardians to cooperate, where such cooperation may increase the any risk to the child’s safety, security or well-being
- (j) any criminal or civil proceeding relevant to the child’s safety

Section 37 goes further and stipulates that an order or agreement is not in the best interests of a child unless it protects the child’s physical, psychological and emotional safety, security and well-being. A person’s conduct is only to be considered if it substantially affects a factor set out in these provisions. Section 38 sets out the considerations the court must take in assessing family violence.

Parenting Arrangements

Section 39 – the presumption is that if and while parents are living together, and after they separate, they are guardians, unless there is an agreement or order otherwise.

If a parent has never resided with a child, they are not a guardian, unless there is a parentage order, an agreement or the parent regularly cares for the child. A person does not become a guardian by marrying or living with a person who is a guardian.

Section 40 – only a guardian may have parental responsibilities and parenting time. Each guardian’s parental responsibilities may be exercised in consultation with the other guardian unless there is an agreement or order to the contrary. Parental responsibilities may be allocated, but there is no presumption as to an equal allocation.

Section 41 has an extensive list of what are parenting responsibilities, including making day-to-day decisions, medical decisions, cultural, ethical, religious decisions, extra-curricular activities, applying for a passport, essentially nurturing a child.

Parenting Time

Section 42 – parenting time is the time that a child is with a guardian, as allocated by agreement or order. During parenting time, the guardian is to exercise the day-to-day parenting responsibilities for the child.

Parenting responsibilities must be exercised in the child’s best interests and an agreement respecting parenting responsibilities can only be made after separation or just prior to separation.

Section 45 – the court can only make an order respecting parenting responsibilities or parenting time if the guardians are separated.

Under s. 47, orders for parenting arrangements may be varied if there has been a change in the needs or circumstances of the child since the order was made, including as a result of a change in the circumstances of another person.

Contact with a Child

The time that a person who is not a guardian of a child, including a parent who is not a guardian, has with a child is called “contact”. Contact is not included in the term “parenting arrangements”; that term applies only to parental responsibilities and parenting time allocated between the child’s guardians.

The guardians may agree or the court may order that a person who is not a guardian have contact with the child (ss. 58 and 59).

Section 58 sets out the specific rules about agreements between guardians and non-guardians respecting contact. An agreement for contact with a child is binding only if made with all of the child's guardians who have parental responsibility for making decisions about with whom the child may associate. This prevents a guardian from making an agreement with a non-guardian, who is likely to be a non-parent, for contact, without the consent of other guardians or a court order.

A person who has contact with a child has a right to written notice of relocation of the child (s. 66), and to seek orders regarding contact (s. 59), or change, suspend, or terminate orders regarding contact (s. 60).

The court can order that the contact with the child be supervised (s. 59(3)).

Enforcing Parenting and Contact Time

Unreasonable withholding of parenting time or a failure to exercise parenting contact may be enforced on application under ss. 61 and 63. The court may make a variety of orders including requiring the parties to participate in dispute resolution processes, requiring a party or a child to attend counselling, requiring a party to reimburse the other party's expenses incurred as a result of the party's behaviour, and providing for make-up time when contact has been withheld.

The extraordinary enforcement provisions of s. 231 apply when contact is withheld and there is no other means of effecting compliance. Subsection (4) provides an additional extraordinary remedy and allows the court to order that a police officer apprehend and deliver the child to a person with contact. Care must be taken to consider whether such an application is in the child's best interests

Assessments

Under s. 211, the court may appoint a person to assess the needs of a child, the views of the child, or the ability of a person to meet the child's needs, and allocate the costs of the assessment among the parties. The assessor must be a person approved by the court. This section continues the provisions of s. 15 of the *Family Relations Act*.

Incapacity and Death

s. 53 - a guardian may appoint a person as guardian effective on the guardian's death by will or by a form to be prescribed by regulation. s. 55, a guardian facing permanent incapacity may appoint a person as standby guardian effective when specified conditions are met, such as the guardian's incapacity, by a form to be prescribed by regulation. The death of a guardian does not vest guardianship in a parent who is not a guardian.

II. Parental Mobility

Divorce Act

Mobility cases arise where one parent, usually the custodial parent, wants to move to a new location with the children and the move is opposed by the other parent. This may involve a situation where there is a term in the custody order under s.16(7) that the custodial parent give notice of a change of residence, or there could be an agreement that notice must be given. However, neither of those conditions are necessary for the access parent to raise an objection to a proposed move of a child.

Under the Divorce Act, the court must look at case law to make a determination, as the Divorce Act gives little guidance.

The leading authority on the test to be applied is Gordon v. Goertz, [1996] 2 S.C.R. 27. The test comprises a two-step process:

1. The applicant must meet the threshold requirement of demonstrating a material change in the circumstances affecting the child.
2. If the threshold is met, the applicant must establish that the proposed move is in the best interests of the child, given all the relevant circumstances for the child's needs and the ability of the respective parents to satisfy them.

1. Material Change of Circumstances Test

The threshold requirement of a material change is often met merely by the proposed move itself. The inquiry then focuses on what is in the best interests of the child. Unless the custodial parent's reason for wanting to move is connected to their parenting ability, it should not enter the inquiry.

Showing a material change in circumstances is not necessary where the mobility application relates to an interim (temporary) order (*Woods v. Woods*, 2012 BCCA 312) or an initial custody application (*Stav v. Stav*, 2012 BCCA 154, leave to appeal refused [2012] S.C.C.A. No. 230 (QL)).

2. Best Interests of the Child

Relevant to the determination of whether the proposed move is in the child's best interests are the factors set out by the court in *Gordon v. Goertz*:

a. The Existing Custody Arrangement and the Relationship between the Child and the Custodial Parent

There is no legal presumption in favour of the custodial parent, although the custodial parent's views are entitled to great respect. Each case turns on its unique circumstances.

The party seeking to move need not prove the move is necessary; although the degree of necessity may bear upon the best interests of the child. The authorities generally do not favour the status quo as a "default position". Further, the courts have discouraged relying on any expression by the parent seeking to move that he or she will not move if the child cannot move as well, as this puts that parent in a classic double-bind.

Some cases since *Gordon v. Goertz* have focused on the importance of the move to the custodial parent and the consequent health of the family unit and that restraining the move would make the parent so unhappy that would adversely affect the children.

b. The Existing Access Arrangement and the Relationship between the Child and the Access Parent

Other cases have looked at the effect a move would have on the child's relationship with the access parent. In *Scheiber v. Phyll*, 2001 BCSC 565, appeal dismissed 2002 BCCA 409, the court denied the

mother's proposed move to New Zealand as it would interfere with the regular access of the father. The child was doing well under the current arrangement.

c. The Desirability of Maximizing Contact between the Child and Both Parents

The principles set out in Gordon v. Goertz confirm that s. 16(10) of the Divorce Act, which requires the court to consider maximizing contact between the child and the parent, is not determinative; the best interests of the child is paramount. Maximizing contact is not an absolute; it is a relevant factor but is always subject to the best interests of the child (S. (R.M.) v. S. (F.P.C.), 2011 BCCA 53).

d. The Views of the Child

The weight given to the preferences of a child will depend largely on the age of the child. In Gullett v. Gullett, 2001 BCSC 1207, the court held that the weight to be given to the view of a child would depend on the age of the child, the reason why the child wished to live with a particular custodian, and the firmness with which the views were held.

The views of a 14-year-old who did not want to move to Israel should have been given considerable weight at trial in Stav v. Stav, 2012 BCCA 154 at para. 67, leave to appeal refused [2012] S.C.C.A. No. 230 (QL).

e. The Custodial Parent's Reason for Moving

The court held in Gordon v. Goertz that the reason for moving should not enter into the analysis absent a connection to that parent's ability to meet the needs of the child. However, in practice, many mobility cases consider the parent's reason for the move, even where the circumstances are not exceptional. The question is how the reasons for the move relate to the children's best interests, if at all.

The party seeking the move need not prove the move is necessary, although any degree of necessity, such as for income-earning reasons, may bear upon the best interests of the child and some important reasons, such as financial security, career fulfilment, and financial independence, become relevant when they have a positive impact on the best interests of the child.

f. The Disruption to the Child Given a Change in Custody/Removal from Family, Schools, and the Community He or She Has Come to Know

A child's link to extended family, friends, school, and community will be examined by the court to review their level of importance in the life of the child. For example, a child's enrolment in French immersion and his relationship with extended family members may mitigate against a move.

Mobility under the Family Law Act

1. Is There a Written Agreement or Order?

The *Family Law Act* deals with relocation in different ways depending on whether there is an existing written agreement or order respecting parenting arrangements for the child.

If there is no written agreement or order respecting parenting arrangements and the child's parent plans to relocate, s. 46 applies. If there is an existing written agreement or order respecting parenting arrangements or contact with the child and the guardian plans to relocate with or without the child, *Division 6 of Part 4* applies (s. 65).

The Act does not distinguish between interim orders and final orders when considering whether there is an existing order for the purposes of relocation (*R. (L.J.) v. R. (S.W.)*, 2013 BCSC 1344). The analysis should be restricted to the subject matter of the order not the form. In this case, there were interim orders for access over a specific holiday period, for non-removal of the child from B.C. until further court order, and for parenting time during adjournments of the application. The court found these orders to be orders "respecting parenting arrangements or contact with a child" and, therefore, Division 6 applied to the relocation application.

2. Is the Person Objecting a Guardian?

Only a child's guardian has standing to object to another guardian's relocation. Where there is no existing written agreement or order for parenting arrangements, the court must consider whether the relocation will have an impact on the child's relationship with another guardian (s. 46(1)(c)). If there is an existing written agreement or order for parenting arrangements or contact with the child, only a child's guardian can object to the relocation (s. 68).

3. Considerations If No Written Agreement or Order

If there is no written agreement or order in place, the court must consider the child's best interests as well as the reasons for the relocation. The court must not consider whether the guardian would move with or without the child (s. 46(2)).

4. Considerations If Existing Written Agreement or Order

Section 65(1) defines "relocation" as a change in the residence of a child or child's guardian "that can reasonably be expected to have a significant impact on the child's relationship" with a guardian or other persons "having a significant role in the child's life".

When a guardian plans to relocate, with or without the child, the guardian must give 60 days' notice to all other guardians and persons having contact with the child (s. 66(1)). After notice of relocation is given, the guardians and persons having contact with a child must use best efforts to resolve any issues relating to the relocation (s. 67(1)).

Guardians objecting to the move must file an application within 30 days for an order prohibiting the relocation, failing which the guardian may relocate (s. 68). Only guardians can apply to prevent a move. Persons with contact with a child are entitled to notice of an application for relocation (s. 67).

The test for relocation is the best interests of the child (s. 69(3)). However there are additional considerations depending on whether the parents have substantially equal parenting time (s. 69(4) and (5)).

Where the child's guardians do not have equal or near-equal parenting time, the relocating guardian must satisfy the court that:

1. the relocating guardian has proposed reasonable and workable arrangements to preserve the child's relationship with the other guardians, persons with contact, and persons with significant roles in the child's life; and
2. the proposed relocation is made in good faith.

Where these factors are established, the move is presumed to be in the best interests of the child unless the guardian seeking to prohibit the move establishes otherwise. The burden is on the non-relocating guardian to demonstrate that the relocation is not in the child's best interests (s. 69(4)).

When the guardian proposing to move and an objecting guardian have an equal or near-equal allocation of parenting time, the relocating guardian must satisfy the court that:

1. the relocating guardian has proposed reasonable and workable arrangements to preserve the child's relationship with the other guardians, persons with contact, and persons with significant roles in the child's life;
2. the proposed relocation is made in good faith; and
3. the relocation is in the best interests of the child.

The burden is on the relocating guardian to demonstrate that the relocation is in the child's best interests (s. 69(5)).

Under s. 69(6), the court must consider "all relevant factors" to determine whether a move is made in good faith, including the reasons for the proposed relocation, whether the relocation is likely to improve the quality of life of the child or of the guardian, including increasing emotional well-being or financial or educational opportunities, whether notice was given under s. 66, and any restrictions on a guardian's ability to relocate prescribed by an agreement or order.

Section 69(7) specifically states that the court must not consider whether the parent seeking the move would do so without the child.

Effect of Order Allowing Relocation

When a court makes an order allowing a guardian to relocate that affects an order or agreement for parenting arrangements, the court may, under s. 70, make or vary an order for parenting arrangements with the object of preserving, to the extent possible, the parenting arrangements in the original order or agreement

Removal (wrongfully)

Pursuant to s. 64(1), the court may make an order that a person not remove a child from a specified area. If the court concludes that a person intends to remove a child and is unlikely to return, the court may, under subsection (2), also require the person to post security, surrender travel documents, transfer property to a trustee, or pay child support to a trustee.

When a child has been wrongfully removed to British Columbia and it is determined under s. 74 that the court lacks jurisdiction, the court may, among other things, order that the child be returned to a specified place under s. 77(2).

Pursuant to s. 80(4), the Hague Convention continues to have the force of law in British Columbia.

SUMMARY

Divorce Act

- Married
- Child of the marriage
- Custody/access
- Mobility = change in circumstances + best interests of child

Family Relations Act

- Married, unmarried, common law, parents of a child
- Guardianship, parenting arrangements, parenting time, contact
- Mobility
 - No agreement = best interests
 - Agreement/order = notice + tests based on unequal/equal parenting time.

RESOURCES

- http://www.lss.bc.ca/legal_aid/
- http://wiki.clicklaw.bc.ca/index.php/JP_Boyd_on_Family_Law
- <http://www.justicebc.ca/en/fam/>
- <http://www.justice.gc.ca/eng/fl-df/divorce/sd.html>



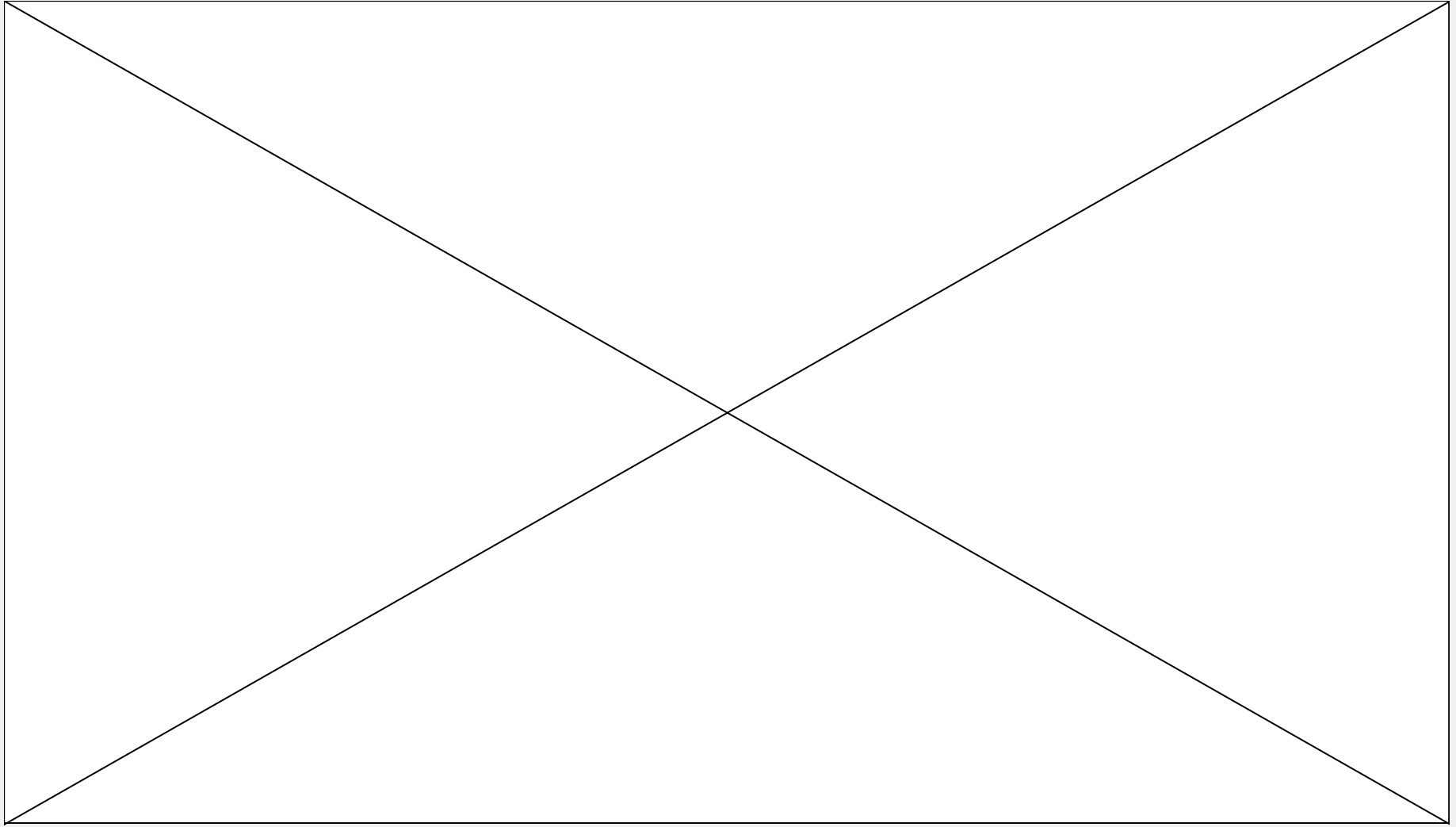
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Online Dispute Resolution in British Columbia

The increase in number of self-represented litigants has created **need for justice reform**. The cost and time associated with bringing an action to court has urged the BC Government to re-examine the justice system and to take a closer look at needs and requirements of people looking to resolve disputes.

A BC Judges report (p. 19) in 2010 showed that **90% of Small Claims parties are self-represented**; it can take up to 16 months (p. 27) for a small claims case to be heard. At the higher court level, less than 3% (p. 90) of BC Supreme Court civil cases ever make it to trial. These barriers form ongoing frustrations for the public trying to navigate a daunting court system on their own with limited resources.



Resolve your dispute online—anytime,
anywhere.

blog.clicklaw.bc.ca



@Clicklaw

Want more training?

- For your organization
- At your location or via Webinar
- Contact us:
editor@clicklaw.bc.ca

Mini Quiz for Prizes!

1

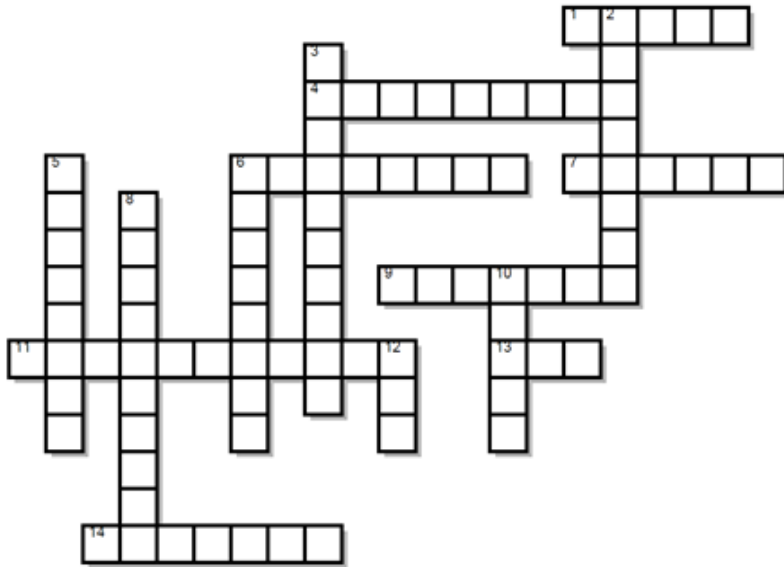
2

3

4

Clicklaw Crossword

Solve a question, take a chocolate!



ACROSS

- 1 Clicklaw is for the public. It provides information in _____ language, not legalese.
- 4 An alternative to going to court
- 6 What is Clicklaw's twitter username/handle?
- 7 Clicklaw Program Coordinator's first name.
- 9 Clicklaw is a _____ where you can find legal information
- 11 Clicklaw features info and resources from over 25 _____ organizations.
- 13 Clicklaw was developed with a project grant from the _____ Foundation of BC.
- 14 This feature of Clicklaw allows people to search for someone in their community who can help with legal problems.

DOWN

- 2 You can refine your search on Clicklaw HelpMap by: Topic, Location, _____, and Type of service.
- 3 One of the topics/categories on Clicklaw that would be of interest to settlement workers: _____ & refugees.
- 5 "Settlement Workers Guide to Helping Clients" is the title of a Clicklaw _____.
- 6 People from British _____ can find information about their rights and responsibilities in their community on Clicklaw
- 8 Clicklaw is operated by the _____ Libraries BC as part of their mission to improve access to justice.
- 10 Clicklaw tag line: _____ Problems. Find help.
- 12 You can stay updated with what's new on Clicklaw through the Clicklaw blog (blog.clicklaw.bc.ca) in one of three ways: Follow us on Twitter, subscribe via email, or subscribe via _____.

- 1) Clicklaw is a website for everyone
- 2) It has plain language information and resources on the law in BC, from trusted contributor organizations
- 3) You can search for information by language
- 4) We also have a guide for settlement workers on our Wikibooks
- 5) Stay updated by subscribing to our blog and/or following us on Twitter

Are you a member of the public or helping someone with a legal problem?

The Clicklaw website offers a single place to start on the internet for quality legal information, education and help for British Columbians. Here are **five key ways you can use Clicklaw**:



1 In **Solve Problems**, find understandable information on your legal rights and options

2 Choose from over 140 **common questions**, which offer starting points for common legal problems

3 On **HelpMap** search for someone in your community who can help with legal problems

4 Find resources and services that are in **languages** other than English

5 See **what's new** on the Clicklaw blog or find Clicklaw on Facebook or Twitter


The screenshot shows the Clicklaw website interface. At the top, it says "British Columbia, Canada" and "Laws, Cases & Rules | Blog | About Us | Contact | Contributors". The main header features the Clicklaw logo and the tagline "SOLVE PROBLEMS. FIND HELP." Below this is a navigation bar with links: Home, Solve Problems, Learn & Teach, Reform & Research, HelpMap. A search bar is also present. The main content area is titled "Welcome to Clicklaw" and provides a brief overview of the site's purpose. It then lists several categories of legal information: "Solve Problems" (with sub-links like "Your money", "Your family", "Your daily life", "Your safety", "Your communities", "Your legal system"), "Common questions" (with sub-links like "Popular questions", "New or updated questions"), "HelpMap", "Learn & Teach", and "Reform & Research". At the bottom, there is a "What's new on Clicklaw" section with recent updates and a "Find us on Facebook & Twitter" section with social media icons.

Using the Clicklaw HelpMap

Integrated with Google Maps, the HelpMap assists the public in BC with finding legal help in their community. You can also use it when making referrals for clients.



HelpMap

Find someone in your community who can help with legal problems. 

1 Search by keyword and/or city/town

Or browse by topic

Search the HelpMap for law related help with a Keyword OR Location

Keyword

or

cl

Go

Campbell River

Chilliwack

Clinton

2 [optional] Refine your search by topic, location, language, or type of service

Refine your search results

Topic

- ☐ Aboriginal (4)
- ☐ Abuse & family violence (14)
- ☐ Accidents & injuries (5)
- ☐ Alternatives to court (11)
- ☐ Business & non-profits (6)
- ☐ Cars & getting around (5)
- [see more topics...](#)

Location

☒ HelpMap (33)

Language

- ☒ Campbell River (12)
- ☐ Arabic (5)
- ☐ Burmese (5)
- ☐ Cantonese (6)
- ☐ Chinese (simplified) (1)
- ☐ Dari (5)

Your search results

Showing 1-5 of 33 results

Sort by: **relevance**



Lawyer Referral Service

Lawyer Referral Service is a program that connects you with the right lawyer. Lawyers who participate in the program offer an initial consultation of up to 30 ... [+ more details](#)
From The Canadian Bar Association, BC Branch (CBABC)
Topics: Abuse & family violence; Accidents & injuries; Alternatives to court; Business & non-profits; [+ all topics](#)

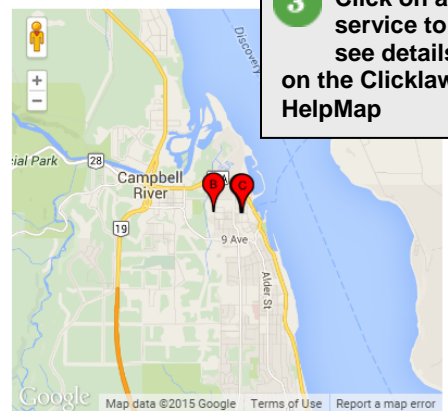
Legal Aid Intake Services

The Legal Services Society (LSS) provides intake at more than 50 legal aid office and courthouse locations across BC. To qualify for a legal aid lawyer, ... [+ more details](#)
From Legal Services Society
Topics: Abuse & family violence; Children & teens; Crimes & offences; Family law; [+ all topics](#)



Campbell River Courthouse

500 - 13th Avenue, Campbell River, BC, V9W 6P1



3 Click on a service to see details on the Clicklaw HelpMap

What can you find on the HelpMap

- pro bono clinics, community legal clinics, legal aid offices
- organizations with community legal advocates
- court registries
- courthouse libraries
- Native Courtworkers
- victim support programs
- key government agencies



Clicklaw Wikibook: Settlement Workers Guide to Helping Clients with Legal Information and Legal Referrals

This "how-to" guide for settlement workers and others working with immigrants in BC covers: how to identify when a client may have a legal issue, how to find legal information and help, and how to make effective legal referrals. It includes videos. This guide can be read online, downloaded onto your e-reader, or printed. Access it at: wiki.clicklaw.bc.ca under "full list of Clicklaw Wikibook titles".



**Legal
Services
Society**

British Columbia
www.legalaid.bc.ca



Legal Services Society

Legal Resources for Settlement Workers

Alex Peel | Publications Development Coordinator

Alex.peel@lss.bc.ca | **604.601.6007**



**Legal
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Providing legal information
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We're here to help

Welcome to the Legal Services Society (LSS), the organization that provides **legal aid** in BC.

If you have a legal problem and can't afford a lawyer, we can help. Join the thousands who use the self-help information on our [Family Law in BC](#) website or who read our free **legal information publications**. You may also qualify for some **legal advice** from a lawyer or even for a lawyer to take your case.

Find out more about [legal aid](#) and [LSS](#).



I am a...

- Person who needs legal help
- Lawyer
- Community worker
- Aboriginal person
- Reporter

I want to...

- Apply for legal aid
- Contact LSS
- Get help with my family law problem
- Find family law court forms



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How to Get A Court-Appointed Lawyer for Your Child Protection Case

For people facing a complicated child protection hearing who have been denied legal aid but can't afford a lawyer. Explains why you can't for a co...



I want to find a publication by language



I want to find a publication by title



Indian Residential Schools Settlement

The Common Experience Payment and the Independent Assessment Process This fact sheet is for Indian residential school survivors who want to know what...



Parents' Rights, Kids' Rights

A Parent's Guide to Child Protection Law in BC Explains what happens if the director of Child Welfare has concerns about a child's safety or plans to...



Understanding Child Protection Mediation for Aboriginal Families

This fact sheet has information in plain language about child protection mediation, how it can help Aboriginal families, and how to find a mediator....



I want to get a publication



To get a copy of an LSS publication

- Go to your [local legal aid office](#), or
- Place an order with Crown Publications (see below).

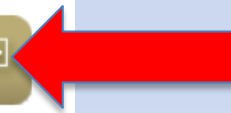
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1. Go to the [Crown Publications](#) website.
2. Under Quick Links, click BC Public Legal Education & Information.
3. Search the list to find the publication.
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Multiple copies or regular orders (quantities of 25 or 50)

1. Go to the [Crown Publications](#) website.
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Family violence – including the fact sheet
If Your Sponsor Abuses You

Child protection

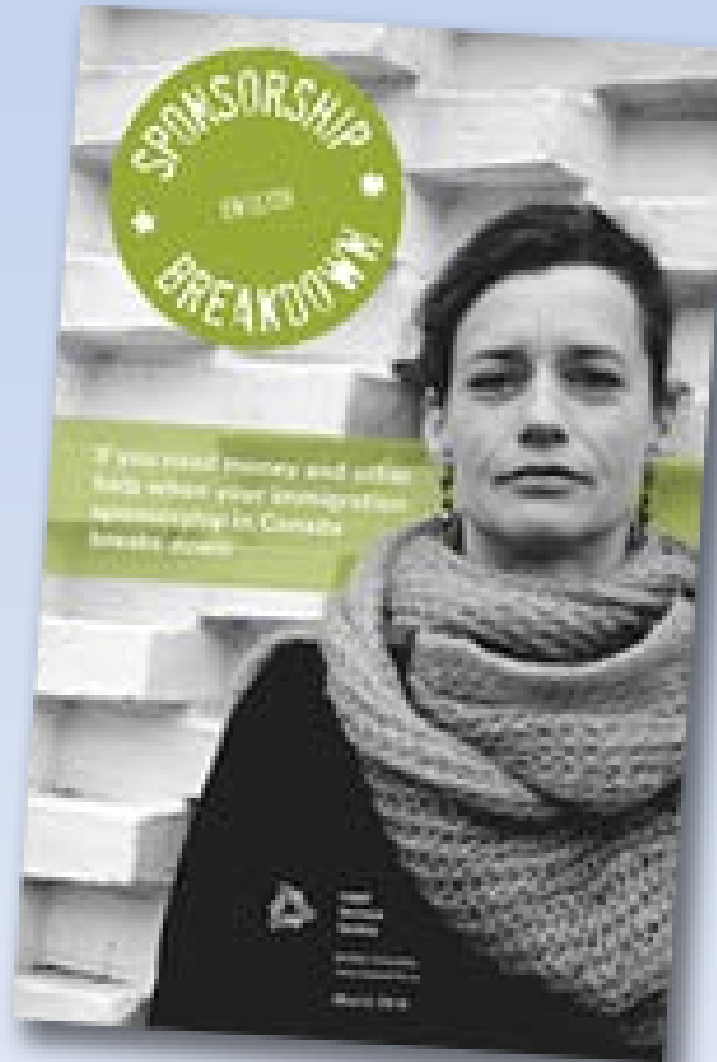
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Refugee and immigration law

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Promotional items

Sponsorship Breakdown



Refugee Information Card



To get copies....

- 1. Fill out the form in your registration packages**
- 2. Give it to anyone who works at LSS or drop at the desk**
- 3. Start ordering!**



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Queen's Printer for British Columbia



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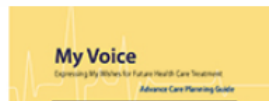


Legal Services Society



People's Law School

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Family Law

in British Columbia



Text Size:



Family Law Website

www.familylaw.lss.bc.ca

Family Law

in British Columbia



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[Frequently asked questions about the new BC Family Law Act](#)
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Offline

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British Columbia's [Legal Services Society](#) maintains this site. If you're having a family problem, you may qualify for a lawyer to advise you or take your case. Contact [legal aid](#) to find out.

feedback

Separation Agreement self-help guide

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in British Columbia

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Divorce & separation

[How to write your own separation agreement](#)

Section 5: Property (Optional)

[Show instructions](#)

Your basic information

Short name:

Short name:

If one party doesn't disclose all of their assets

[Show instructions](#)

1

When this agreement is signed, if a party has failed to disclose family property that is worth more than , the party that did not know about the asset is entitled to:

2

a half interest in the undisclosed assets.

Pets

[Show instructions](#)

Name will keep the family pets as listed: . **Name** will be solely responsible for the costs of maintaining and caring for those pets. **Name** gives up forever any claim to the family pets.

Name will pay to **Name** the sum of as compensation for one-half of the value of .

Name will keep the family pets as listed: . **Name** will have access to the family pets as agreed upon by both parties.

Name will keep , and will be solely responsible for the costs of maintaining and caring for those family pets. **Name** gives up forever any claim to those family pets. **Name** will keep , and will be solely responsible for the costs of maintaining and caring for those family pets. **Name** gives up forever any claim to those family pets.

Microsoft Word Supreme Court family forms

Court forms

Here are links to the Provincial and Supreme Court forms used in the self-help guides on this site, as well as some links to sample completed forms. Choose your court below to see the links to the forms. To find out what to do with the forms after you've completed them, follow the step-by-step instructions in our [self-help guides](#).

[Problems?](#)

Important: Most of the PDF forms are stored on the Court Services Branch website: [Supreme Court](#) — [Provincial Court](#). Most of the sample forms are on JP Boyd on Family Law: [Supreme Court](#) — [Provincial Court](#). We just link to them here for your convenience.

> Supreme Court

> Provincial Court

> Other

Click on a table heading to sort the list.

Name	Form number	Description
Affidavit (guardianship, Supreme Court) PDF	F101	Use this special Affidavit to apply to become the guardian of a child if you are a parent who doesn't have guardianship or a non-parent (relative or non-relative) who wants to become the child's guardian. An affidavit is a written statement that contains facts that you swear or affirm to be true to support your case. See How can you become a guardian? for more information about how to apply for guardianship.
Affidavit (Supreme Court) PDF Word Sample (PDF)	F30	A document that states facts that you swear under oath or affirm to be true in front of a commissioner for taking affidavits (could be a lawyer or notary public). Use this form to create an affidavit: <ul style="list-style-type: none">• About income if you and the other party agree about the child support payor's income, but the payor doesn't have a copy of a recent income tax return/assessment to attach to the Agreement as to Annual Income (to explain why not).• In response to an application for interim family orders (when the parties don't agree).• In response to an application to change family orders for child or spousal support and/or parenting (when the parties don't agree).• To apply for alternative (substituted) service if you're applying to a judge/master for permission to serve documents in a different way than what's set out in the court rules (for example, because the other party is avoiding service).

Word forms available on Court forms page

Click on "Word" to open

Microsoft Word Supreme Court family forms

This document must be filled out on screen (and not by hand). To make these red tips reappear after printing, click **Ctrl-z** (Macs: **command-z**).
[Tips for drafting an affidavit](#)

Form F30 (Rule 10-4(2) and (7))

How many affidavits have you filled out in this family law case? Number this affidavit accordingly.

This top section (**court file no.**, **registry**, **roles**, and **names**) should be the same as what's on the original Notice of Family Claim (Form F1 or F3), or whichever form started your family law case.

of

and was made

Instructions in red disappear when you print form

Link to additional instructions at the top of selected forms

In the Supreme Court of British Columbia

Your full legal names, including also known as:

:« role
:« role

→


→

○ ○ ○ ○
○ ○ ○ ○

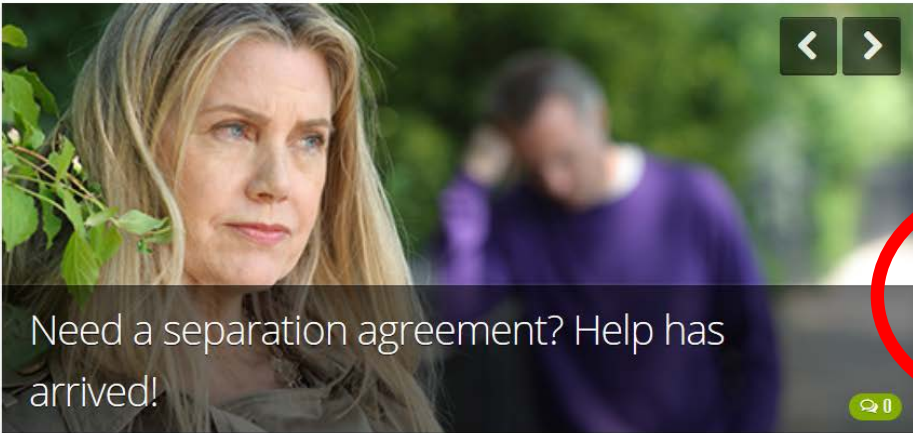
AFFIDAVIT

The Factum

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Need a separation agreement? Help has arrived!

 0

**fac·tum**
noun [LAW](#) [CANADIAN](#)
a statement of the facts of a case.
a blog focused on law and maintained by the Legal Services Society.

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Welcome to MyLawBC

an interactive platform which is designed to help you find effective, sustainable solutions to your legal problems.

- Guided pathways
- Action plan to solve legal problems
- Family negotiation platform

What areas of law will it cover?

- Family law issues around divorce and separation
- Family violence
- Advanced life planning
- Wills and estates
- Foreclosure
- Dialogue tool

Who are the users?

- with no legal knowledge
- low-literacy
- English as a second language
- lack of time/energy
- high stress or emotional levels
- have multiple needs, varied goals, motivations, and information sources
- self-represented litigants

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We're here to help

Welcome to the Legal Services Society (LSS), the organization that provides legal aid in BC.

If you have a legal problem and can't afford a lawyer, we can help. Join the thousands who:

- use the self-help information on our Family Law in BC website,
- find information for the Aboriginal community on our Aboriginal Legal Aid in BC website, or
- who read our free legal information publications.

You may also qualify for some legal advice from a lawyer or even for a lawyer to take your case.

Find out more about legal aid and LSS.

LSS celebrates 35 years of delivering legal aid to British Columbians.

Aboriginal Legal Aid in BC

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MyLawBC

my problem, my solution
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MyLawBC November Scrum Update

BY LEGAL AID IN UPDATE — 5 DEC, 2014







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Follow the development of **MyLawBC**, our innovative, interactive site that will help British Columbians solve their legal problems.

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Providing legal information
for British Columbians

Thank You

Alex Peel

**Publications Development Coordinator
publications@lss.bc.ca | 604.601.6007**

March 2015

Services and Resources for Settlement Workers

Kathryn McCart

PLEI Coordinator

March 24th, 2015



People's Law School (PLS)

Promote • Develop • Distribute

Public Legal Education and Information (PLEI) to people in BC




increasing legal capability of individuals and intermediaries

Services and Resources



We're just a question away. PLS ask us how we can help you or visit our FAQ page for more info.


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[CHECK LIBRARY](#)

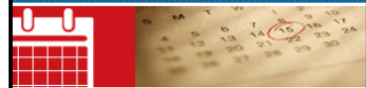
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We develop and deliver programs and projects to help people understand their legal rights and responsibilities.

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Attend a public event at our site or your community. Events focus on legal issues of interest to the general public.

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To link or not to link - no question - we're linked!



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THANK YOU!

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Tel: 604-331-5400

www.publiclegaled.bc.ca

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2014: 10% of British Columbians used JES web resources



478,000 Visitors / 1.7 M Pages





Free legal information, education, and resources for newcomers to Canada and the people working with them.



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“This is such a challenging area for parenting. Thank you”

- Mother of 10 year old site user


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Parenting After Separation Finances





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- Darin Thompson, Ministry of Justice


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Online Help Guide

Settle Out of Court

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Save Money 

Negotiate Online 

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Small Claims BC

Online Help Guide



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Monday-Friday: 11am-2pm

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Welcome to Ask JES at SupremeCourtBC.ca.

I can help with your questions relating to civil issues in Supreme Court.

I am not a lawyer, so I can't give you legal advice. But I can provide information.

How can I help you today?

Ask JES

**Supreme Court
Civil Matters**

SEND

Supreme Court BC

Online Help Guide



Visit our other websites:

Select one...



CourtInformation.ca

A Legal Toolkit to Help New Immigrants in BC

Select your preferred language:

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[Family Law](#)

[Family Violence](#)

[Criminal Law](#)

[Young Offenders](#)

[Small Claims Court](#)

Court Information Program for Immigrants



CONTACT US
604-760-5727

We provide free information and referrals to new immigrants and refugees who are appearing in court.

We provide services in English, Chinese, Vietnamese, Punjabi, and Hindi to help new immigrants understand BC court processes.

Services are provided in person, by telephone or by email. Clients can be new immigrants or refugees who will be appearing in court as an accused, victim, witness or party in a civil suit.

Our multilingual court workers can:

- Explain court processes for criminal, family, youth and civil trials
- Explain court documents and legal terms
- Show clients the courtroom
- Describe the roles of court personnel
- Provide referrals to organizations and publications that may help
- Lead educational workshops for community groups

Access Pro Bono
Society of British Columbia



ACCESS PRO BONO

- We are a non-profit society incorporated in February 2010 to carry on the work of Access Justice and Pro Bono Law BC.
- All services are provided free of charge by our volunteer lawyers.
- Facilities are provided by social agencies committed to providing help to the needy.



VISION AND MISSION

Vision:

A justice system in which having limited means is not a barrier to obtaining quality legal services.

Mission:

To promote access to justice in BC by providing and fostering quality pro bono legal services for people and non-profit organizations of limited means.



OUR SERVICES

- **Summary Advice Clinics**
- **Roster Programs**
- **Civil Chambers Duty Counsel Program**
- **Paralegal Clinic**
- **Wills & Estate Planning Clinic**
- **Trial Assistance Project**
- **Mental Health Program**

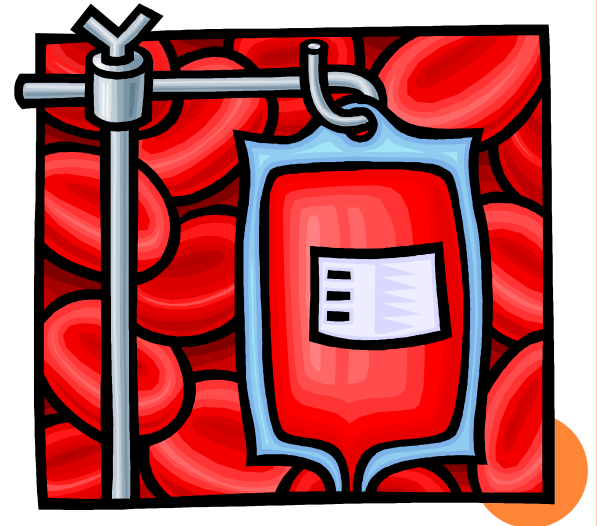


FUNDING

- **The Law Foundation of British Columbia**

(<http://www.lawfoundationbc.org/>)

- **Lawyers and Law Firms**



SUMMARY ADVICE CLINIC PROGRAM

- Appointments lasting approximately 30 minutes
- Qualified lawyers
- Strictest confidence
- Follow-up meetings, if necessary
- Written advice
- Our lawyers do not go into court but can prepare you to do so



MEANS TEST

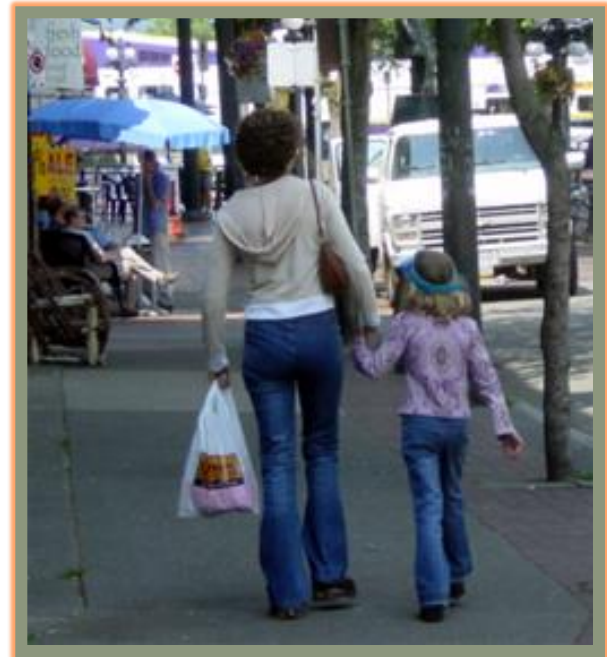
- No Equity Test
- To be eligible for most of our legal advice services, your net monthly household income must be below the amount for your household size in the table below:

1–4 or fewer \$3,230 CDN

5 \$3,810

6 \$4,400

7 or more \$4,990



AREAS OF LAW

Civil:

- Administrative
- Civil Procedure
- Contracts
- Debt
- Employment
- Housing
- Human Rights
- Insurance
- Tax
- Torts
- Wills & Estates

Criminal

Family

Immigration

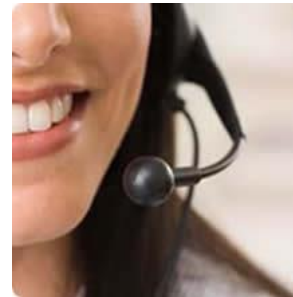


CLINIC PROCESS

Access Pro Bono
Client Line
(1-877-762-6644)



Client



Trained Client Call
Volunteers

- Book advice appointments
- Provide alternative legal resources.



Legal Advice Clinics throughout BC



RURAL & DISABLED CLIENT

- Clients aren't always able to attend in person
- Some locations don't have lawyer coverage.
- Telephone & Tele-video Clinics
- Client booked in to 1 of 4 30 minute time slots.
- Clinic Advice form mailed or faxed.



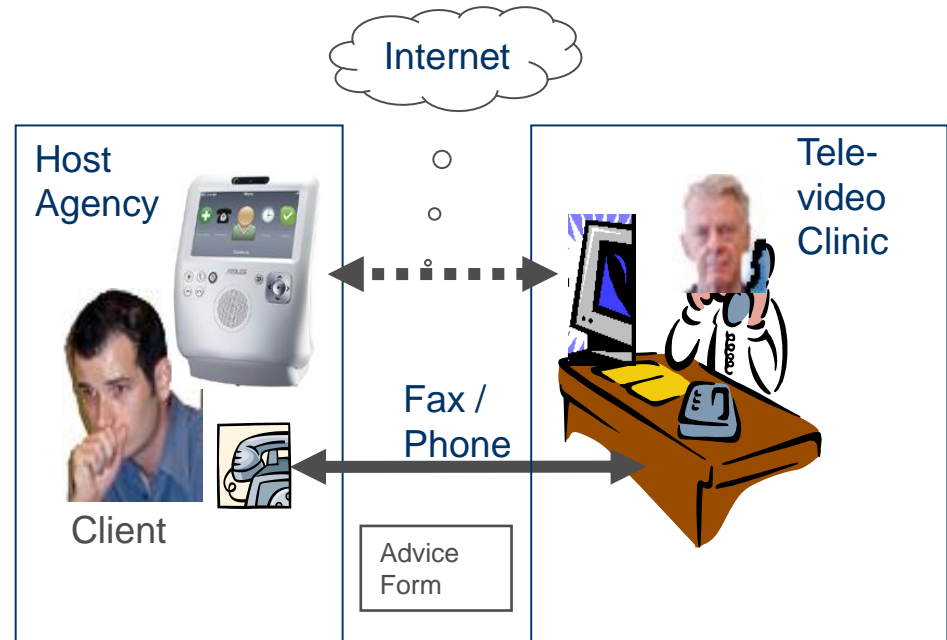
ASUS
Rock Solid · Heart Touching

skype



TELE-VIDEO CLINICS

Agency's Name
Trail FAIRS Clinic
Nanaimo Citizen Advocacy Association
Kaien Anti-Poverty Society (KAPS)
Anahim Lake
Aboriginal Women's Society
SHED Society Bella Coola
Lower columbia All First Nations Castlegar
Quesnel Native Friendship Centre
Community Connections Revelstoke
Golden Family Center
Smithers Comm. Serv. Assoc
Total



CLINIC PROCESS

○ Clinic Report

2 Hour Legal Advice Clinic

COORDINATOR - PLEASE COMPLETE								LAWYER PLEASE COMPLETE THIS SECTION		
1. Two days before the clinic, email or fax this form to the lawyer shown below. 2. At the end of the session, after the lawyer has signed this form, please help the lawyer fax it to 604-324-1515. Clinic Name: Courthouse Clinic; Phone: (604) 878-7400; Address: 800 Smith Street; Date of session: 4/15/2013; Special Notes: Lawyer Info: Last Name: Loo, First Name: Kevin; Fax: 604-6841598; Tel: 604-6628840; Email: kloo@nsl.bc.ca; Special Notes: ; Type of lawyer: Civil, Employment-Other, Employment-Wrongful Dismissal										
Begin Time	Last Name	First Name	Birth Year	Phone	Opposing Party(s)	Opposing Law Firm(s)	Brief Description of Services	Category	Show	No Show
11:30:00 AM	Riyad- Sehyoun	N****	1945	6046850903	Employment and Assistance Appeal Tribunal, Ministry of Social Development		Client filed a JR of a decision re his assistance. Client has now appealed the JR to the Court of Appeal. Needs some advice on Factum, has to be filed--SEE FILE NOTE	Civ (1)		
12:00:00 PM	Daluddung	R****	1969	6047282404			In regards to an application form for revenue Canada so she can start a non-profitable charity.	Civ (3)		
12:30:00 PM	Penafiel	B****	1970	7787884207			She got injured working in a nursing home.	Civ (2)		
1:00:00 PM	De La Boursodiere	T****	1975	6047309600	Roslyn Eldar		Disgruntled share holder, unsatisfied of buyback of her share position, for 3 shares held in the company. She is suing Teresa. JC	Civ (1)		
Stand-by's or Drop-in's										
1	Courchaine	Edmond	1973	6044271172	ICBC/Ministry of Justice		CI has driving prohibition relating to alleged Diabetes. CI believes it is incorrect & wants to know legal options - CP	Civ		
2								Civ / Fam / Cri / Imm		
3								Civ / Fam / Cri / Imm		
LAWYER: PLEASE CORRECTLY FILL IN THIS REPORT, SIGN TO CONFIRM YOU HAVE SEEN THE ABOVE CLIENTS, AND FAX TO ACCESS JUSTICE (604.893.8934) IMMEDIATELY AFTER THE CLINIC. (The Law Society Insurance Fund requires that clinic activity be reported through our program from insurance purposes for every client.) I certify 1) I am enrolled with A.J., 2) I saw the clients above, 3) my services complied with the Law Society's 'approved services' as of July 31, 2004, and 4) I will fax this report as above.										
Law Society #:								Signature of lawyer:		

4 Confirmed Appointments

- 30 minutes
- specialized area of law
- sent to lawyer 2 days in advance for conflict checks.
- 2 day cancellation policy

1 Stand-by Appointment

- client arrives at the beginning of the 2 hours and waits.
- Only for urgent issues.

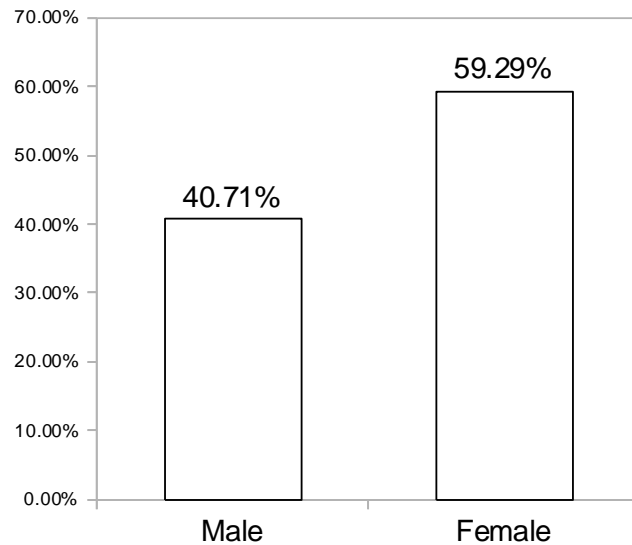
@ THE CLINIC

- The client is given directions on how to prepare for appointment.
- Timeline + Questions.
- Client provided a Clinic Advice form.
- Advice form has a list of resources.
- Referral to other APB Programs.



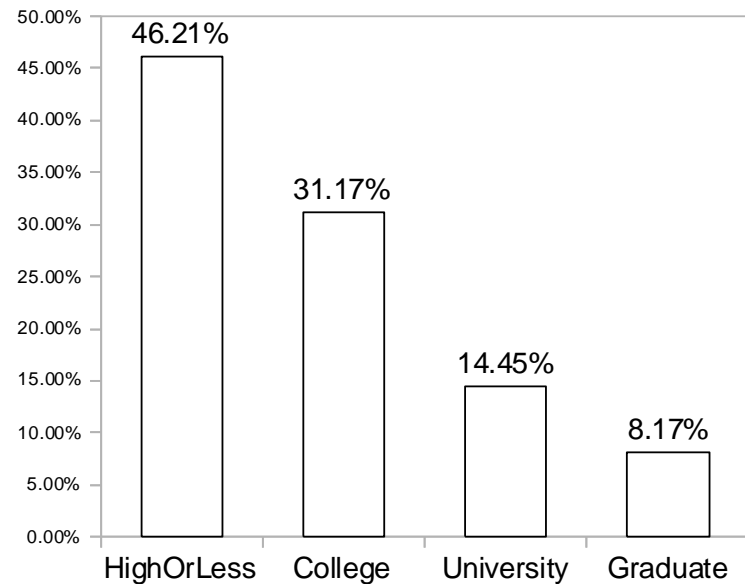
ACCESS PRO BONO CLIENTS

- 2013 Data
- Gender



N = 7,256

- Education

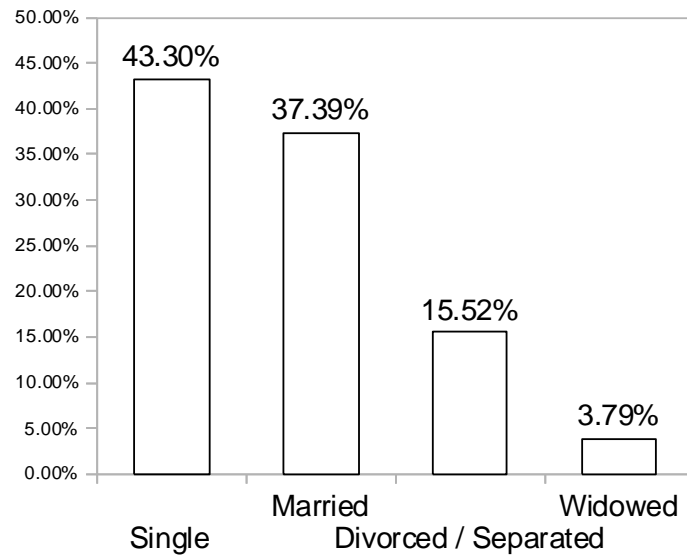


N = 4,921 (67.8%)



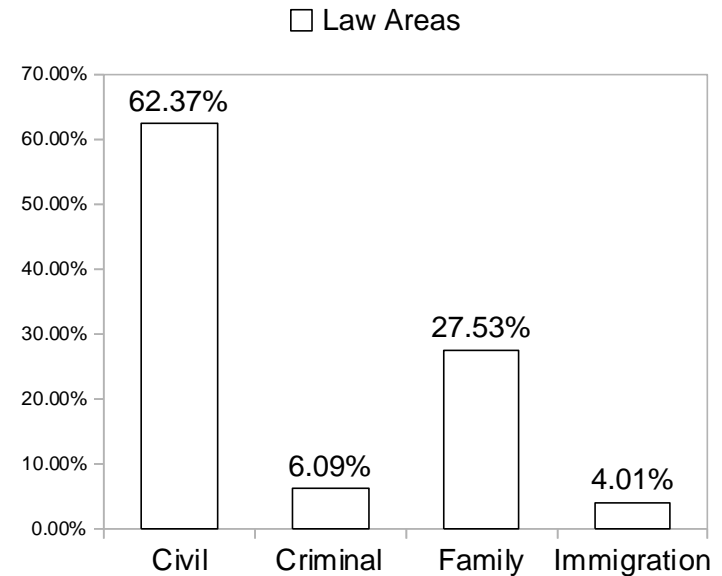
ACCESS PRO BONO CLIENTS

- Marital Status



N = 5,675 (78.2%)

- Law Areas



N = 7,180 (98.9%)



ACCESS PRO BONO CLIENTS

- Civil Law Areas

N = 3,376
(75.3% of
4,478 civil appointments)

Civil Areas		
Torts	540	16.00%
Employment	509	15.08%
Debt	396	11.73%
Housing	364	10.78%
Wills & Estates	363	10.75%
Admin	353	10.46%
Contracts	329	9.75%
Civil Procedure	208	6.16%
Insurance	141	4.18%
Human Rights & Privacy	123	3.64%
Taxation	42	1.24%
Aboriginal Law	8	0.24%
Total	3,376	100.00%



SURVEY RESULTS

- Question 2: Before this appointment, have you acquired any free or paid legal services for this particular legal matter?

Table 1

Yes	51	26.02%
No	145	73.98%



RESULTS

- Question 3: What information do you most want to gain from your consultation with a pro bono lawyer?

Table 2

The strength or weakness of your legal situation	88	44.22%
The risk or threat	14	7.04%
The cost of pursuing your case	17	8.54%
Alternatives to resolve your dispute	31	15.58%
Other	49	24.62%



RESULTS

- Question 4: Comparing to your first language, is your English proficiency level (choose one from the answer options) the level of your first language?

Table 3

Above	22	11.06%
Equivalent	36	18.09%
Below	29	14.57%
Not Applicable (English is my 1 st language)	112	56.28%



RESULTS

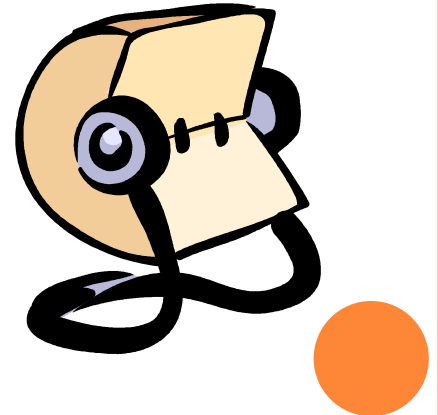
- Question 5: Put aside the financial difficulty, which of the following factors do you feel are the most persistent in terms of preventing you from accessing justice?

Table 4		
Legal information	71	35.68%
The Canadian court system	48	24.12%
Health	38	19.10%
Discriminatory treatments	37	18.59%
Governmental bureaucracy	34	17.09%
Other	31	15.58%
Language proficiency	16	8.04%
Job market	16	8.04%
Mobility limit	14	7.04%



MAIN CONTACTS

- Executive Director: Jamie Maclaren
 - jmaclaren@accessprobono.ca
- Clinic Coordinator: Frank Yates
 - fyates@accessprobono.ca
- Roster Manager: Michelle Quigg
 - mquigg@accessprobono.ca
- Project & Information Officer: Jimmy Yan
 - jyan@accessprobono.ca
- Phone: 604.482.3195
- Fax: 604.893.8934
- Email: help@accessprobono.ca



OUR TEAM



Legal Advocate Contact List (Funded by LF)

Continuing and OnTrack Programs

12 March 2015

Organization Name	Name Title	E-mail Address	Office Phones Mobile Phone
Abbotsford Community Services Society	Ms. Ilena Candiani Legal Advocate	Ilena.Candiani@AbbotsfordCommunityServices.com	Tel: 1-604-859-7681 Alt: ext. 207 Fax: 1-604-859-6334
Abbotsford Community Services Society	Ms. Gurcharan Dhillon Legal Advocate	Gurcharan.Dhillon@AbbotsfordCommunityServices.com	Tel: 1-604-859-7681 Fax: 1-604-859-6334
Abbotsford Community Services Society	Mr. Sarbjit Gill Legal Advocate for Farm Workers	legaladvocacy@abbotsfordcommunityservices.com	Tel: 1-604-859-7681 Direct: ext. 307 Fax: 1-604-859-6334
Abbotsford Community Services Society	Ms. Kim Kirkpatrick Legal Advocate	kim.kirkpatrick@abbotsfordcommunityservices.com	Tel: 1-604-859-7681 Fax: 1-604-859-6334
Active Support Against Poverty	Ms. Darlene Fehr Advocate	darlene@asaphs.com	Tel: 250 563 6112 Fax: 250 563 1612
Active Support Against Poverty	Ms. Jody Morrison Advocate	jody@asaphs.com	Tel: 250-563-6112 Fax: 250-563-1612
Atira Women's Resource Society	Ms. Amber Prince Legal Advocate	amber_prince@atira.bc.ca	Tel: 604-331-1407 Fax: 604-688-1799
Battered Women's Support Services	Ms. Vicky Law Legal Advocate	legaladvocacy@bwss.org	Tel: 604-687-1868 ext. 307 Fax: 604-687-1864
BC Centre for Elder Advocacy and Support	Ms. Nighat Afsar Legal Advocate	nafsar@bcceas.ca	Tel: 604-688-1927 Fax: 604-437-1929
BC Families In Transition	Mr. David Cox Legal Advocate	infoline@bcfit.org	Tel: 250-386-4331 Fax: 250-386-4301
BC Families In Transition	Ms. Pam Rudy Legal Support Services Coordinator	pam@bcfit.org	Tel: 250-386-4331 Fax: 250-386-4301
BC Families In Transition	Mr. Douglas Woodall Advocate	advocate1@bcfit.org	Tel: 250-386-4331 Fax: 250-386-4301
Chimo Community Services Society	Mr. Luke Lin Advocate	llin@chimoservices.com	Tel: 604-279-7077 Direct: 604-247-1175 Fax: 604-279-7075
Chimo Community Services Society	Ms. Neena Randhawa Legal Advocacy Coordinator	nrandhawa@chimoservices.com	Tel: 604-279-7077 Direct: 604-247-1173 Fax: 604-279-7075

Organization Name	Name Title	E-mail Address	Office Phones Mobile Phone
Community Connections Society of Southeast BC	Ms. Carin Morrish Coordinator-Travelling Poverty Advocate Program	ekadvocate@shaw.ca	Tel: (250) 426-4293 Direct: 1-877-298-2211 Fax: 250-426-2798
Contact Women's Group Society	Ms. Margaret Tucker Legal Advocate	advocacy@womenscontact.org	Tel: 250-392-4118 Fax: 250-392-4145
Disability Alliance BC Society	Mr. Peter Beaudin Pension Plan Disability Benefits Advocate	peter@disabilityalliancebc.org	Tel: 604-875-0188 Fax: 604-875-9227
Disability Alliance BC Society	Mr. Robin Loxton Co-Director Advocacy Access	robin@disabilityalliancebc.org	Tel: 604-875-0188 Direct: (604) 872-1278 Fax: 604-875-9227
Disability Alliance BC Society	Ms. Annette Murray Advocate	advocate@disabilityalliancebc.org	Tel: 604-875-0188 Direct: 604-872-1278 Fax: 604-875-9227
Disability Alliance BC Society	Ms. Ashley Silcock Advocate	ashley@disabilityalliancebc.org	Tel: 604-875-0188 Fax: 604-875-9227
Dze L K'ant Friendship Centre Society	Ms. Angela Sketchley Legal Support Worker	angiesketchley@yahoo.com	Tel: 250-847-5211 Fax: 250-847-5144
First United Church Community Ministry Society	Ms. Didi Dufresne Advocate	ddufresne@firstunited.ca	Tel: 604-681-8365 Alt: ext. 105 Fax: 604-681-8928
First United Church Community Ministry Society	Ms. Kim Roberts Advocate	kroberts@firstunited.ca	Tel: 604-681-8365 Fax: 604-681-8928
First United Church Community Ministry Society	Ms. Danielle Sabelli Community Legal Advocate	dsabelli@firstunited.ca	Tel: 604-681-8365 Alt: ext. 119 Fax: 604-681-8928
Fort St. John Women's Resource Society	Ms. Sylvia Lane Program Advocacy Worker	fsjwrc@telus.net	Tel: 250-787-1121 Fax: 250-787-7333
Haida Gwaii Legal Project Society	Ms. Bev Collinson Aboriginal Justice Worker	hglegal@haidagwaii.net	Tel: 250 559 9042 Direct: 250-559-4688 Fax: 250-559-8845
Haida Gwaii Legal Project Society	Ms. Elizabeth Moore Aboriginal Justice Worker	success@mhtv.ca	Tel: 250-626-3522 Fax: 250-626-3502
Kamloops and District Elizabeth Fry Society	Ms. Zuzana Modrovicova Advocate	advocate@kamloopsefry.com	Tel: 250-376-7878 Direct: 250-314-1900 ext. 202 Fax: 250-376-4689

Organization Name	Name Title	E-mail Address	Office Phones Mobile Phone
Kettle Friendship Society	Ms. Henriette Chabot Advocate	hchabot@thekettle.ca	Tel: 604-253-7922 Direct: 604-251-4778 Fax: 604-251-2834
Kettle Friendship Society	Mr. Scott Waters Advocate	swaters@thekettle.ca	Tel: 604-253-7922 Direct: 604-253-0669 Fax: 604-251-2834
Ki-Low-Na Friendship Society	Ms. Yolonda Beaudry Legal Advocate	advocate@kfs.bc.ca	Tel: 250-763-4905 Fax: 250-861-5514
Maple Ridge/Pitt Meadows Community Services	Ms. Charlotte Kingsbury Advocate	ckingsbury@comservice.bc.ca	Tel: 604-467-6911 Fax: 604-463-2988
Maple Ridge/Pitt Meadows Community Services	Ms. Ashley Singh Advocate	ashleys@comservice.bc.ca	Tel: 604-467-6911 Alt: ext. 210 Fax: 604-463-2988
MOSAIC	Ms. Miriam Dell'Orto Paralegal	mjurigova@mosaicbc.com	Tel: 604-254-9626 Fax: 604-629-0061
MPA - Motivation, Power & Achievement Society	Ms. Julie Elliot Advocate	jelliot@mpa-society.org	Tel: 604-660-4292 Fax: -604-738-4132
MPA - Motivation, Power & Achievement Society	Mr. Oscar Hall Advocate	ohall@mpa-society.org	Tel: 604-738-2811 Fax: 604-738-4132
Multiple Sclerosis Society, BC & Yukon Division	Ms. Marilyn Craig Coordinator, VLAP	marilyn.craig@mssociety.ca	Tel: 604-689-3144 ext. 7248 Fax: 604-689-0377
Multiple Sclerosis Society, BC & Yukon Division	Ms. Tricia Millman Advocate, VLAP	tricia.millman@mssociety.ca	Tel: 604-689-3144 Fax: 604-689-0377
Nanaimo Citizen Advocacy Association	Ms. Harriet Manson Advocate	ncaa5@shaw.ca	Tel: 250-753-2321 Fax: 250-753-2486
Nanaimo Citizen Advocacy Association	Ms. Don McConnell Advocate	ncaa1@shaw.ca	Tel: 250-753-2321 Fax: 250-753-2486
Nanaimo Citizen Advocacy Association	Ms. Judy Storness-Kress Advocate		Tel: 250-753-2321 Fax: 250-753-2486
Nelson - The Advocacy Centre	Ms. Fay Carlson Advocate	fcarlson@nelsoncares.ca	Tel: 250-352-5777 Fax: 250-352-5723
Nelson - The Advocacy Centre	Ms. Rebecca Quirk Advocate	bquirk@nelsoncares.ca	Tel: 250-352-5777 Fax: 250-352-5723
Nelson Cares Society	Ms. Amy Taylor Advocate	advocacycentre@nelsoncares.ca	Tel: 250-352-5777 Fax: 250-352-5723

Organization Name	Name Title	E-mail Address	Office Phones Mobile Phone
Nicola Valley Community Justice Services Society	Ms. Andrée Harley Legal Advocate - Coordinator	andreeh@uniserve.com	Tel: 250-378-9632 Fax: 250-378-9796
North Shore Community Resources Society	Ms. Tannis Boxer Advocate	tannis.boxer@nscr.bc.ca	Tel: 604-985-7138 Direct: 604-982-3310 Fax: 604-985-0645
North Shore Community Resources Society	Mr. Benjamin Low-Beer Legal Advocate	Benjamin.Low-Beer@nscr.bc.ca	Tel: 604-985-7138 ext. 310 Direct: 604-982-3310 Fax: 604-985-0645
Penticton and Area Access Society	Mr. David Desautels Advocate	advocacy@pawc.ca	Tel: 250-493-6822 Fax: 250-493-6827
Port Alberni Friendship Center	Ms. Janice Gus Outreach Legal Advocate	jamos@pafriendshipcenter.com	Tel: 250-723-8281 Fax: 250-723-1877
Powell River Community Services Association	Ms. Joyce Percey Legal Advocate	povertylaw@telus.net	Tel: 604-485-0950 Direct: 604-485-0950 Fax: 604-485-6168
Prince Rupert Unemployed Centre Society	Mr. Ulf Kristiansen Advocate	advocate.pruac@citywest.ca	Tel: 250-627-8776 Fax: 250-627-7951
Progressive Intercultural Community Services	Mr. Gurpreet Pabla Legal Advocate	gurpreet.pabla@pics.bc.ca	Tel: 604.596.7722 Alt: ext. 150 Fax: 604.596.7721
Quesnel Tillicum Society	Ms. Christine Dunlop Legal Advocate	chris.dunlop@qnfc.bc.ca	Tel: 250-992-8347 Direct: 604-992-6066 Fax: 250-992-5708
SHARE Family and Community Services	Ms. Maureen St. Louis Legal Advocate	Maureen.st.louis@sharesociety.ca	Tel: 604-529-5117 Direct: 604-937-6982 Fax: 604-540-1024
Social Health & Economic Development Society of Bella Coola	Ms. Anne Fletcher Legal Advocate	afletcher13@gmail.com	Tel: 250-799-0044 Fax: 250-799-0044
Sources Community Resources Society	Mr. Sundeep Burm Poverty Law Advocate	sburm@sourcesbc.ca	
Sources Community Resources Society	Ms. Rupī Sahota Legal Advocate	rsahota@sourcesbc.ca	Tel: 604-536-9611 Direct: 778-565-3638 ext. 1902 Fax: 604-536-6362
Sources Community Resources Society	Ms. Ram Sidhu Program Manager	rsidhu@sourcesbc.ca	Tel: 778-565-3638 Dir: (778) 565-3638 ext. 501 Fax: 604-536-6362

Organization Name	Name Title	E-mail Address	Office Phones Mobile Phone
South Peace Community Resources Society	Ms. Neru Mehta Legal Advocate	legaladvocate@spcrs.ca	Tel: 250-782-9174 Fax: 250-782-4167
Tenant Resource and Advisory Centre Society	Mr. Tom Durning Community Legal Worker	tom@tenants.bc.ca	Tel: 604-255-3099 Direct: ext. 227 Fax: 604-255-0772
Tenant Resource and Advisory Centre Society	Mr. Russ Godfrey Community Legal Worker	russ@tenants.bc.ca	Tel: 604-255-3099 Direct: 250-418-3090 Fax: 604-255-0772
Tenant Resource and Advisory Centre Society	Ms. Emma Lazo Public Legal Education Coordinator	emma@tenants.bc.ca	Tel: 604-255-3099 ext. 225 Fax: 604-255-0772
Terrace and District Community Services Society	Ms. Stacey Tyers Poverty Law Advocate	Staceytyers@tdcss.ca	Tel: 250-635-3178
Together Against Poverty Society	Ms. Yuka Kurakawa Tenant Advocate	tenantadvocate@taps.bc.ca	Tel: 250-361-3521 Fax: 250-361-3541
Together Against Poverty Society	Ms. Jen Matthews Income Assistance Advocate	incomeadvocate@tapsbc.ca	Tel: 250-361-3521 Fax: 250-361-3541
Together Against Poverty Society	Ms. Thea McDonagh Legal Advocate	tapadvocate@tapsbc.ca	Tel: 250-361-3521 Fax: 250-361-3541
Together Against Poverty Society	Mr. Stephen Portman Interim ED	legaladvocate@tapsbc.ca	Tel: 250-361-3521 Fax: 250-361-3541
Upper Skeena Counselling & Legal Assistance Society	Mr. David Dickinson Advocate	david@usclas.com	Tel: 250-842-5218 Fax: 250-842-5987
Vancouver Island North Women's Resource Society	Ms. Brenda Kobzey Advocate	brenda.advocacyservices@shaw.ca	Tel: 250-914-0272 Fax: 250-287-3038
Vernon Women's Transition House Society	Ms. Jody Leon Advocate	jody.leon@vwts.ca	Tel: 250-542-1122 Fax: 250-549-3347
Wachiay Friendship Centre	Ms. Vivienne Gorringer Advocate - Courtenay	vivienne@wachiay.com	Tel: 250-338-7793 Fax: 250-338-7287
West Coast Domestic Workers' Association	Ms. Natalie Drolet Executive Director	natalie@wcdwa.ca	Tel: 604.669.6452 Direct: 604-669-6452 Fax: 604-669-6456
West Coast Domestic Workers' Association	Ms. Darla Tomeldan Advocate	darla@wcdwa.ca	Tel: 604-669-4482 Direct: 604-696-5006 Fax: 604-669-6456

Legal Information and Referral Resources (March 2015)

1. Legal information resources (online and print)

A. General resources

B. Legal research resources

C. Specific topics

- *Civil law and the court system*
- *Family law*
- *Housing*
- *Human Rights*
- *Income Assistance*
- *Representation Agreements*

2. Referral resources: Legal advice and information services

A. Help from a lawyer

- *Legal representation*
- *Legal advice and information*

B. Law Student Legal Clinics

C. Legal Advocacy Resources and Services

- *Provincial service in a specialized area of law or to a specific clientele*
- *Information about legal advocacy services in BC*
- *List of advocates funded by the Law Foundation*

1. Legal information resources (online and print)

A. General

- **BC LawMatters**

A project of Courthouse Libraries BC that is funded by the Law Foundation to support legal research collections and services in BC public libraries, has a blog that is a very good source of information about new public legal education and information (PLEI) materials.

You can see updates from BC LawMatters at <http://bclawmatters.blogspot.com/>. You can also subscribe to the blog by email or through an RSS feed to get regular updates about PLEI materials and new legal information services.

- **Clicklaw**

A very useful resource for finding legal information at www.clicklaw.bc.ca. It provides links to legal information, education and self-help resources. It also has a HelpMap that lists resources in each community that people can use for help with legal issues.

- **Dial-A-Law**

A library of tapes that provide information about the law in BC. Some of these tapes are available in Chinese and Punjabi as well as English.

- Lower Mainland: 604-687-4680
- Elsewhere in BC: 1-800-565-5297 (call no charge)
- You can also read or listen to transcripts of the Dial-A-Law tapes on the Internet at www.dialalaw.org.

- **Legal Guide for British Columbians**

A new publication provides information about many different legal problems and resources in rural BC to help people dealing with these problems. The publication is currently available online at the link:

http://blog.clicklaw.bc.ca/wp-content/uploads/Legal_Help_for_British_Columbians_3rd_Edition.pdf

- **Legal Services Society (“LSS”)**

LSS has numerous publications that are free. Publications are all on the LSS website at www.lss.bc.ca. Click on “Publications” (left side of the screen) and then search for the publication title you want or look under an area of law.

They can be ordered through the Queens Printer. Instructions for how to do this are on the same page under “I want to get a publication”

- **People’s Law School**

People’s Law School has a variety of publications about legal issues as well as online resources. Information about their publications and how to order them is at

<http://www.publiclegaled.bc.ca/category/resources/>

B. Legal research

- **BC Laws**

Up-to-date versions of BC laws and regulations are now available for FREE on the internet at <http://www.bclaws.ca/>. (Until January 1st 2009, you could not get current versions of all BC legislation, except on certain sites that posted the law relevant to their work.) The Law Foundation funded the Law Society of BC to work with the Queen's Printer of BC to make this resource available.

- **CanLII**

Up-to-date versions of all provincial and federal legislation and regulations from across Canada are available on the CanLII website at <http://www.canlii.org/en/index.php>. CanLII also has case law and provides note ups of cases that have considered particular sections of legislation.

- **Courthouse Libraries BC**

Courthouse libraries throughout BC provide support on legal research questions. Librarians are can also be contacted by phone or online for help with legal research. <http://www.bccls.bc.ca>
The link to the research help page is <http://www.courthouselibrary.ca/training.aspx>

C. Specific topics

Civil law and the court system

- **BC Supreme Court Self-Help Information Centre**

The BC Supreme Court Self-Help Information Centre is a drop-in service for anyone who has to go to Supreme Court but cannot afford a lawyer. This service is available only at the office: there is no phone consultation service. Several self-help resources for people going to Supreme Court on civil matters are available on the Centre's website.

274 – 800 Hornby Street

Vancouver, BC V6Z 2C5

Website: www.supremecourtselfhelp.bc.ca

- **Justice Education Society**

The Justice Education Society has many publications and websites designed to help the public understand and solve problems in the legal system. The link to the Society's website is www.lawcourtsed.ca Examples of websites produced by the Society that deal with specific areas of law are:

- **Administrative Law Website** www.adminlawbc.ca
- **Courts of BC Website** provides an overview of three levels of court in BC www.courtsofbc.ca
- **Youth and Criminal Law Website** information for students about their legal rights and responsibilities <http://www.lawlessons.ca/teaching-units/youth-and-the-law>
- **Small Claims Website** www.smallclaimsbcc.ca

Family law

- **Legal Services Society Family Law Website**

The LSS Family Law Website provide information about family law and many online self-help forms for various family law issues.

www.familylaw.lss.bc.ca

Housing

- **TRAC Tenants Resource & Advisory Centre** has a telephone helpline for tenants who need information about housing issues. (604.255.0546 in Vancouver area. 1.800.665.1185 outside the Lower Mainland – free). They also have several publications on housing issues at www.tenants.bc.ca

Human Rights

The BC Human Rights Coalition provides information about human rights issues on their website under “services – information”.

www.bchrcoalition.org

Income assistance (welfare)

- **Legal Services Society**

LSS has resources on income assistance on its publications page at

<http://www.lss.bc.ca/publications/subject.php?sub=17>

- **Ministry of Social Development and Social Innovation**

The government sites has links to legislation, regulation, policy and government online tools that are useful for advocates and clients at www.gov.bc.ca/meia/online_resource

Representation Agreements

- **Nidus Personal Planning Resource Centre**

The Centre provides information about these issues at <http://www.nidus.ca/>.

2. Referral resources: Legal advice and information services

A. Help from a Lawyer

Legal representation

- **BC Public Interest Advocacy Centre (BCPIAC)**

208 – 1090 West Pender Street

Vancouver, BC V6E 2N7

Telephone: 604-687-3063

Fax: 604-682-7896

<http://bcpiac.com>

Free legal advice and representation for clients with problems in specific areas of law, including utilities regulation, social justice law and poverty law.

- **Community Legal Assistance Society (CLAS)**

300 – 1140 West Pender Street

Vancouver, BC V6E 4G1

Telephone: 604-685-3425

Toll free: 1-888-685-6222

Fax: 604-685-7611

<http://www.clasbc.net/>

CLAS provides legal assistance to disadvantaged people throughout British Columbia and currently specializes in the areas of poverty, disability, workers' compensation, employment insurance, mental health, human rights and equality law. The work of CLAS includes: test case and Charter litigation; service case work and law reform; liaison and consultation with community groups; legal supervision of advocacy groups and law students; publication of legal materials designed to assist self-represented litigants; and legal training and support to lay advocates, community groups, law students, and lawyers doing pro-bono work.

- **Legal Services Society ("LSS")**

400 – 510 Burrard Street

Vancouver, BC V6C 3A8

Telephone: 604-408-2172

Toll free: 1-866-577-2525

Fax: 604-681-2719; 604-681-6942

<http://www.lss.bc.ca>

Recorded messages are in Cantonese, English, French, Mandarin, Punjabi, and Spanish. LSS provides legal representation on legal aid tariff matters. Duty counsel provide legal advice and assist with court appearances without charge regarding certain matters in family and criminal law cases at various courthouses throughout BC. LSS also produces publications and websites with legal information.

- **Access Pro Bono Society**

300 – 845 Cambie Street
Vancouver, BC V6B 4Z9
E-mail: help@accessprobono.ca
Client number: 604-878-7400 or 1-877-762-6664
<http://www.accessprobono.ca/>

Volunteer lawyers provide pro bono legal advice for 30 minutes at legal clinics throughout BC. There are also roster programs that provide legal representation in specific areas of law or in particular courts.

- **West Coast Environmental Law**

200 — 2006 West 10th Avenue
Vancouver, BC V6J 2B3
Telephone: 604-684-7378
Toll-free in BC: 1 800 330-WCEL
Fax: 604-684-1312
Email: admin@wcel.org
<http://www.wcel.org/>

West Coast Environmental Law seeks to provide legal solutions to environmental problems by reforming the law and by empowering citizens through legal information to participate in decisions about the environment. Its staff lawyers provide free information and advice to help citizens confronting environmental legal barriers and disputes. It also administers an environmental legal aid programme to assist citizens and groups with the legal costs associated with dispute resolution.

Legal advice and information

- **Lawyer Referral**

The Lawyer Referral Service can provide the name of a family law or immigration lawyer who can meet with clients for a half-hour appointment. The cost is \$25 plus taxes for the half hour.
Lower Mainland: 604-687-3221
Elsewhere in BC: 1-800-663-1919 (free call)

B. Law Student Legal Clinics

- **Greater Vancouver Law Students' Legal Advice Program ("LSLAP")**

University of British Columbia
Faculty of Law, Room 158
1822 East Mall
Vancouver, BC V6T 1Z1
Telephone: 604-822-5791
Fax: 604-822-1661
<http://lslap.bc.ca>

LSLAP offers free legal advice and representation to persons who cannot afford it throughout the Greater Vancouver Regional District. Their clinicians are law students at the University of

British Columbia at all levels of study, and are assisted by accredited members of the bar who provide students with legal advice and guidance for each client.

- **The Law Centre**

1221 Broad Street
Victoria, BC V8W 2A4
Telephone: 250-385-1221
Fax: 250-385-1226

See <http://www.thelawcentre.ca> for information about the free legal clinics and legal representation by University of Victoria law students in Greater Victoria.

- **UBC Indigenous Legal Clinic**

Suite 101 - 148 Alexander Street
Vancouver, BC V6Z 1B5
Telephone: (604) 684-7334
Toll Free: 1-888-684-7334
Fax: 604-684-7874

Law Students from UBC provide legal services to the Aboriginal community on issues such as Aboriginal rights, civil, criminal and family law, wills and estates, debt, human rights, residential schools, child protection, residential tenancy and status

C. Legal Advocacy Resources and Services

Provincial service in a specialized area of law or to a specific clientele

- **BC Centre for Elder Advocacy and Support (“BCCEAS”)**

Telephone: 604-437-1940
Fax: 604-437-1929
Toll Free: 1-866-437-1940
E-mail: ceas@telus.net
<http://bcceas.ca/>

BCCEAS provides public legal education and advocacy assistance to seniors and their intermediaries, through its legal advocacy program and provides legal representation through the Elder Law Clinic.

- **BC Civil Liberties Association (“BCCLA”)**

550 – 1188 West Georgia Street
Vancouver, BC V6E 4A2
Telephone: 604-630-9754
Fax: 604-687-3045
<http://www.bccla.org>

BC Civil Liberties Association provides pro bono legal advice and representation in specific cases concerning civil liberties and human rights.

- **BC Human Rights Coalition (“BCHRC”)**

Suite 300 - 1140 West Pender Street
Vancouver, BC V6E 4G1
Telephone: 604-689-8474 (Collect calls accepted)
Toll free: 1-877-689-8474 (Within Canada)
Fax: 604-689-7511
<http://www.bchrcoalition.org>

BCHRC provides information and some services on human rights in BC.

- **Disability Alliance BC (“DABC”)**

204-456 W. Broadway
Vancouver, BC V5Y 1R3
Telephone: 1-800-663-1278
Fax: 604-875-9227
<http://www.disabilityalliancebc.org/>

DABC provides advocacy services for people with disabilities and produces legal information materials on disability issues.

- **Family Justice Counsellors**

Family justice counsellors can provide information about the law and the court process and help people work on agreements. They work at Family Justice Centres across the province. Call Service BC and ask the operator to transfer to the nearest centre.

Victoria: 250-387-6121
Lower Mainland: 604-660-2421
Elsewhere in BC : 1-800-663-7867 (call no charge)

- **MOSAIC Legal Advocacy Project**

#2 - 1720 Grant Street
Vancouver, BC V5L 2Y7
Telephone: 604-254-9626
Fax: 604-254-3932
<http://www.mosaicbc.com>

MOSAIC provides free information, summary advice, referrals, and legal representation in welfare, tenancy, and employment matters. The organization is known for expertise in immigration law.

- **Pivot Legal Society**

678 East Hastings Street
Vancouver, BC V6A 1R1
Telephone: 604-255-9700
Fax: 604-255-1552
<http://www.pivotlegal.org/>

Pivot provides pro bono legal information, advice, and representation in criminal, housing, immigration, mental health, and child protection law.

- **TRAC Tenant Resource & Advisory Centre**

Telephone: 604-255-0546

Toll free: 1-800-665-1185

<http://tenants.bc.ca/>

TRAC is a Vancouver-based non-profit organization that offers legal information services via a province wide information hotline for tenants, publications on tenants' rights, organizes tenants and provides workshops to advocates and the public.

- **VictimLINK**

Toll free: 1-800-563-0808

<http://www.victiminfo.ca/>

VictimLINK is a phone service that provides information and referral services to victims of crime, and immediate crisis support to victims of family and sexual violence. VictimLINK provides service in 130 languages, including 17 North American Aboriginal languages. VictimLINK is TTY accessible and provides interpretation services for all major languages. Call TTY at 604-875-0885. To call collect, call the TELUS Relay Service at 711.

- **Workers' Advisers Office ("WAO")**

Ministry of Labour

500 – 8100 Granville Avenue

Richmond, BC V6Y 3T6

Telephone: 604-713-0360

Toll free: 1-800-663-4261

Fax: 604-713-0311

<http://www.labour.gov.bc.ca/wab>

Free legal advice and representation in WCB matters, including appeals, throughout BC. WAO is a proactive, innovative and progressive organization demonstrating excellence in advice, education and representation to workers, their dependents and other stakeholders while fostering safe and healthy workplaces.

Information about legal advocacy services in BC

The following websites provide information about legal advocacy services in various parts of the province.

- **Law Foundation of BC**

The Law Foundation website lists all the projects funded by the Foundation to do legal advocacy and representation, legal education, legal research, law reform, or provide legal library services.

www.lawfoundationbc.org

- **PovNet**

Telephone: 604-876-8638

Fax: 604-685-7611

E-mail: info@povnet.org

<http://www.povnet.org>

PovNet is an online information service about poverty issues. The website has information about and links to groups that work on poverty issues. It has a helpful link for finding an advocate in various BC communities. Online discussion groups provide an opportunity for advocates to discuss issues with others working on similar topics.

List of advocates funded by the Law Foundation

Ensuring fairness and accountability of government decision-makers

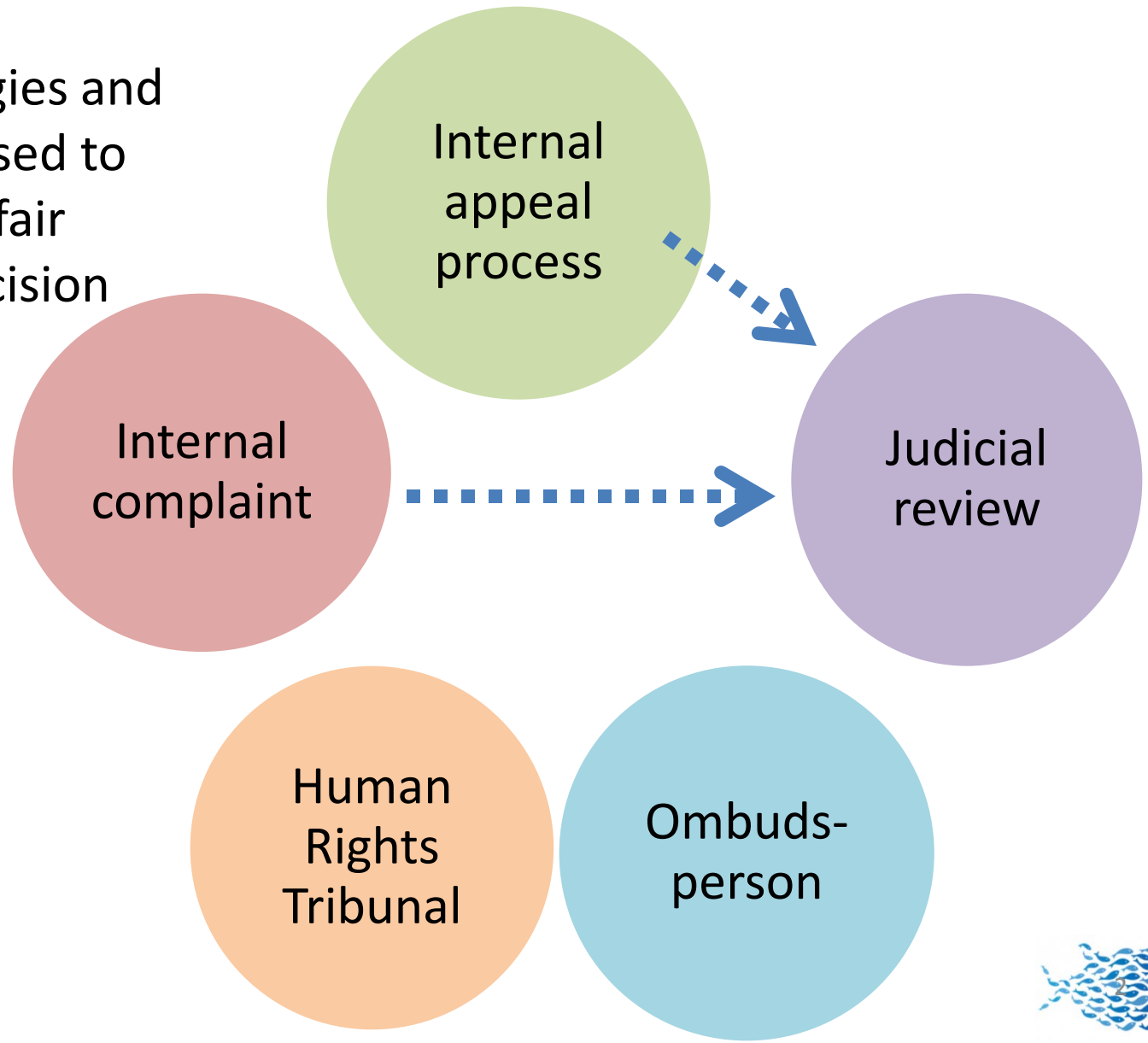
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BC Public Interest Advocacy Centre



Unfair Government Decision

Different strategies and bodies can be used to challenge an unfair government decision



Internal complaint

- A complaint could be filed within the government agency against the decision made or the conduct of the decision-maker
 - Example: a complaint to filed about BC Employment and Assistance services at the Ministry of Social Development and Social Innovation
- Sometimes the response to such a complaint could be judicially reviewed



Internal appeal process

- Some government bodies offer a formal internal process to reconsider or review a decision
 - Example: If you do not agree with a decision of the Refugee Protection Decision, you may be able to ask for an appeal at the Refugee Appeal Division
- The appeal decision can generally be judicially reviewed by a court



Judicial review application

- If a decision is unreasonable, or lacked procedural fairness, you might be able to file for judicial review of the decision by a court
- There are usually strict time limits
- You will likely need to use all available internal appeal processes within a ministry or agency first



Ombudsperson

- They may be able to investigate unfair treatment by BC ministry or agency
- They can investigate issues of administrative unfairness, attempt to create resolutions, and make recommendations to avoid unfairness in future

[Home](#)[Other Languages](#)[Investigations](#)[How To Make a Complaint](#)[Youth](#)[Seniors](#)[Resources](#)

About the Office of the British Columbia Ombudsperson

[FAQs](#)[Role of the
Ombudsperson](#)[Who Is the
Ombudsperson](#)[What Can and What
Cannot be Investigated?](#)

What We Do

Welcome! If you think a provincial government ministry or public agency has treated you unfairly, we may be able to help. The Office of the Ombudsperson receives enquiries and complaints about the practices and services of public agencies within its jurisdiction. Our role is to impartially investigate these complaints to determine whether public agencies have acted fairly and reasonably, and whether their actions and decisions were consistent with relevant legislation, policies and procedures. Our services are provided free of charge. *If you have questions or would like to make a complaint, please contact us.*



Human Rights Tribunal

Discrimination by employers, housing providers, or service providers

- Government or private parties
- Grounds of discrimination: race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age.
- Source of income is also a ground in tenancy cases



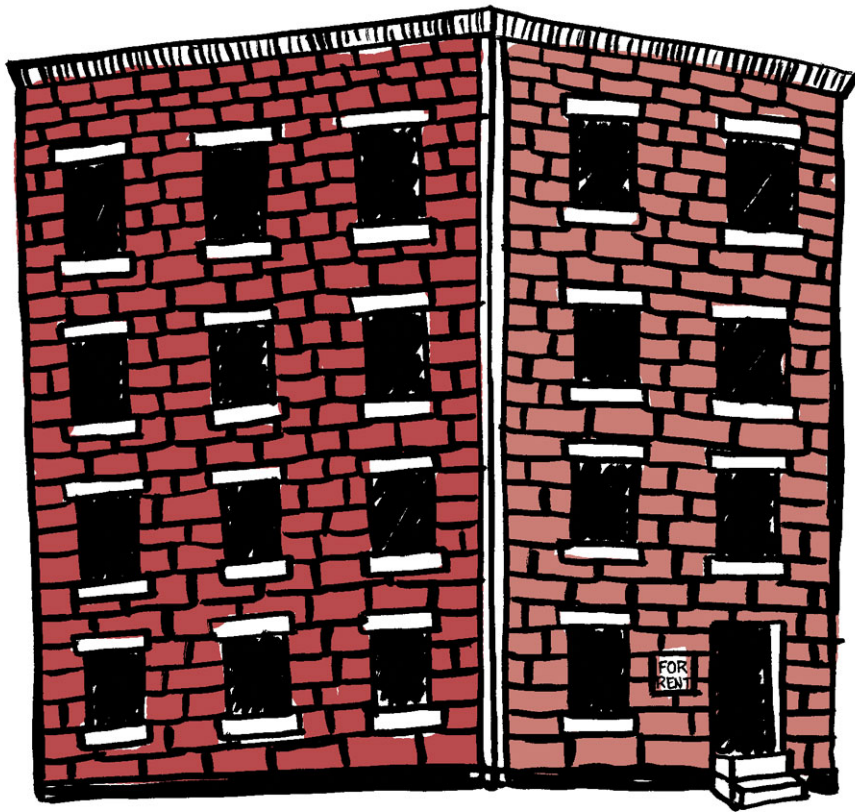
The B.C. Human Rights Tribunal is an independent, quasi-judicial body created by the B.C. *Human Rights Code*. The Tribunal is responsible for accepting, screening, mediating, and adjudicating human rights complaints. The Tribunal offers the parties to a complaint the opportunity to try to resolve the complaint through mediation. Respondents have an opportunity to respond to a complaint and to apply to dismiss a complaint without a hearing. If the parties do not resolve a complaint and the complaint is not dismissed, the Tribunal holds a hearing.



Lobat Sadrehashemi
Lawyer – BCPIAC
Phone: 604-687-3017
Email: lobat@bcpiac.com



Residential Tenancy Law in British Columbia



**Legal information
on rights and
responsibilities
for tenants and
landlords**



TENANT RESOURCE & ADVISORY CENTRE

Tenant Resource & Advisory Centre

- TRAC provides free legal information for tenants living in British Columbia.

Community Legal Assistance Society

- CLAS provides legal advice and representation for tenants who have lost a hearing at the Residential Tenancy Branch.



TENANT RESOURCE & ADVISORY CENTRE

Goals of this Session

- Basic understanding of the role of B.C.'s tenancy legislation
- Familiarity with key provisions of the legislation
- Understand relevant documents
- Ability to identify urgent issues & provide clients with basic information



What is Residential Tenancy Law?

- Tenant and landlord rights and responsibilities.
- Tenancy laws in BC are different than tenancy laws in other countries and Canadian Provinces.
- Cannot avoid or contract out of the RTA.



TENANT RESOURCE & ADVISORY CENTRE

Are You Covered By Residential Tenancy Law?

- Not everyone who rents their home is a “tenant” under residential tenancy law.
- You are **NOT** a “tenant” if you:
 - Share a kitchen or bathroom with the **OWNER** of the property
 - For example: home stay program
 - Live in co-operative housing
 - Live in student housing provided by your school
 - Live in an emergency shelter or transitional housing
- Manufactured Home Parks and Mobile Homes Covered under the MHPTA



Residential Tenancy Branch (RTB)

- Government department in charge of residential tenancy law.
 - Phone service
 - Website: www.gov.bc.ca/landlordtenant
 - Resources
 - forms, policy guidelines
 - Dispute Resolution
- Service BC Centres (extension of RTB).



Dispute Resolution

- Tenant and landlord disputes (arguments).
- Cannot go to court for most tenancy disputes, must use RTB
- Similar to court, but usually done over the phone.
- Arbitrator (similar to a Judge) makes a decision.
- Tenants can be represented by advocates
- You will need evidence (not allegations):
 - Monetary Order Worksheet, photographs, receipts, witnesses, letters, affidavits.
- \$50 fee
 - If you are a low income applicant, the fee may be waived for you.




Dispute Resolution



Tenancy Agreement

- A legal agreement (contract) between tenant and landlord.
- Landlord's contact information:
 - phone number
 - Address

 **Office of Housing and Construction Standards**

Residential Tenancy Agreement

Important Notes: #RTB-1
The Residential Tenancy Branch (RTB) is of the opinion that this Residential Tenancy Agreement accurately reflects the Residential Tenancy Act (RTA) and accompanying regulations. The RTB makes no representations or warranties regarding the use of this Agreement. A landlord and tenant may wish to obtain independent advice regarding whether this agreement satisfies their own personal or business needs. For the rental of a manufactured home and a manufactured home site under a single tenancy agreement, use this agreement form. For the rental of a manufactured home site use the Manufactured Home Site Tenancy Agreement.

The words **tenant** and **landlord** in this tenancy agreement have the same meaning as in the Residential Tenancy Act (RTA), and the singular of these words includes the plural. In this tenancy agreement, the words **residential property** have the same meaning as in the RTA. **Residential property** means a building, a part of a building or related group of buildings, in which one or more rental units or common areas are located; the parcel or parcels on which the building, related group of buildings or common areas are located; the rental unit and common areas and any other structure located on the parcel or parcels.

HOW TO COMPLETE THIS FORM ELECTRONICALLY: If you are accessing this agreement form from the B.C. Government Web site, it can be printed and completed by hand (print clearly, using dark ink) or filled out while at the computer workstation—simply type your responses in the boxes. If you cannot complete all the sections at the computer right away, you can print off what you have completed and fill in the remaining fields by hand. Note, you **cannot** save the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require **before** you leave the document or shut down the program/computer.

IF ADDITIONAL SPACE IS REQUIRED TO LIST ALL PARTIES, complete and attach Schedule of Parties (#RTB-2S) RTB-2S used & attached: ☐

RESIDENTIAL TENANCY AGREEMENT between: (use full, correct legal names)

the **LANDLORD(S)**: (if entry for landlord is a business name, use the 'last name' field box to enter the full legal business name)

last name	first and middle name(s)
last name	first and middle name(s)

and the **TENANT(S)**:

last name	first and middle name(s)
last name	first and middle name(s)

ADDRESS OF PLACE BEING RENTED TO TENANT(S) (called the 'rental unit' in this agreement):

unit	address	city	province	postal code
------	---------	------	----------	-------------

ADDRESS FOR SERVICE of the ☐ landlord ☐ landlord's agent:

unit	address	city	province	postal code
daytime phone number	other phone number	fax number for service		

#RTB-1 (2007/05) page 1 of 6 pages



TENANT RESOURCE & ADVISORY CENTRE

Tenancy Agreement

- Month-to-month or fixed-term?
- Illegal suite?
- How much is rent?
- What is included in your rent?
 - Electricity?
 - Appliances?
 - Parking?

2. LENGTH OF TENANCY (please fill in the dates and times in the spaces provided)

This tenancy starts on: day month year

Length of tenancy: (please check a, b or c and provide additional information as requested)

This tenancy is:

☐ a) on a month-to-month basis

☐ b) for a fixed length of time: length of time ending on: day month year

At the end of this fixed length of time: (please check one option, i or ii)

☐ i) the tenancy may continue on a month-to-month basis or another fixed length of time

☐ ii) the tenancy ends and the tenant must move out of the residential unit
If you choose this option, both the landlord and tenant must initial in the boxes to the right.

☐ c) other periodic tenancy as indicated below:

☐ weekly ☐ bi-weekly ☐ other:

Landlord's Initials Tenant's Initials

3. RENT (please fill in the information in the spaces provided)

a) **Payment of Rent:**

The tenant will pay the rent of \$ each (check one) ☐ day ☐ week ☐ month to the landlord on the first day of the rental period which falls on the (due date, e.g., 1st, 2nd, 3rd, 31st) day of each (check one) ☐ day ☐ week ☐ month subject to rent increases given in accordance with the RTA.

The tenant must pay the rent on time. If the rent is late, the landlord may issue a Notice to End Tenancy to the tenant, which may take effect not earlier than 10 days after the date the notice is given.

b) **What is included in the rent:** (Check only those that are included and provide additional information, if needed.)
The landlord must not terminate, or restrict a service or facility that is essential to the tenant's use of the rental unit as living accommodation, or that is a material term of the tenancy agreement.

☐ Water ☐ Stove and Oven ☐ Window Coverings ☐ Storage

☐ Electricity ☐ Dishwasher ☐ Cablevision ☐ Garbage Collection

☐ Heat ☐ Refrigerator ☐ Laundry (free) ☐ Parking for vehicle(s)

☐ Furniture ☐ Carpets ☐ Sheets and Towels ☐ Other:

☐ Additional Information:



Tenancy Agreement

- Read carefully and sign the agreement.

- Landlord must give tenant a signed copy within 21 days.

By signing this tenancy agreement, the landlord and the tenant are bound by its terms.

LANDLORD(S): (if entry for landlord is a business name, use the 'last name' field box to enter the full legal business name)

<input type="text"/> last name	<input type="text"/> first and middle name(s)
Signature: <input type="text"/>	Date: <input type="text"/>
<input type="text"/> last name	<input type="text"/> first and middle name(s)
Signature: <input type="text"/>	Date: <input type="text"/>

TENANT(S):

<input type="text"/> last name	<input type="text"/> first and middle name(s)
Signature: <input type="text"/>	Date: <input type="text"/>
<input type="text"/> last name	<input type="text"/> first and middle name(s)
Signature: <input type="text"/>	Date: <input type="text"/>

- If you have no written agreement, you still may be protected by BC's tenancy laws.



TENANT RESOURCE & ADVISORY CENTRE

Roommates

- Co-Tenants
 - Same tenancy agreement
 - Jointly responsible
- Tenants in Common
 - Different tenancy agreements
 - Individually responsible
- Are you both a tenant and a landlord? Is your roommate your landlord?




Deposits and Fees

- Security Deposit: ½ month's rent.
- Pet Deposit: ½ month's rent.
- No application fees.
- No guest fees (but be reasonable).
- Interest calculator on RTB web site



Condition Inspection Report

- Tenant and Landlord do an inspection of the rental unit together:
 - Move-in
 - Move-out



Office of Housing and
Construction Standards

Condition Inspection Report

SEE INSTRUCTIONS FOR COMPLETING FORM ON LAST PAGE #RTB - 27

A. LEGAL NAME OF LANDLORD (if entry is a business name, enter the full legal business name) **E. POSSESSION DATE**

last name, first & middle names day month year

B. LANDLORD'S ADDRESS FOR SERVICE **F. MOVE-IN INSPECTION DATE**

unit # street address city province postal code day month year

C. LEGAL NAME OF TENANT **G. MOVE-OUT DATE**

last name, first & middle names day month year

D. ADDRESS OF RENTAL UNIT **H. MOVE-OUT INSPECTION DATE**

unit # street address city province postal code day month year

I. LEGAL NAME OF TENANT'S AGENT (if applicable)

On Move-In On Move-Out

Condition Codes: ✓ = Good F = Fair P = Poor M = Missing	D = Damaged S = Scratched B = Broken DT = Dirty ST = Stained	Condition at Beginning of Tenancy		Condition at End of Tenancy	
		COMMENT	CODE	COMMENT	CODE
J. ENTRY	Walls and Trim				
	Ceilings				
	Closets				
	Lighting Fixtures/Ceiling Fan/Bulbs				
	Windows/Coverings/Screens				
	Electrical Outlets				
K. KITCHEN	Floor Carpet				
	Ceiling				
	Walls and Trim				
	Floor/Carpet				
	Countertop				
	Cabinets and Doors				
	Stove/Stove Top				
	Oven				
	Exhaust Hood and Fan				
	Taps, Sink and Stoppers				
	Dishwasher				
	Crisper/Shelves				
	Freezer				
	Door/Entrance				
	Closet(s)				
L. LIVING ROOM	Dishwasher				
	Lighting Fixtures/Bulbs				
	Windows/Coverings/Screens				
	Electrical Outlets				
	Ceiling				
	Walls and Trim				
	Floor/Carpet				
	Air Conditioner/Cover				
	Fireplace				
	TV Cabinet/Adapter				
	Closet(s)				
	Lighting Fixtures/Ceiling Fan/Bulbs				
	Windows/Coverings/Screens				
	Electrical Outlets				

#RTB-27 (2007/07) page 1 of 4 pages



TENANT RESOURCE & ADVISORY CENTRE

Quiet Enjoyment

- Freedom from unreasonable disturbances.
 - For example: smoke and noise.



Quiet Enjoyment

- Freedom from Illegal Landlord Entry.
- 24 hours written notice:
 - Date
 - Time
 - Reasonable reason
 - Between 8am and 9pm



Quiet Enjoyment

- Landlord emergency entry.
 - Necessary to protect life or property.
 - For example: flood, fire, water leak, etc.



Quiet Enjoyment



- Freedom from intimidation and harassment.

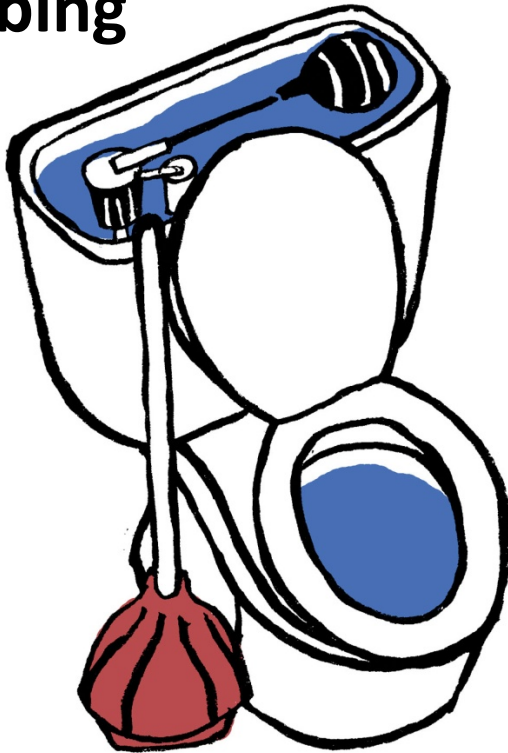


TENANT RESOURCE & ADVISORY CENTRE

Repairs

- Landlord is generally responsible for making repairs to the tenant's rental unit.

Plumbing



Heat

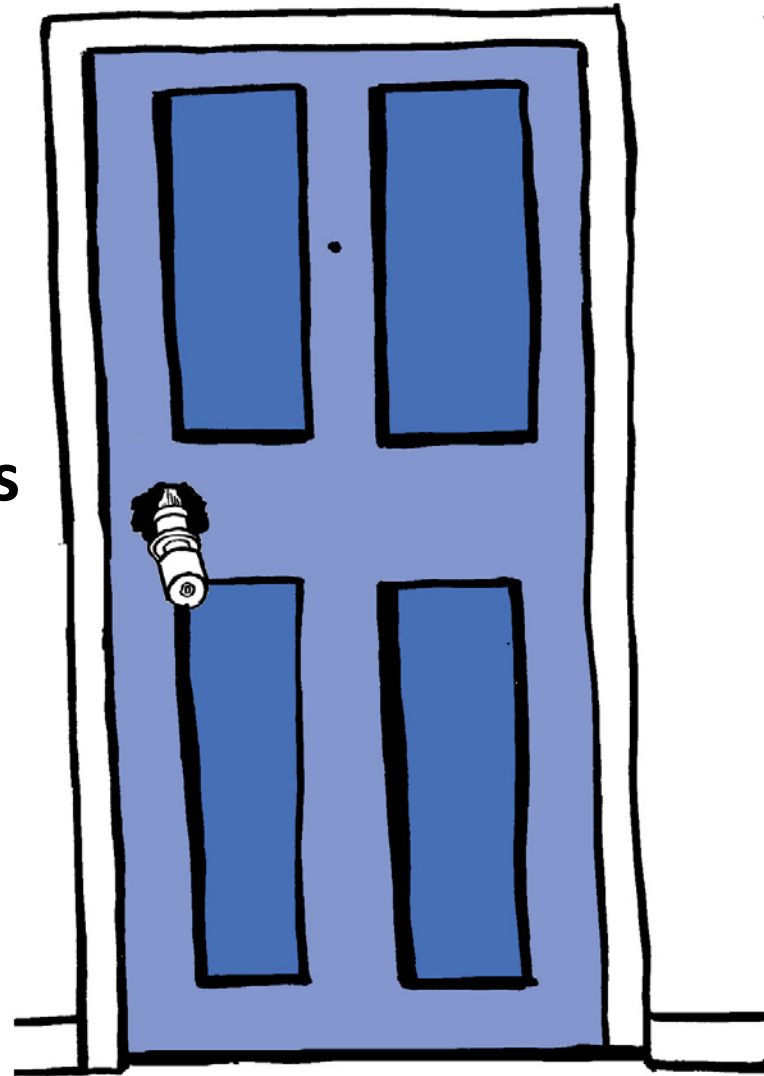


Repairs

Ceilings

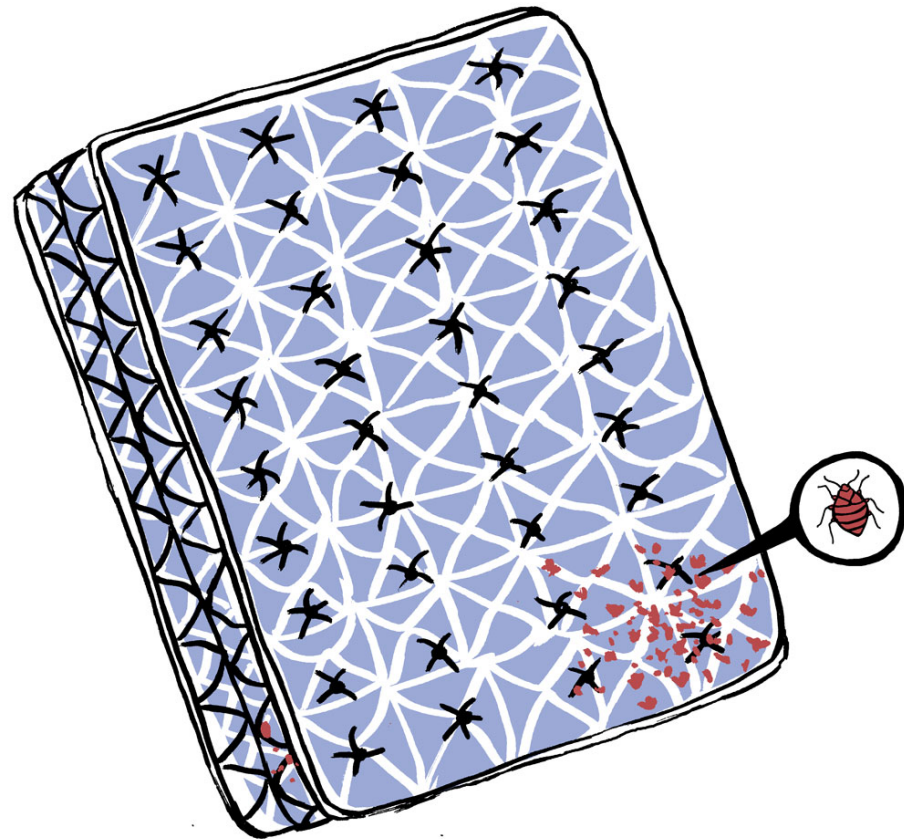


Locks



Repairs

Bed Bugs



Elevators



Repairs

- Tell your landlord immediately (in writing) when something needs to be repaired.
 - TRAC Template Letter – Repairs
- If you delay and the problem gets worse, you could be held responsible.
- Dangers of withholding rent
- If you break something, you may have to pay for it.



Emergency Repairs

- What is an emergency repair?
 - Urgent and necessary for health or safety of people or property:
 - Major leaks in pipes or roof
 - damaged or blocked water or sewer pipes or plumbing fixtures
 - Primary heating system
 - Damaged or defective locks
 - Electrical systems



Emergency Repairs

- Landlord must provide emergency contact number.
- If the emergency contact cannot be reached after two tries and a reasonable amount of time has passed, tenant can pay for repairs (be reasonable) and get money back from landlord (keep receipts).
 - Carefully review section 33 of the RTA.



Essential Services

- Essential = necessary, indispensable, or fundamental.
- A landlord must not terminate a service or facility that is essential to the tenant's use of the rental unit.
 - For example: heat, hot water, elevator in multi-storey apartment.



TENANT RESOURCE & ADVISORY CENTRE

Rent Increases

- Landlords can raise rent once every 12 months.
- How much?
 - Check TRAC website or RTB website.
 - 2015: 2.5%
- 3 months written notice on government form.



Ending a Tenancy (Moving Out)

- Month-to-month tenancies
 - One **FULL** month written notice.
 - Give notice at the **END** of the month:
 - 28th, 29th, 30th, 31st
 - Tenancy ends at 1pm on last day of agreement.



Ending a Tenancy (Moving Out)

AUGUST						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31 GIVE NOTICE	

SEPTEMBER						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30 MOVE OUT



TRAC

TENANT RESOURCE & ADVISORY CENTRE

Serving Documents

- There are rules that determine when documents are deemed received by another party:
 - on the **SAME** day if given or served personally
 - on the **THIRD** day after faxing it, attaching it to a door, or leaving it in a mail box or mail slot
 - on the **FIFTH** day after mailing it




Ending a Tenancy (Moving Out)

- Fixed-term tenancies
 - If you move out early, you may owe your landlord money
 - Loss of rental income
 - Liquidated Damages
 - Landlord has duty to mitigate loss
 - Show the rental unit to prospective tenants, advertise at a reasonable rent, etc.
 - Landlord can only end tenancy for cause or unpaid rent



Ending a Tenancy (Moving Out)

- Mutual Agreement to End Tenancy
- Assignment
- Sublet
- RTA Section 45(3)
 - “Material Term”

 **Mutual Agreement to End a Tenancy**

#RTB-8

FORM DIRECTIONS: If you are accessing this form from the B.C. Government Web site, it can be filled out at the computer workstation. It can also be printed and completed by hand. If completing sections by hand, please *print clearly, using dark ink*. If you are completing this form at a computer, simply type in your response where required. It's important to note that you *cannot save* the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require *before* you leave the document or shut down the program/computer.

THIS IS A MUTUAL AGREEMENT BETWEEN

LANDLORD:

Full name of Landlord or Landlord's Agent (if entry is a business name, use "last name" field box to enter the full legal business name)

last name first name middle name(s)

Address of Landlord or Landlord's Agent

suite or site number street number street name city province postal code

() () () () () ()

home phone business phone

AND

TENANT:

Full name(s) of Tenant(s):

last name first name middle name(s)

last name first name middle name(s)

Address of Tenant(s) ... ADDRESS TO BE VACATED UNDER THIS AGREEMENT:

suite or site number street number street name city province postal code

() () () () () ()

home phone business phone

The tenant(s) hereby agrees to vacate the above-named premises/site at:

() a.m. () p.m., on the () day of (), 20 ().

The parties recognize that the tenancy agreement between them will legally terminate and come to an end at this time. It is also understood and agreed that this agreement is in accordance with the Residential Tenancy Act and the Manufactured Home Park Tenancy Act which states: "The landlord and tenant agree in writing to end the tenancy."

DATED THIS DAY OF , 20 .

SIGNED BY:

Landlord or Landlord's Agent Tenant Tenant

FOR MORE INFORMATION . . .

RTB website: www.rto.gov.bc.ca

Public Information Lines: 1-800-665-8779 (toll free) 604-660-1020 250-387-1602

#RTB-08 (2011/03) Residential Tenancy Branch Office of Housing and Construction Standards Ministry of Energy and Mines



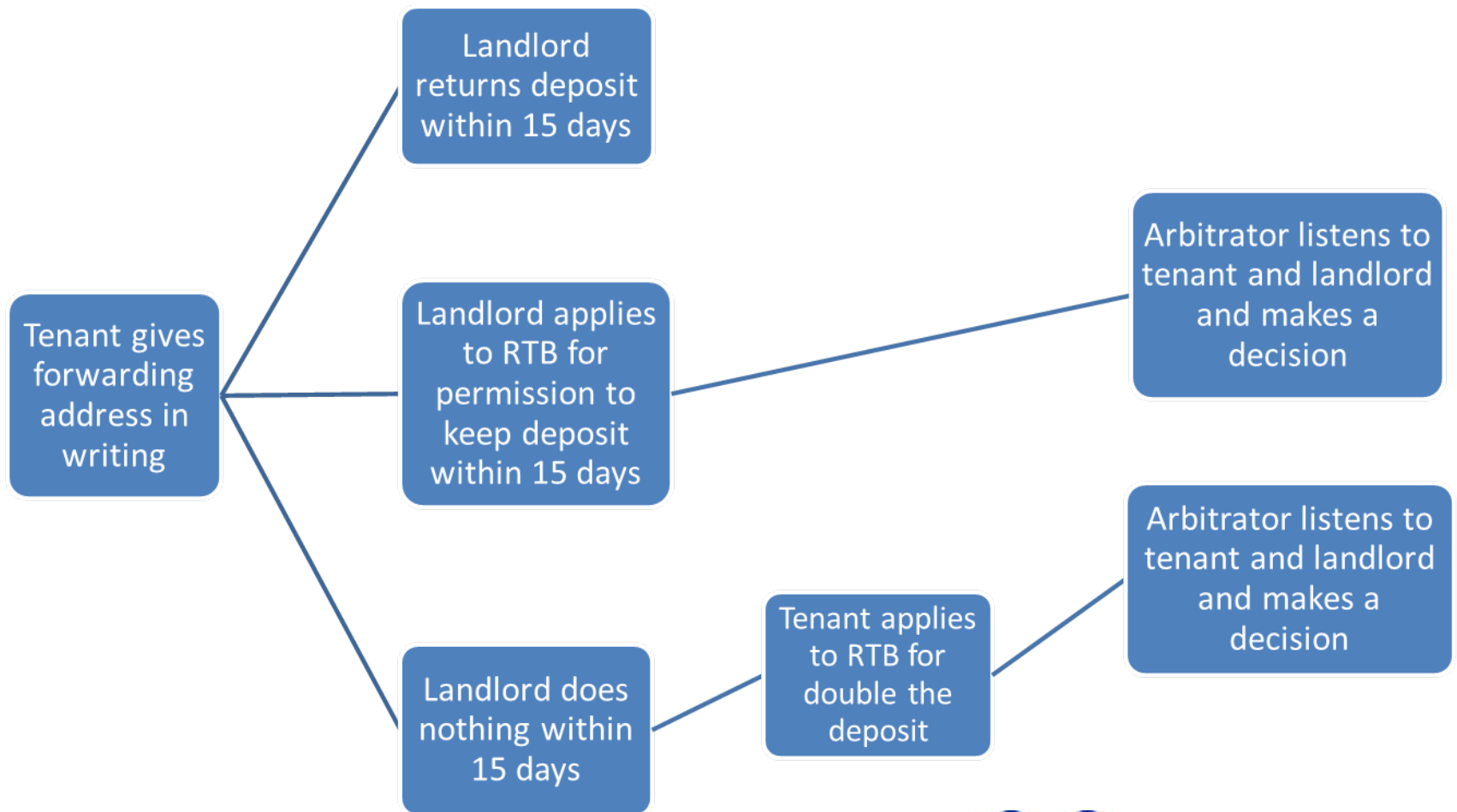
TENANT RESOURCE & ADVISORY CENTRE

Returning Deposits

1. Tenant gives forwarding address in writing within one year of the end of the tenancy.
2. Landlord has 15 days to:
 - a) return deposit to tenant; OR
 - b) ask RTB for permission to keep deposit.
3. If landlord does not do one of those two things, tenant can apply to the RTB for double the deposit.



Returning Deposits – Flowchart



RTB = Residential Tenancy Branch



Eviction

- A landlord can give a tenant an eviction notice (also known as a Notice to End Tenancy) when they want the tenant to move out.
- There are different types of evictions.



Eviction – 10 Day Notice for Non-Payment of Rent

OCTOBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				



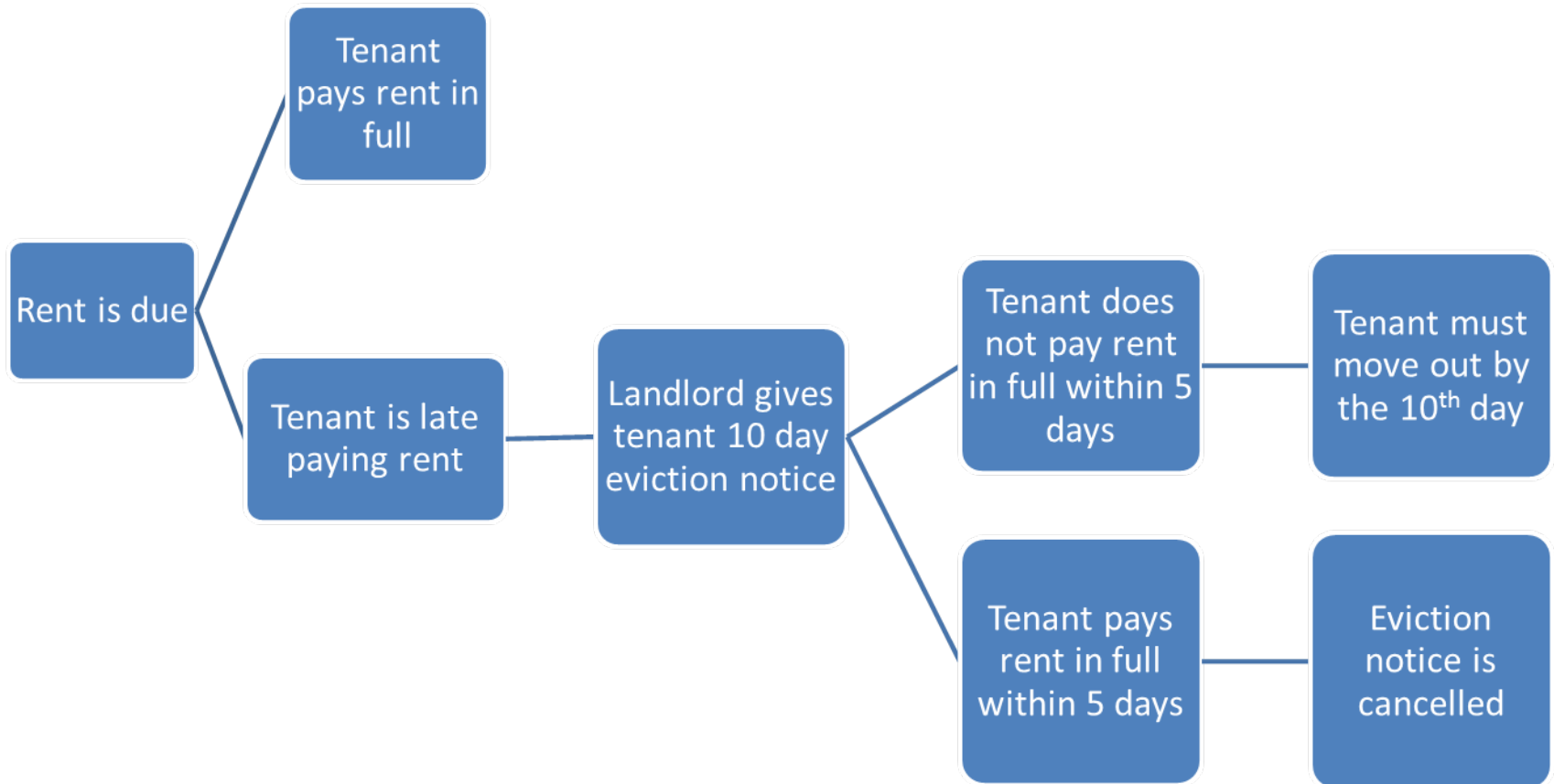
- You may get this eviction notice if you do not pay all of your rent on the day it is due.

Eviction – 10 Day Notice for Non-Payment of Rent

- If you are late paying your rent and your landlord gives you an eviction notice, you have 5 days to pay in order to cancel the eviction notice.
 - You are not allowed to do this every month.
- If you do not pay within 5 days, you must move out by the 10th day.



Paying Rent – Flowchart



Note: You are not allowed to repeatedly pay rent late



Eviction – One Month Notice for Cause

- Reasonable noise is okay.
 - For example: children playing during the day.
- You may get this notice if you are too noisy.



Eviction – One Month Notice for Cause

- You may get this notice if you damage something and do not pay to fix it.



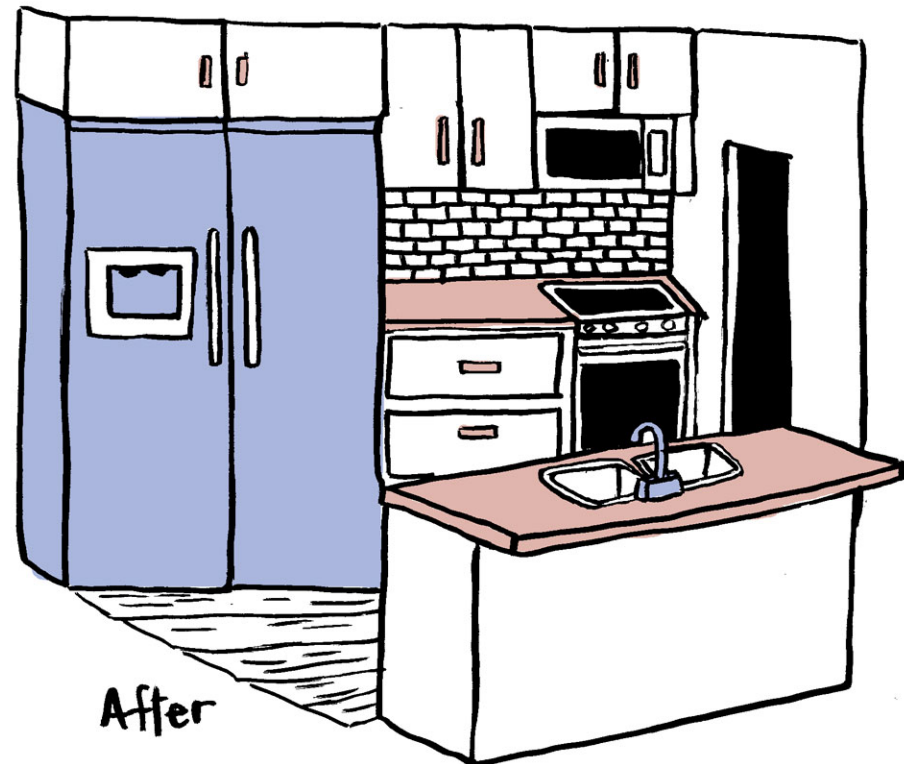
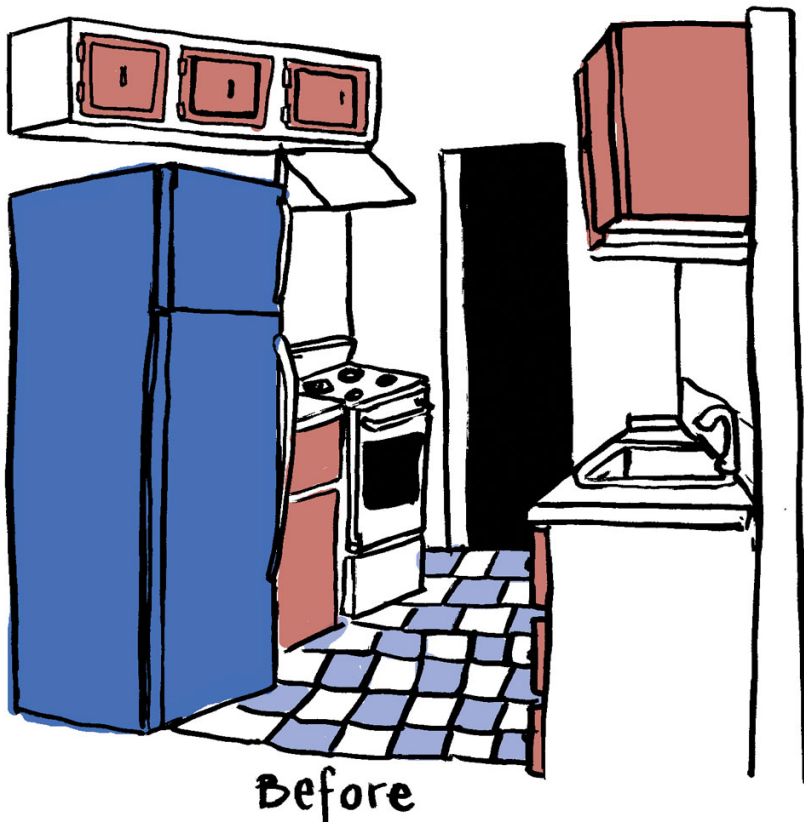
Eviction – Two Month Notice for Landlord Use of Property



- You may get this notice if your landlord or their close family decide to move into your place.
- “Close family”:
 - Landlord’s spouse
 - Parents or children of the landlord or the landlord’s spouse

Eviction – Two Month Notice for Landlord Use of Property

- You may get this notice if your landlord wants to do extensive renovations that require you to move out.



Eviction – Two Month Notice for Landlord Use of Property

- You may get this notice if your landlord wants to demolish (tear down) your rental unit.



Eviction – Two Month Notice for Landlord Use of Property

- If a tenant receives a Two Month Notice for Landlord Use of Property, they get compensated for one month of rent.
- For example: they can live there free for one month.



Disputing an Eviction Notice

- If a tenant does not think they deserve to be evicted, they can dispute the eviction notice.
 - 10 Day Notice = 5 days to dispute
 - One Month Notice = 10 days to dispute
 - Two Month Notice = 15 days to dispute
- If you have evidence that you were not given a two month notice for landlord's use of property in "good faith" and moved out you can apply for compensation.
 - 2 months' rent
- If a tenant does not think they deserve to be evicted, they can dispute the eviction notice.
- Parties need to make sure they submit all the evidence they want to rely on to the RTB and serve it on the opposing party.



Illegal Eviction

- Your landlord may try to illegally remove you from your rental unit.
- In order to legally remove a tenant, a landlord must obtain:
 - RTB Order of Possession
 - Supreme Court Writ of Possession
 - Services of a Court Bailiff



Challenging a Dispute Resolution Hearing Decision

- RTB Review
 - Circumstances beyond individual's control
 - New and relevant evidence
 - Fraud
 - Short timelines specified on form (2 days)
- Judicial Review
 - 60-day timeline



Key Tenant Responsibilities



- Pay rent in full and on time.
- Keep the rental unit reasonably clean.
- Notify the landlord of any repairs immediately.
- Pay for any damage caused beyond normal “wear and tear” (everyday use).
- Don’t unreasonably disturb others.
- Don’t do anything illegal and dangerous.



TENANT RESOURCE & ADVISORY CENTRE

Key Landlord Responsibilities

- Provide a copy of the tenancy agreement form.
- Provide an opportunity to do both a move-in and move-out Condition Inspection Report.
- Provide a receipt for rent paid in cash.
- Return deposits on time.
- Make repairs to ensure that the rental unit complies with health, housing and safety standards required by law.
- Provide quiet enjoyment to tenants.



10 Day Notice to End Tenancy for Unpaid Rent or Utilities

BECAUSE:

You have failed to pay rent
in the amount of \$_____

that was due on _____
Day Month Year

You have failed to pay utilities
in the amount of \$_____ following
written demand on _____

Day Month Year

Tenant: You may be EVICTED if you Do Not Respond to this Notice.

You have five (5) days to pay the rent or utilities to the landlord
or file an Application for Dispute Resolution with the Residential Tenancy Branch.

- ☐ This notice applies to a manufactured home site, *Manufactured Home Park Tenancy Act*, section 39
☐ This notice applies to a rental unit, *Residential Tenancy Act*, section 46

TO the TENANT(S) (full names are required)

If additional space is required to list all parties, use and attach "Schedule of Parties", form #RTB-26.

Last name First and middle names

Last name First and middle names

Tenant Address (address for service of documents or notices – where material will be given personally, left for, faxed, or mailed)

Unit/site # Street # and street name City Province Postal Code

Daytime phone number Other phone number Fax number for document service

FROM the LANDLORD (full names are required)

If additional space is required to list all parties, use and attach "Schedule of Parties", form #RTB-26.

Last name or full legal business name First and middle names

Landlord Address (address for service of documents or notices – where material will be given personally, left for, faxed, or mailed)

Unit/site # Street # and street name City Province Postal Code

Daytime phone number Other phone number Fax number for document service

NOTICE: I am hereby giving you 10 days notice to move out of the rental unit or manufactured home site located at:

Unit/site # Street # and street name City BC Province Postal Code

By: _____
Day Month Year (date when tenant must move out or vacate the site)

Noticed served: In person ☐ On the door ☐ By registered mail ☐

Landlord's or Agent's signature _____
Print name _____ Date _____

This is page 1 of a 2-page Notice.
The landlord must sign page one of this notice and must give the tenant pages 1 & 2.



TENANT RESOURCE & ADVISORY CENTRE

If within 5 days you do not pay the rent or utilities or make an application for dispute resolution, the landlord can apply for an order of possession through the direct request process.

The direct request process is completed without either party attending a hearing.

Instead:

- The landlord makes an application for an order of possession and submits:
 - A copy of the tenancy agreement
 - A copy of this notice
 - Proof that this notice was served
 - An application for Dispute Resolution.
- The landlord will receive a proceeding package which must be served on the tenant within three days.
- The landlord sends the proof of service of the package to the Residential Tenancy Branch.
- A Dispute Resolution Officer will review all documentation and will make a decision.
- The decision is final and binding on both parties.
- Fraud is the *only* reason that will be considered for a review of the decision.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities Can be Served:

- Any day after the rent was due, for unpaid rent.
- 30 days after the tenant was given a written demand to pay the arrears, for unpaid utilities.

The Notice is Deemed Received by the Tenant:

- The day the landlord gives the notice to the tenant in person, or to an adult (19 years or older) who appears to live with the tenant, or
- Three (3) days after the landlord either; leaves the notice in the mailbox or in mail slot; posts it on the door or a noticeable place at the address where the tenant lives; or faxes it to a number provided by the tenant, or
- Five (5) days after the landlord sends the notice by registered mail to the address where the tenant lives.

Disputing the Notice:

- The tenant can make an application for dispute resolution within 5 (five) days of receiving the 10 day notice.
- If the tenant disputes the notice a hearing will be held. Both parties will have an opportunity to participate.
- At the hearing, the landlord can ask for and receive an order of possession if the 10 day notice is upheld by the dispute resolution officer.

Tenants may dispute the notice for specific reasons such as:

- They have proof the rent was paid.
- They have an order from a dispute resolution officer giving them permission to keep all or part of the rent.
- They held part or all of the rent with prior notice to the landlord, for the cost of emergency repairs.

Important Facts:

- The tenant is not entitled to withhold rent unless ordered by a dispute resolution officer.
- The tenant who accepts the notice must move out by the date set out on page 1 of this notice or sooner.
- An error in this notice or an incorrect move-out date does not make it invalid.

For More Information:

- Visit RTB web site at www.rto.gov.bc.ca.
- Contact a RTB office.
- Refer to A Guide for Landlords and Tenants in British Columbia available on the RTB web site and offices.

This is page 2 of a 2-page Notice.

The landlord must sign page one of this notice and must give the tenant pages 1 & 2.

Residential Tenancy Branch Website: www.rto.gov.bc.ca
Ministry of Energy and Mines

RTB Burnaby: 400 – 5021 Kingsway
RTB Victoria: Suite 101 – 3350 Douglas Street
RTB Kelowna: 305 – 478 Bernard Avenue
Public Information Lines: 804-880-1020 250-387-1802
(Toll Free) 1-800-665-8779

#RTB-30 (2011/04)



TENANT RESOURCE & ADVISORY CENTRE

1 MONTH NOTICE TO END TENANCY FOR CAUSE*Residential Tenancy Act, s. 47 and Manufactured Home Park Tenancy Act, s. 40***1 MONTH NOTICE TO END TENANCY FOR END OF EMPLOYMENT***Residential Tenancy Act, s. 48 and Manufactured Home Park Tenancy Act, s. 41***Form #RTB – 33****TENANT: YOU MAY BE EVICTED IF YOU DO NOT RESPOND TO THIS NOTICE.**

Landlord: place an "x" in the appropriate box:	<input type="checkbox"/> Manufactured home site, <i>Manufactured Home Park Tenancy Act</i>
	<input type="checkbox"/> Rental unit, <i>Residential Tenancy Act</i>

To the TENANT(S) (full names are required)				
Last name		First and middle names		
Last name		First and middle names		
Service Address (address where documents will be given personally, left for, faxed, or mailed to the tenant for service)				
Unit/site #	Street # and street name	City	Province	Postal Code
Daytime phone number	Other phone number	Fax number for service of documents		

From the LANDLORD (if the landlord is a business name, enter the full legal business name in the "last name" box)				
Last name		First and middle names		
Service Address (address where documents can be given personally, left for, faxed, or mailed to the landlord for service)				
Unit/site #	Street # and street name	City	Province	Postal Code
Daytime phone number	Other phone number	Fax number for service of documents		

NOTICE TO END TENANCY**I, the landlord, am hereby giving you one month notice to move out of the rental unit or manufactured home site located at:**

Unit/site #	Street # and street name	City	BC	Province	Postal Code
by (date when tenant must move out of the rental unit or vacate the site)					
date	month	year	Landlord's or Agent's signature		
			Print name		
			Date		

This is page 1 of a 2-page Notice. The landlord must sign this Notice and the tenant must receive page 1 and page 2.

REASONS FOR THIS 1 MONTH NOTICE TO END THE TENANCY (put an "x" in all the boxes that apply)	
<input type="checkbox"/>	Tenant is repeatedly late paying rent
<input type="checkbox"/>	Tenant has allowed an unreasonable number of occupants in the unit/site
<input type="checkbox"/>	Tenant or a person permitted on the property by the tenant has:
<input type="checkbox"/>	significantly interfered with or unreasonably disturbed another occupant or the landlord
<input type="checkbox"/>	seriously jeopardized the health or safety or lawful right of another occupant or the landlord
<input type="checkbox"/>	put the landlord's property at significant risk
<input type="checkbox"/>	Tenant has engaged in illegal activity that has, or is likely to:
<input type="checkbox"/>	damage the landlord's property
<input type="checkbox"/>	adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
<input type="checkbox"/>	jeopardize a lawful right or interest of another occupant or the landlord
<input type="checkbox"/>	Tenant has caused extraordinary damage to the unit/site or property/park
<input type="checkbox"/>	Tenant has not done required repairs of damage to the unit/site
<input type="checkbox"/>	Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so
<input type="checkbox"/>	Tenant has assigned or sublet the rental unit/site without landlord's written consent
<input type="checkbox"/>	Tenant knowingly gave false information to prospective tenant or purchaser of the rental unit/site or property/park
<input type="checkbox"/>	Rental unit/site must be vacated to comply with a government order
<input type="checkbox"/>	Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order
<input type="checkbox"/>	Tenant's rental unit/site is part of an employment arrangement that has ended and the unit/site is needed for a new employee
<input type="checkbox"/>	Residential Tenancy Act only: security or pet damage deposit was not paid within 30 days as required by the tenancy agreement

WHEN THE TENANT WILL BE ASSUMED TO HAVE RECEIVED THIS NOTICE

- The date when the landlord gives this Notice to the tenant in person, or
- The date when the landlord leaves this Notice with an adult (19 years or older) who apparently lives with the tenant, or
- 3 days after the landlord leaves this Notice in the mailbox or mail slot for the address where the tenant lives, or
- 3 days after the landlord faxes this Notice to a fax number provided by the tenant, or
- 3 days after the landlord attaches a copy of this Notice to the door or other noticeable place at the address where the tenant lives, or
- 5 days after the landlord mails this Notice (by registered or regular mail) to the tenant at the address where the tenant lives.

INFORMATION FOR TENANTS WHO RECEIVE THIS NOTICE TO END TENANCY

- You have the right to dispute this Notice within 10 days after you receive it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. A Dispute Resolution Officer may extend your time to file an Application, but only if he or she accepts your proof that you had a serious and compelling reason for not filing the Application on time.
- If you do not file an Application within 10 days, you are presumed to accept this Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of this Notice (You can move out sooner.) If you do not file an Application, move or vacate, your landlord can apply for an Order of Possession that is enforceable through the court.

INFORMATION FOR LANDLORDS SERVING THIS NOTICE TO END TENANCY

- For repeated late rent payment, you can give this Notice any time after the third occurrence. However, if the occurrences were far apart, a Dispute Resolution Officer may decide that, in the circumstances, the tenant cannot be said to be "repeatedly late".
- Take steps to confirm that the tenant actually receives this Notice when it is assumed to be received. A Dispute Resolution Officer may set this Notice aside if the tenant can prove that he/she did not receive this Notice due to circumstances beyond his/her control.
- If the tenant fails to move out of the rental unit or vacate the site, or if you believe the tenant does not intend to move out or vacate and the tenant's deadline to dispute this Notice has expired, you can apply for an Order of Possession.
- If the tenant applies to dispute this Notice, you can attend the tenant's hearing and verbally ask for an Order of Possession.

INFORMATION FOR BOTH LANDLORDS AND TENANTS

- Keep copies of all Notices to End Tenancy and record each date and how the Notice was given or received.
- An error in this Notice or an incorrect move-out date on this Notice does not make it invalid. A Dispute Resolution Officer can order that the tenancy ends on a date other than the date specified in this Notice.
- It is against the law for a landlord to (1) physically evict a tenant without a Writ of Possession, or (2) change the locks without a Dispute Resolution Officer's order to do so, or (3) seize a tenant's personal property without a court order.
- More information is available online: www.rto.gov.bc.ca
Or by telephoning: Lower Mainland 604-660-1020 Victoria 387-1602 Elsewhere in B.C. 1-800-665-8779

This is page 2 of a 2-page Notice. The landlord must sign this Notice and the tenant must receive page 1 and page 2.



TENANT RESOURCE & ADVISORY CENTRE

Tenant's Application for Dispute Resolution

For RTB use only: File # _____

☐ This application is being made under the *Manufactured Home Park Tenancy Act*

☐ This application is being made under the *Residential Tenancy Act*

Tenant(s) (Applicant(s): The person asking for dispute resolution)

If additional space is required to list all parties, use and attach "Schedule of Parties", form #RTB-26.

Last name		First and middle names	
Last name		First and middle names	

Applicant Address (address for service of documents or notices – where material will be given personally, left for, faxed, or mailed)

Unit/site #	Street # and street name	City	Province	Postal Code
Daytime phone number	Other phone number	Fax number for document service		

☐ Yes, a Schedule of Parties (#RTB-26) is being used to add more Applicants to this application and it is attached.

☐ Yes, the **Mailing Address** is different from the Applicant Address, and it is attached.

Dispute Address (address of the rental unit or manufactured home site)

Unit/site #	Street # and street name	City	Province	Postal Code
-------------	--------------------------	------	----------	-------------

Landlord(s) (Respondent(s): The other party to the dispute)

If additional space is required to list all parties, use and attach "Schedule of Parties", form #RTB-26.

Last name or full legal business name		First and middle names	
Last name (if more than one landlord, also use form #RTB-26)		First and middle names	

Respondent Address (address for service of documents or notices – where material will be given personally, left for, faxed, or mailed)

Unit/site #	Street # and street name	City	Province	Postal Code
Daytime phone number	Other phone number	Fax number for document service		

☐ Yes, a Schedule of Parties (#RTB-26) is being used to add more Respondents to this application and it is attached.

☐ Yes, the **Mailing Address** is different from the Respondent Address, and it is attached.

TO FILE THIS APPLICATION:

- On this page, fill in the information boxes.
- On page 2, check the boxes that apply to your request, provide details and sign at the bottom.
- Submit your application in-person at:

- RTB Burnaby: 400 – 5021 Kingsway
- RTB Kelowna: 305–478 Bernard Avenue
- RTB Victoria: Suite 101 – 3350 Douglas Street
- Any Service BC–Government Agents Office

• Applications may also be submitted online at www.rto.gov.bc.ca.

- Do not give a copy of your Application to the Respondent(s) until the Residential Tenancy Branch accepts it and you have paid the application fee or obtained a fee waiver.

RTB use only
date stamp & initial

Residential Tenancy Branch Office of Housing and Construction Standards Ministry of Energy and Mines

Public Information Lines: 1-800-665-8779 (toll free) 604-660-1020 250-387-1602

Website: www.rto.gov.bc.ca

#RTB-12-T (2011/03)



TENANT RESOURCE & ADVISORY CENTRE

Tenant's Application for Dispute Resolution

Page 2

For RTB use only: File # _____

Nature of the Dispute

More time needed for application process

- ☐ Allow a tenant more time to make an application to cancel a *Notice to End Tenancy* MT
Date the *Notice to End Tenancy* was received: _____

Dispute an additional rent increase

- ☐ Dispute an additional rent increase DRI

Cancel a *Notice to End Tenancy* issued for the following reason:

- ☐ Tenant does not qualify for subsidized housing CNQ
☐ Tenant's employment with landlord has ended CNE
☐ Cause (state provision of the Act in the 'Details of the Dispute' box below) CNC
☐ Landlord's intention to convert manufactured home park to another use CNLC
☐ Landlord's use of rental property CNL
☐ Unpaid rent or utilities CNR

Monetary Order for the following reason:

- ☐ Cost of emergency repairs MNR
☐ Money owed or compensation for damage or loss under the Act, regulation or tenancy agreement MNDC
☐ Return of all or part of pet damage deposit or security deposit MNSD

The request for a Monetary Order is for the following amount:

Provide a detailed calculation of the amount in the 'Details of the Dispute' box below. \$

Landlord's action sought

- ☐ Comply with the Act, regulation (state section in the 'Details of the Dispute' box below), or tenancy agreement (provide a copy) OLC
☐ Make emergency repairs for health or safety reasons ERP
☐ Make repairs to the unit, site or property RP
☐ Provide services or facilities required by law (state Act and section in the 'Details of the Dispute' box below) PSF
☐ Return the tenant's personal property RPP
☐ Suspend or set conditions on the landlord's right to enter the rental unit LRE

Tenant's action sought

- ☐ Obtain an Order of Possession of the rental unit or site OPT
☐ Allow access to (or from) the unit or site for the tenant or the tenant's guests AAT
☐ Authorize a tenant to change the locks to the rental unit LAT
☐ Allow a tenant to assign or sublet because the landlord's permission has been unreasonably withheld AS
☐ Allow a tenant to reduce rent for repairs, services or facilities agreed upon but not provided RR

Other

- ☐ Recover filing fee from the landlord for the cost of this application FF
☐ Serve documents or evidence in a different way than required by the Act SS
☐ Other (provide details in the 'Details of the Dispute' box below) O

Details of the Dispute

In two or three sentences, describe the issue. Include any dates, times, people or other information that says who, what, where and when the issue arose or the event occurred. When the dispute includes a request for a Monetary Order, include a detailed calculation. Attach a separate sheet if necessary. Any additional sheets must be signed.

Signature: _____ Date: _____

Print name: _____

The personal information recorded on this form is collected under the authority of s. 59 Residential Tenancy Act and s. 52 Manufactured Home Park Tenancy Act for the purpose of administering the Acts. The information may be disclosed to the public in accordance with the Freedom of Information and Protection of Privacy Act. Questions about the collection of this information may be directed to an Information Officer: Lower Mainland 604-660-1020 Victoria 250-387-1602 Elsewhere in B.C. 1-800-665-8779



TENANT RESOURCE & ADVISORY CENTRE



Residential
Tenancy Branch

Application to Waive Filing Fee

#RTB-17

FORM DIRECTIONS: If you are accessing this form from the B.C. Government Web site, it can be filled out at the computer workstation. It can also be printed and completed by hand. If completing sections by hand, please *print clearly, using dark ink*. If you are completing this form at a computer, simply type in your response where required. It's important to note that you *cannot save* the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require *before* you leave the document or shut down the program/computer.

This Application to Waive Filing Fee accompanies my Application for:

☐ Dispute Resolution ☐ Review of Decision or Order of a Dispute Resolution Officer ☐ Substitute Service

APPLICANT:

last name first name middle name(s)

CURRENT ADDRESS:

suite or site number street number street name city province postal code
()
phone number

DISPUTE ADDRESS: (if different from current address)

suite or site number street number street name city B.C. postal code

Number of people occupying the premises: Number of dependents:

The total gross monthly household income* is: \$ **A**
(*total gross monthly household income, before deductions, of all persons occupying the premises where the applicant resides)

This month I have exceptional expenses of: (e.g. unusual medical expenses)

Description	Amount
<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	\$ <input type="text"/>
Total of exceptional expenses \$ <input type="text"/> B	
TOTAL: A (\$ <input type="text"/>) - B (\$ <input type="text"/>) = \$ <input type="text"/>	

OFFICE USE ONLY - National Council of Welfare Low-Income Guideline \$

I understand that if I do not attend the hearing for any valid legal reason, and have not cancelled my application(s) at least two full days in advance of the hearing, I will no longer be eligible for a fee waiver relative to this dispute and future Applications for Dispute Resolution. I declare that the information I have provided above is true. I am aware that it is against the law to make a false declaration.

Applicant's Signature: _____

Date: _____

☐ Approved ☐ Not Approved

Information Officer _____

File # _____

Cashier Transaction No. _____

Cashier's Initials _____

#RTB-17
(2011/03)

FOR MORE INFORMATION
RTB website: www.rto.gov.bc.ca

Public Information Lines: 1-800-665-8779 (toll free) 604-660-1020 250-387-1602

Residential Tenancy Branch
Office of Housing & Construction Standards
Ministry of Energy and Mines



TENANT RESOURCE & ADVISORY CENTRE



August 31, 2011

RESPONDENT:

APPLICANT:

NOTICE OF A DISPUTE RESOLUTION HEARING

Concerning premises at:

File No.

A date has been set for a hearing to resolve the dispute described in the attached Application form. This hearing will be conducted by **TELEPHONE CONFERENCE CALL**. Please use one of the following phone numbers and passcode to join the Telephone Conference Call.

DATE AND TIME OF HEARING:

(Pacific Time)

Phone Number

- Vancouver area: (604) 899-1159
- All other locations: 1 (888) 458-1598 (toll free call)

Access Code:

INSTRUCTIONS:

1. At the scheduled start time, call one of the numbers available:
Vancouver (604)899-1159 OR, for all other areas, 1(888) 458-1598.

NOTE: Calling in prior to your scheduled start time may result in you not successfully entering your hearing.
Press *0 to reach an operator if you encounter a problem joining the conference call or anytime during the call.

Now, follow the prompts:

2. When asked, key in your access code: it is shown above.
3. When asked, say your FULL NAME, then press #.
4. You have now joined the conference call, and will hear music while others join the call.

GENERAL INFORMATION about your responsibility and the hearing

1. Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions for evidence processing are included in this package. Deadlines are critical.
2. Residential Tenancy Branch Rules of Procedure apply to the proceedings: For details, contact the RTB or a Service BC Office or check online at <http://www.rto.gov.bc.ca/>.
3. You (or your agent) must participate in the hearing at the time and date assigned.
4. The hearing will continue without you if you or your representative is not in attendance.
5. A final and binding decision will be issued once the hearing is concluded.

RESIDENTIAL TENANCY BRANCH

Attachments: Originating Application
RTB Fact Sheets containing important information for you

Office of Housing and Construction Standards
Residential Tenancy Branch

Mailing Address:
PO Box 9298
Stn Prov Govt
Victoria BC V8W 9J8

Telephone: 604 660-1020
Toll Free: 1 800 665-8779
Facsimile: 604 660-2363



TRAC

TENANT RESOURCE & ADVISORY CENTRE



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No.

Date: March 05, 2012

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78., as amended

Between

, Landlord(s),

Applicant(s)

And

, Tenant(s),

Respondent(s)

Re: An application pursuant to sections 55, 67, 72 of the *Residential Tenancy Act* regarding a rental unit at:

ORDER

I AUTHORIZE AND COMMAND YOU, _____ and All Occupants, and any guest or other person occupying the above noted rental unit, to deliver full and peaceable vacant possession and occupation of the rental unit to the Landlord not later than **two (2) days** after service of this Order upon you.

Dated: March 05, 2012


Residential Tenancy Branch



TRAC

TENANT RESOURCE & ADVISORY CENTRE

Application for Review Consideration

#RTB - 2

FORM DIRECTIONS: If you are accessing this form from the B.C. Government Web site, it can be filled out at a computer workstation. It can also be printed and completed by hand. If completing sections by hand, please *print clearly, using dark ink*. If you are completing this form at a computer, simply type in your response in the boxes. If you cannot complete all the sections at the computer right away, you can print off what you have completed, and fill in the remaining fields by hand. It's important to note that you **cannot save** the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require **before** you leave the document or shut down the program/computer.

The personal information recorded on this form is collected under the authority of s. 59 Residential Tenancy Act and s. 52 Manufactured Home Park Tenancy Act for the purpose of administering the Acts. The information may be disclosed to the public in accordance with the Freedom of Information and Protection of Privacy Act. Questions about the collection of this information may be directed to an Information Officer:
1-800-665-8779 (toll free) 604-660-1020 250-387-1602

RTB use only -
date stamp & initial

DECISION or ORDER to BE REVIEWED

Residential Tenancy Branch File No. (see decision): Review of: ☐ Decision ☐ Order

REVIEW APPLICANT(S) (person[s] asking for the review): (check one box) ☐ Tenant ☐ Landlord

Full name(s) of Applicant(s): (if entry for landlord is a business name, use the 'last name' field box to enter the full legal business name)

<input type="text"/>	<input type="text"/>	<input type="text"/>
last name	first name	middle name(s)
<input type="text"/>	<input type="text"/>	<input type="text"/>
last name	first name	middle name(s)

Address of Applicant(s) (current address for service of documents):

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
suite or site number	street number	street name	city	province	postal code
(<input type="text"/>) <input type="text"/>	(<input type="text"/>) <input type="text"/>	(<input type="text"/>) <input type="text"/>	(<input type="text"/>) <input type="text"/>		
home phone	business phone	service fax			

DEADLINE for THIS APPLICATION

You must submit your application:

- **within 2 days** of the date you receive the decision or order where the decision or order relates to an early end of tenancy, an order of possession for a landlord or tenant, unreasonable withholding of consent by a landlord regarding assignment and subletting or a landlord's notice to end a tenancy for non-payment of rent
- **within 5 days** of the date you receive the decision or order, where the decision or order relates to a notice to end tenancy for any other reason; repairs or maintenance; or services or facilities.
- **within 15 days** of the date you receive the decision or order, where the decision or order relates to **any** other part of the Residential Tenancy Act or the Manufactured Home Park Tenancy Act.

	Date Issued	Date Received	How You Received It
Decision	<input type="text"/>	<input type="text"/>	<input type="text"/>
Order	<input type="text"/>	<input type="text"/>	<input type="text"/>

A. REQUEST FOR EXTENSION OF TIME TO APPLY FOR REVIEW

If you are filing this application beyond the time allowed by the RTA or the MHPTA you must complete this section. Time extensions may be granted only in exceptional circumstances, such as a natural disaster or a medical emergency.

☐ I am requesting an extension of time to make this application:

State why you were not able to apply for review within the required time frame and **LIST** and **ATTACH** evidence, such as a copy of your hospital admissions form.

B. GROUNDS for REVIEW

There are three reasons (grounds) in the RTA and MHPTA that allow a decision or order to be reviewed.

- ☐ I was not able to attend the hearing due to circumstances that could not be anticipated and were beyond my control (e.g., an earthquake or a medical emergency)..... GO TO C1.
- ☐ I have new and relevant evidence that was not available at the time of the hearing GO TO C2.
- ☐ I have evidence that the decision was obtained by fraud. GO TO C3.

A review is not an opportunity to re-argue the case. These are the only reasons that a decision may be reviewed.

C. DETAILED INFORMATION ON REASONS FOR REQUESTING A REVIEW

Please provide additional information or arguments on a separate page if necessary.

☐ C1. UNABLE TO ATTEND

What happened that was beyond your control or that could not have been anticipated that prevented you from attending the original hearing?

What testimony or additional evidence would you have provided if you were at the hearing?

If you have no other grounds, go to D.

If you have further grounds for review, continue on page 3.



☐ **C2. NEW AND RELEVANT EVIDENCE**

List EACH item of new and relevant evidence and state WHY it was not available at the time of the hearing and HOW it is relevant.

If you have no other grounds, go to D.
If you have further grounds for review, go to C3.

☐ **C3. FRAUD**

Three elements are required to show a decision or order was obtained by fraud:

1. False information was submitted
2. The person submitting the evidence knew that it was false, **and**
3. The false information was used to get the desired outcome.

Which information submitted for the initial hearing was false and what information would have been true?

How did the person who submitted the information know it was false?

How do you think the false information was used to get the desired outcome?

Go to D.

D. Signature(s) (required to commence review)

I/We, the Applicant(s)/Agent for the Applicant(s), apply to the Director of the Residential Tenancy Branch for a review of this decision and/or order of the Residential Tenancy Branch. I/We have read this application in full. The information provided is true and correct to the best of my/our knowledge.

Signature(s): _____ Date: _____
day month year

Date: _____
day month year

E. SUPPORTING DOCUMENTS and INFORMATION

ATTACHMENTS:

You **must attach** all written evidence to support your application, including a copy of the decision(s) and/or order(s) being reviewed.

Please **do not resubmit** evidence from the original hearing.

Please check off what is attached to this form:

- ☐ copy of decision or order you wish to have reviewed
- ☐ evidence proving the extraordinary conditions that prevented you from making your application for review on time, as described in Section A of this form
- ☐ evidence showing why you were not able to attend the original hearing, as described in C1 of this form
- ☐ new and relevant evidence that was not available at the time of the original hearing, as described in C2 of this form
- ☐ evidence showing how fraud was used to get the original decision or order, as described in C3 of this form
- ☐ additional pages (state what the additional pages are for:)

WHERE TO SUBMIT:

Submit completed *Application for Review Consideration*, with attachments and fee, to one of the following offices:

Residential Tenancy Branch

BURNABY: 400 - 5021 Kingsway V5H 4A5
VICTORIA: 101 - 3350 Douglas Street V8Z 3L1
INTERIOR: 305 - 478 Bernard Avenue, Kelowna V1Y 6N7

If there is no Residential Tenancy Branch office in your area, you can file your application at any

Service BC-Government Agent Office (To locate an office near you, call Enquiry BC 1 800 663-7867)



Summary

- If you want to tell your landlord to stop breaking the law, ask them in writing.
 - TRAC has template letters.
 - Letters are better than emails and text messages.
- Always remember to think about evidence.
 - Take photographs, get witnesses, keep receipts.
- If you are unsure about something, ask for help!



Tenant Resource & Advisory Centre

- TRAC provides free legal information for tenants living in British Columbia.
 - Legal Education Workshops
 - In-person
 - Webinars
 - Phone Service
 - Monday-Friday (8am-4pm)
 - Website: www.tenants.bc.ca
 - Twitter and Facebook



TENANT RESOURCE & ADVISORY CENTRE

Resources

TRAC

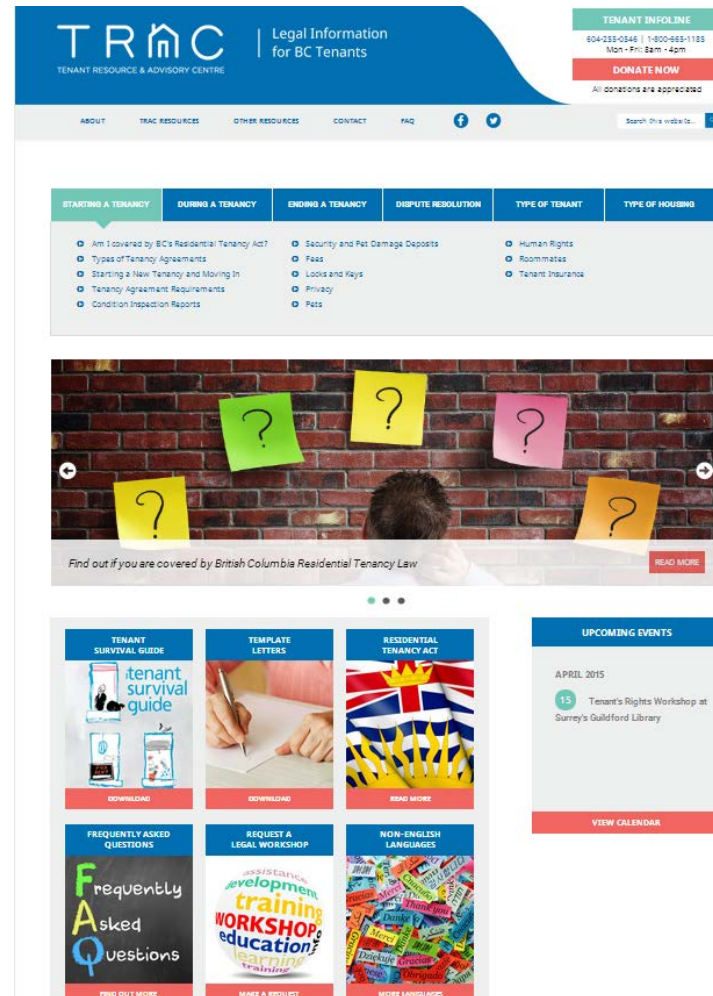
- Website: www.tenants.bc.ca
- Email: info@tenants.bc.ca
- Telephone:
 - 604-255-0546
 - 1-800-665-1185



@TRAC_BC



“TRAC Tenant Resource & Advisory Centre”



TRAC

TENANT RESOURCE & ADVISORY CENTRE

TRAC Resources

- Tenant Survival Guide
- Landlord Guide
- Tenant Info Pamphlet
- Template Letters
- Fact Sheets



TENANT RESOURCE & ADVISORY CENTRE

Urgent Evictions and Judicial Reviews

- Refer clients to Community Legal Assistance Society (CLAS) where they have an RTB decision that they do not like, such as cases of urgent evictions
- We will consider case for judicial review and discuss options and process



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TENANT RESOURCE & ADVISORY CENTRE

Resources


Residential Tenancy Branch

- Website: www.gov.bc.ca/landlordtenant
- Email: HSRTO@gov.bc.ca
- Telephone Infoline to access Information Officers:
 - 604-660-1020
 - 1-800-665-8779
- Offices:
 - 400 – 5021 Kingsway Ave, Burnaby
 - 390 Main St. (at Hastings), Vancouver*
 - 518 Richards St., Vancouver*
 - 101 – 3350 Douglas St., Victoria
- Service BC Centres
 - www.servicebc.gov.bc.ca/locations/



***Only accepts dispute resolution applications from low income tenants**

Resources

Clicklaw  SOLVE PROBLEMS. FIND HELP.

Refine your search

- HelpMap ☒
- Housing, tenancy & neighbours ☒
- Vancouver ☒
- Mandarin ☒

+ Topic

+ Location

+ Language

+ Type of service

Map Satellite Hybrid

Description Restrictions

UBC Law Students Legal Advice Clinics
- SUCCESS (Chinatown)
28 West Pender St., Vancouver, V6B 1R6

Waterfront East + Ind
Vancouver
Stadium-Chinatown Skytrain
Victory Square
Beatty St
Abbott St
W Pender St
C Cordova St
E Hastings St
Main St
Keefer St
Dune
Livingstone
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www.clicklaw.bc.ca

povnet  

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- Online Resources
- Government Info
- Events Calendar
- Job Postings
- Research & Analysis
- Resource Types
- Search

www.povnet.org



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TENANT RESOURCE & ADVISORY CENTRE

Different Languages

- Information Sheets available on RTB web site in French, Arabic, Simplified Chinese, Traditional Chinese, Filipino, Japanese, Portuguese, Punjabi, Russian, Spanish, & Vietnamese
- TRAC has information available in Arabic, Burmese, Simplified Chinese, Traditional Chinese, Dari, Filipino, French, Hindi, Japanese, Korean, Persian, Portuguese, Punjabi, Russian, Spanish, Swahili, Urdu, & Vietnamese
- Tenants are expected to provide their own translators at hearings



PovNet Email Lists

- PovNet hosts confidential email lists for front line workers, advocates, community, and settlement workers.
- Lists include housing, welfare, & intercultural
- Email co-ordinator@povnet.org to sign up





- A password-protected site for sharing resources and authoritative information on different poverty law topics.
- PovNetters upload, annotate, and share legal arguments, submissions, decisions, materials & resources



Questions?



Helping Clients Deal with Violence: Planning for Safety, Managing Risk

Presenters/Provincial Settlement Conference 2015

- Gisela Ruebsaat B.A. LL.B.
 - Legal Analyst, Community Coordination for Women's Safety
- Laura Woods
 - Program Manager, EVA BC
- Ram Sidhu
 - Program Manager, Sources BC



Workshop Outline

- Violence against women/overview
- Protection Orders/overview
- Risk Assessment & Safety Planning
 - Case Study
- Resources
- Discussion



Spotting the signs – before somebody dies

'The red flags are there, but the problem is in the co-ordination,' says the Crown prosecutor behind a new pilot project



JUSTINE HUNTER

jhunter@globeandmail.com

VICTORIA

In the early hours of Sept. 4, 2007, a frantic 911 call was placed from inside a million-dollar Oak Bay home. By the time a police officer responded nine minutes later, the house was silent. All five members of the family, including a six-year-old boy, were dead of multiple stab wounds inflicted by the boy's father.

Two weeks ago, Merritt RCMP responded to a call from a mother who had just returned to a grisly scene. Inside her trailer home, police found the bodies of her three children, aged 10, 8 and 5. Their father is the prime suspect.

In hindsight, Peter Hyun Joon Lee, the Oak Bay man who slaughtered his family with a knife last fall, was a powder keg who shouldn't have been trusted to respect the restraining order that was supposed to protect his family.

In hindsight, Allan Dwayne Schoenborn, who had already violated a protection order in place for the children's mother, was also a high risk for domestic homicide. He is now in custody on suspicion of murdering his three young children in Merritt.

Tormenting the judges, law-

SCENES OF TRAGEDY || OAK BAY || MERRITT



One of five bodies is removed from a house in Oak Bay last September. Peter Lee killed four family members and himself. DEDDEDA STEMLER FOR THE GLOBE AND MAIL

BC Inter-Ministry Violence Against Women Steering Team **Definition of Violence Against Women ~ March 2010**

- Violence against women includes any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life.

United Nation Declaration on the Elimination of Violence against Women 1993

It can be lethal

- On average, one woman is murdered by her partner in Canada every six days

Homicide Canada 2009, Sara Beatty, Juristat



Some additional factoids

- Domestic violence is equally present in all socioeconomic groups.

Statistics Canada 2009

General Social Services Survey on Victimization

- Women of higher social and economic class may have resources to leave, but risk shame, loss of status and identity.

Why it can be hard to leave

- In half of all cases of killings of female partners in Canada the woman was killed within two months of leaving the relationship.

Dept of Justice Factsheet, 2006



The Importance of Coordination

Intimate partner violence accounts for 26% of all violent crimes that come to the attention of police (Statistics Canada, 2013, Singh; Homicides in Canada, 2012).

- Only 22% of IPV cases came to the attention of police in 2009 (General Social Survey, 2012)

Sexual assault is the most underreported crime (Statistics Canada)

When Do Women Seek Help?

- When their children are at risk
- When they feel safe and supported

<http://endingviolence.org/prevention-programs-the-safety-of-immigrant-refugee-and-non-status-women-project/>

Quote

“Fragmented Services create dangerous chasms into which both workers and children can fall.”

(Taylor & Kroll 2004)



What if my client is fearful but in no immediate danger

- She can make a safety plan to protect herself and any family members
- She can get a **protection order**
- Her partner does not need to have been charged or convicted of an offence to get certain types of protection orders



What if my client is fearful but in no immediate danger

A protection order is:

- a term used to describe decisions made by a judge to protect one person from another.
- an order that lists protective conditions that must be followed such as no contact or limited contact



What if my client is fearful but in no immediate danger

She can:

- ask the police or RCMP to help her get a Peace Bond
- apply to court for a family law protection order
- Make sure she gets a copy of the order once it is issued



What if my client is fearful but in no immediate danger

She can:

- ask a social worker to apply for protective intervention order



Peace Bonds vs FLA Orders

Peace Bonds

- Made in Criminal Court
- Can protect her from anyone
- Protection limited to woman, her children & current partner
- Police can apply for it

Family Court Protection Orders

- Made in family court
- Can protect her from “family members”
- Extended family could also be protected if living with the woman
- Best if lawyer applies for it

Peace Bonds vs FLA Orders

Peace Bonds

- lasts up to one year
- breach is a criminal offence
- police more familiar with enforcement of breach
- Can be enforced anywhere in Canada
- Included on CPIC

Family Court Protection Orders

- lasts until end date specified by judge; if no end date, lasts one year
- breach is criminal offence
- police less familiar with enforcement process
- may register to have it enforced out of province

Other Types of Protection Orders

- Criminal orders include:
 - Judicial Interim Release Orders (Bail)
 - Police Release on a Promise to Appear with an Undertaking
 - *Criminal Code* and *Youth Criminal Justice Act* Recognizances (Peace Bonds)
 - Probation Orders
 - Conditional Sentence Orders



Types of Protection Orders

- Protective conditions imposed pursuant to the *Immigration and Refugee Protection Act*
 - The immigration appeal division can stay the issuance of a removal order for a permanent resident convicted of assault and place the abuser on terms and conditions. If these are breached, the stay is lifted and the removal process is again triggered.



Challenges — the Need for Effective Enforcement

■ Practice Issues

- Certain factors are unique to violence against women in relationships cases:
 - Ongoing contact and/or dependency between victim and defendant
 - Pressure put on victim by defendant to have the order varied
 - Issuance of “mutual” restraining orders is usually inappropriate



Challenges — the Need for Effective Enforcement

- Practice Issues

- Consequences if the order is not enforced:
 - The victim, assuming she is protected, may be lulled into a false sense of security and may not take the necessary precautions
 - The violence may escalate
 - The victim may feel negative and cynical about the justice system and less willing to use it in future
 - The defendant has time to apply pressure on the victim and break her resolve to pursue the matter further



Challenges — the Need for Effective Enforcement

- Policy/Legal Issues

- Coordinating the different response systems and players involved is complex, e.g. child welfare, family courts, criminal courts, medical services, immigration, corrections
- Lack of clarity about which agency to take the lead in enforcing non-criminal orders



Strategies — the Need for Effective Enforcement

- Varying the Order
 - Police, Crown Counsel or a victim assistance worker to meet with a victim before an application to vary a protection order is heard in court
 - Requirement for victim to be present in the courtroom for any application which may effect her safety



Strategies — the Need for Effective Enforcement

- Negative consequences if order not enforced
 - Policy/practice/training which emphasizes that the victim **must** receive a copy of the protection order and all its conditions
 - Protection orders to be provided to victim assistance workers upon victim consent



Other Resources

- *For Your Protection: Peace Bonds and Family Law Protection Orders* at: www.legalaid.bc.ca/publications
- *Live Safe-End Abuse Protection Orders* at: www.legalaid.bc.ca/publications
- *New Family Law Act Information Bulletin* at: www.endingviolence.org



Risk Assessment & Safety Planning

- Risk identification and safety planning is a process to work with a woman to help her identify and reduce her risk of being harmed, or even killed, by an abuser.
- Increasing her safety can make an enormous difference to her ability to keep her children safe, and to empower her to take control of her life.



Disclaimer

This presentation is not intended to teach you how to conduct a formal risk assessment, or to develop comprehensive safety plans. Rather, it is intended to introduce you to the risk factors common to domestic violence cases, to explain how an understanding of them can be used in effective safety planning, and to familiarize you with some basic safety plan components and templates.



Resource

- This presentation is adapted from EVA BC's *Safety Planning Across Culture and Community: A Guide for Front Line Violence Against Women Responders*
- The entire 136-page PDF is available free of charge from the Research & Publications section of the EVA website at www.endingviolence.org



Women are the Experts

- Each woman is the expert on her own life. In order to survive, a woman in an abusive relationship has already developed strategies to keep herself and her children safe, and she is the one who best knows her situation.
- It is important to find out what she has already done to ensure her safety and the safety of her children, and to validate the safety skills she has already developed.



Minimization As a Defense Mechanism

- A woman is often the best judge of her own level of risk. Therefore a key factor to consider and address in any safety plan is a woman's belief that her partner is likely to commit further violence against her.
- At the same time, we know that as a survival mechanism, women sometimes minimize the danger they are in, and the violence begins to feel "normal" over time. You may sometimes see things that the woman herself cannot see clearly. In these situations, use all your knowledge and skills to respect the woman's views and expertise, while helping her to understand the gravity of her situation.

Safety Plans are Individual

- Every woman will experience violence and risk differently, and she and her service providers will have to consider different factors in planning for her safety. Therefore, her safety plan will have to be unique to her as an individual, and as a member of one or more social groups with which she identifies.
- For example, an older immigrant woman with disabilities will have different risk factors and safety needs than a young immigrant woman with disabilities who has small children.



Safety Plans Must Consider All Aspects of Women's Circumstances

- It is critical that you understand and identify all the risk factors present with each woman in order to ensure that appropriate safety planning is undertaken and implemented.
- This includes risk factors related to the status of her relationship, to the offender, to her own individual circumstances, and to the systems that are responsible for responding.



Coordination in Safety planning

- No one agency can address all the necessary components of a woman's plan for keeping herself and her children safe. Therefore, it is critical to understand the role of other agencies and resources in the community, and to appreciate the importance of working closely with them.
- Ensuring coordination of all the various key players that must be involved to respond to the wide range of risk factors is one of the central challenges of effective safety planning.

Key Players

These key players can include:

- The police
- Crown Counsel
- Corrections
- Mental Health
- MCF&D
- Outreach and settlement workers
- Transition house workers
- Victim service workers



Domestic Violence Risk Factors

- Hand-Out:

Factors To Consider When Domestic Violence Safety Planning

- This is a summary of the risk and safety factors that have been associated with an increased likelihood of future violence in domestic violence cases, and that are of particular concern for support workers and other key players.

<http://www.pssg.gov.bc.ca/victimservices/training/docs/factors-to-consider.pdf>



Case Study

- Using the “Grace and Willy” case study and referring to the *Factors to Consider* hand-out , break into small groups and identify any risk factors present in the scenario.
- Is this a potentially high risk case?
- If so, what actions would you take?
- What referrals would you make?
- What needs to be addressed as part of Grace’s immediate Safety Plan?



Critical Times for Risk Identification and Safety Planning

- There are critical times in the course of what is happening in an abusive relationship for you to work with the woman to assess her safety and risk factors and engage in active safety planning for her and her children.
- These are the most dangerous times when risk must be assessed or re-assessed and safety planning must take place or be updated:



Critical Times for Risk Identification and Safety Planning (Continued)

- Immediately following disclosure of the abuse to someone outside her family (for example, she may have been given a card, brochure, or something else that could alert him that she has sought help)
- Immediately after she has told him she is going to leave
- Immediately after she has left him
- When accused is released by police
- During the charging process
- During plea discussion
- If a stay of proceedings is entered
- Upon an application for peace bond or other protection order

Critical Times for Risk Identification and Safety Planning (Continued)

- ❑ Upon an application to vary protection order conditions
- ❑ When the accused is released on interim conditions
- ❑ When she initiates legal actions, such as:
 - Divorce
 - Issues related to children
 - Property settlement
- ❑ When any papers are served, such as:
 - Protection orders
 - Notification of divorce or separation proceedings
- ❑ When she enters into another relationship

The Safety Planning Process

- Safety plans should be developed as soon as possible, in partnership with the woman. Discuss the purpose of risk identification and safety planning with her, and share any concerns you have for her and her children's safety. Ask if she wishes to take part.
- Begin by asking the woman if she already has a safety plan, and what the details are. Remember that the process might be stressful and overwhelming for her, as it causes her to think about her risk factors and the possible danger she and her children are in.
- It is important that you and the woman recognize that risk identification and safety planning are complex and dynamic processes, and that no plan is fully comprehensive or fool-proof.

Take Immediate Action

- Safety planning based on risk factors may not be appropriate to use in a crisis situation or at intake.
- If you or the woman believe that she or her children are in immediate danger, you and she must determine what steps must be taken immediately to keep them safe, before any further identification of risks.
- This will likely include calling the police and may involve an immediate move to a transition house or other safe housing, and calling child protection authorities.

Limitations of Risk Factors

While risk identification and safety planning guides are valuable for helping a woman develop her safety plan, be aware of their limitations:

- Lists of risk factors cannot be used to determine whether someone has committed relationship violence in the past, or predict whether someone will be violent in the future.
- Risk factors cannot be used to determine whether someone “fits the profile” of an abuser, or of an abused woman. No such profile exists.
- Guidelines like these or the *Aid to Safety Assessment and Planning* (ASAP) (BC Institute Against Family Violence, 2006) are neither exhaustive nor fixed.
- Checklists can result in a worker taking an oversimplified “cookie cutter” approach and not thinking through all aspects of the situation.
- A client may distrust or resent a “cookie cutter” approach.

No “One Size Fits All”

- While there are standard factors and helpful templates for safety planning, each plan must be individualized for the woman’s unique situation.
- For example, women living with an abuser, women planning to leave an abuser, and women who have left an abuser all need different components in their safety plans.
- Women with children need to include them in their safety plans. Older children may require their own safety plans.

Why Women Stay or Return

The reasons women remain in or return to an abusive relationship are wide-ranging, complex and inter-related, and can be significant risk factors for future violence. These factors include:

- Fear of retaliation from the abuser (threats to her or her children, pets or family members; awareness that leaving or reporting increases her risk)
- Pressure from family or community to remain in or return to the marriage, and to not involve outside authorities
- Fear of judgement, ostracization, or loss of support and assistance from her family, friends, colleagues, service providers, or community.
- Pressure from the abuser to stay or return, including threats of suicide
- Financial dependence on the abuser, and fear of a decline into poverty or living on social assistance
- Fear that she won't be able to manage on her own

Why Women Stay or Return (Cont.)

- Fear that she won't be able to care properly for her children on her own – especially if she is pregnant or has a new baby
- Fear of losing her children to child protection authorities or to her husband
- Fear of losing her house and her children's home. This fear may be especially acute if she is an Aboriginal woman living on reserve
- Current lack of a support network and/or isolation within her home, especially if she does not work outside the home
- Lack of awareness or minimization of the level of danger she is in
- Low self-esteem and lack of confidence; feelings that she “deserves” this
- Dependence on the abuser or his family for immigration or refugee status
- Lack of awareness or understanding of available resources
- Dependence on the abuser for knowledge about how to navigate a new culture and fear of venturing out on her own

Why Women Stay or Return (Cont.)

- Fear that she won't be able to manage alone because of a lack of fluency in English
- Fear that she won't be able to manage alone because of a disability or an injury resulting from the abuse
- Love for the abuser and hope that he will change
- Reluctance to separate her children from their father
- Feelings of shame or blaming herself for the violence or for the marriage breakdown, sometimes stemming from or made worse by cultural or religious beliefs or norms
- Fear of the criminal justice system or other authorities as a result of previous experiences in Canada or in her country of origin
- Fear of racist, classist, homophobic or other discriminatory responses by authorities
- Fear that she won't be believed
- Fear that she won't be understood because of a lack of fluency in English or a communications disability

Why Women Stay or Return (Cont.)

- Fear of the unknown
- Normalization of violence (for example, she may have witnessed her mother in a similar situation)
- Impacts of the abuse, such as an inability to make decisions or to act, or misuse of alcohol or drugs in order to cope
- Increased complexity of her relationship with the abuser as a result of leaving, including negotiations around finances and parenting
- Health problems
- Socialization that:
 - “It’s women’s responsibility to keep the family together”
 - “You made your bed, now you have to lie in it”
 - “Children need their father”
 - “Don’t air your dirty laundry in public”
 - “Leaving him will destroy the honour of the family”

Creating a Safety Plan

Hand-outs:

1. Creating a Safety Plan

Available online at:

[http://www.pssg.gov.bc.ca/victimservices/s
hareddocs/creating-safety-plan.pdf](http://www.pssg.gov.bc.ca/victimservices/s
hareddocs/creating-safety-plan.pdf)

2. Personalized Safety Planning Template

[http://www.pssg.gov.bc.ca/victimservices/t
raining/#spr](http://www.pssg.gov.bc.ca/victimservices/t
raining/#spr)



Remember

Risk identification and safety planning may not be an exact science or a perfect solution, but working closely with a woman to explore her risks and assist in a collaborative safety planning process can do much to empower her to keep herself and her children safe, and moving forward in their lives.

For more information and resources on violence against women and children, visit endingviolence.org

Discussion



PERSONALIZED SAFETY PLAN

Name: _____ Date: _____

Review date(s): _____

It is very important that your abusive partner not find out about your safety plan. Be sure to keep this document and your safety plan in a safe location unknown to the abuser.

The following steps represent my plan for increasing my safety and preparing in advance for the possibility for further violence. Although I do not have control over my partner's violence, I can plan and think about how to respond to him and how to best keep myself and my children, grandchildren or other dependents (such as older persons or persons with disabilities who may be living with me) safe. I will ensure this safety plan is stored in a safe place.

Step 1: Safety during a violent incident.

I cannot always avoid violent incidents. In order to increase my safety, I can use a variety of different strategies. I can use some or all of the following strategies:

A. If I decide to leave, I will _____.
(Practice how to get out safely. What doors, windows, elevators, stairwells or fire escapes would you use? Consider your physical stamina and abilities as well as the health status of anyone who may need to leave with you.)

B. I can keep my purse and car keys ready and put them _____
(place) in order to leave quickly.

C. I can tell _____ and _____
about the violence and request that they call the police if they hear suspicious noises coming from my house.

D. I can teach my children how to use the telephone to contact the police in case of an emergency.

E. I will establish and use a code word with my children or my friends so they can call for help.

F. If I have to leave my home, I will go _____.

If I cannot go to the location above, then I can go to _____ or _____.

G. I can also teach some of these strategies to some/all of my children.

H. When I expect we are going to have an argument, I will try to move to a space that is lowest risk, such as _____.

(Try to avoid arguments in the bathroom, garage, and kitchen, near weapons or in rooms without access to an outside door.)

Step 2: Safety when preparing to leave.

Women who have experienced domestic violence frequently leave the residence they share with their abusive partner. The level of risk increases for the woman when the abuser believes that she is leaving the relationship. Leaving must be done with a careful plan in order to ensure safety.

I can use some or all of the following safety strategies:

A. I will leave money and an extra set of keys with _____ so I can leave quickly.

B. I will keep copies of important documents at _____.

C. I will open a savings account by _____ (date), to increase my independence.

D. If I require immediate financial assistance for basics like food, shelter or medical assistance I can contact the BC Employment and Assistance Program at 1-866-866-0800 to see if I qualify for benefits.

E. The provincial domestic violence helpline number is 1-800-563-0808 (VictimLink BC). VictimLink BC is TTY accessible. Call 604-875-0885; to call collect, dial the Telus Relay Service at 711. I can seek shelter and counselling by calling this helpline as well as get immediate crisis support 24 hours a day, 7 days a week. I can also contact my local transition house directly at _____.

F. I can keep change for phone calls on me at all times or I can purchase a telephone calling card or get a cell phone. To keep my telephone communications confidential, I must either use coins or a telephone calling card.

G. I will check with _____ and _____ to see who would be able to let me stay with them or lend me some money.

H. I can leave extra clothes with _____.

I. I will sit down and review my safety plan every _____ in order to plan the safest way to leave the residence. _____ (support worker or friend) has agreed to help me review this plan.

J. I will rehearse my escape plan and, as appropriate, practice it with my children.

K. If I have a disability, I may need to set up an emergency care plan if my abuser is also my caregiver. I can contact _____ to make a plan for an emergency care provider.

Step 3: Safety in my own residence after leaving the abuser.

There are many things that I can do to increase safety at home. It may be impossible to do everything at once, but safety measures can be added step by step. Safety measures I can consider include:

A. I can change the locks on my doors and windows as soon as possible.

B. I can replace wooden doors with steel/metal doors.

C. I can install security systems including additional locks, window bars, poles to wedge against doors, an alarm system, etc.

D. I can purchase rope ladders to be used for escape from second floor windows if I am physically able.

E. I can install smoke detectors and purchase fire extinguishers for each floor in my house/apartment.

F. I can install an outside lighting system that lights up when a person is coming close to my house.

G. I can contact _____ to help with purchasing these items and _____ to help with installing.

H. I will teach my children how to use the telephone to make a collect call to me and to _____ (friend/family member/other) in the event that my partner takes the children.

I. I will teach my children how to not disclose our address and phone number to: the abuser and the abusers family/friends including _____, _____, _____, and others including _____, _____, and _____.

J. I will tell people who take care of my children which people have permission to pick up my children and that my partner/ex-partner is not permitted to do so. The people I will inform about pick-up permission include:

_____ (school),
_____ (day care),
_____ (babysitter),
_____ (teacher),
and _____ (others).

K. If my child goes missing I will call the police. I can also contact Child Find BC at 1-888-689-3463 and/or MissingKids.ca at 1-866-KID-TIPS (543-8477) to help me.

L. I can inform _____ (neighbours), and _____ (friends) that my partner no longer resides with me and they should call the police if my partner is observed near my residence.

M. If I need to call the police, I will give them the following information about the abuser: his birth date _____, his physical description including height _____, weight _____, hair colour _____, facial hair _____, tattoos and/or scars _____, the type of vehicle he drives _____, and his license plate number _____.

N. I can take steps to assure the confidentiality of certain documents by using a PO Box or alternate address, or setting up a password with certain institutions to assure only I can access my personal information. The documents I will change include:

_____ bills, _____ utilities, _____
_____ car registration, _____ taxes, and _____ bank
accounts.

Step 4: Safety with a protection order.

I recognize that I may need to ask the police and the courts to enforce my protection order. The following are some steps that I can take to help the enforcement of my protection order:

A. If I have any questions about protection orders, or how I can get one, I will contact _____.

B. I will keep my protection order _____ (location).
(Always keep it on or near your person. If you change your purse, your protection order is the first thing that should go in.)

C. British Columbia has a Protection Order Registry (POR) that all police departments can access to confirm a protection order within minutes. I can check to make sure that my order is in the registry by calling VictimLink BC at 1-800-563-0808.

D. I will inform my employer, my closest friend and _____ and _____ that I have a protection order in effect.

E. If my partner destroys my protection order, I can get another copy from the courthouse located at _____.

F. If my partner violates the protection order, I can call the police and report a violation. I can also contact my lawyer and/or call my support worker.

K. I will inform and provide a copy of my protection order to people who have contact with my children. The people I will inform about my protection order include:

_____ (school),
_____ (daycare),
_____ (babysitter),
_____ (teacher),
and _____ (others).

L. If the abuser is involved in the criminal justice system, I can register with the provincial Victim Safety Unit (VSU) to get ongoing information about the status of the

abuser, including whether or not he is in provincial jail, what community he may be in, and what conditions he may have to follow. To register for the victim notification services I can contact the VSU at 1-877-315-8822.

Step 5: Safety at work and in public.

Women who have experienced domestic violence must decide if and when to tell others about the violence and that they may be at continued risk. Friends, family, and co-workers can help.

You should consider carefully which people are supportive and helpful.

I might do any or all of the following:

A. I can inform my boss, the security supervisor and _____ at work of my situation.

B. I can ask _____ to help screen my telephone calls at work.

C. When leaving work, I can _____.

D. When driving home if problems occur, I can _____.

E. If I use public transit, I can _____.

F. I can use different grocery stores and shopping malls and shop at hours that are different than those that I used when residing with the abuser.

G. I can use a different bank and take care of my banking at hours different from those I used when residing with the abuser.

H. I can also _____.

Step 6: Safety and drug or alcohol use.

If drug or alcohol use has occurred in my relationship with the abuser, I can enhance my safety by doing some or all of the following:

- A. If I am going to use, I can do so in a safe place and with people who understand the risk of violence and are supportive.
- B. I can also _____.
- C. If my partner is using, I can _____ and I might also _____.
- D. To safeguard my children, I will _____ and _____.

Step 7: Safety and my emotional health.

The experience of domestic violence is exhausting and emotionally draining. The process of moving forward takes much courage and energy.

To conserve my emotional energy and resources, I can do some of the following:

- A. If I feel down and want to return to a potentially abusive situation, I can _____

_____.
- B. When I have to communicate with my partner in person or by telephone, I can _____.
- C. I can tell myself - " _____ " - whenever I feel others are trying to control or abuse me.
- D. I can read _____ to help me feel stronger.
- E. I can call _____ and _____ for support.
- F. Other things I can do to help me feel stronger are _____,

_____ and _____.

G. I can attend workshops and support groups or _____,
_____ or _____ to gain support and strengthen
my relationships with other people.

Step 8: Items to take when leaving.

If you leave your abusive partner it is important to take certain items with you. You may also give extra copies of documents and an extra set of clothing to a friend just in case you have to leave quickly.

Items with an asterisk (*) on the following list are the most important to take. If there is time, the other items might be taken, or stored outside the home. These items might best be placed in one location, so that if you have to leave in a hurry, you can grab them quickly. Check off items on this list as you make your plans.

When I leave, I should take the following items for myself and my children:

* Birth certificates	* Social Insurance Card (SIN Card)
* Driver's licence and registration	* School and vaccination records
* CareCards (Health Cards)	* Passports
* Money	* Chequebook and Bankbooks
* Debit and Credit Cards	* Transit pass
* Keys – house/car/office	* Medications and prescriptions
* Court orders, protection orders and custody documentation	* Citizenship or immigration documents or Certificate of Indian Status
* Work permits	Medical records
Lease/rental agreement, house deed, mortgage papers	Assistive devices (i.e. glasses, dentures, walkers, canes, hearing aids)
Insurance papers (car, home, health)	Address/telephone book
Divorce papers, marriage certificate	Children's favourite toys and/or blanket
Pictures of abuser and children/grandchildren	Valuable or sentimental items such as jewellery

Contact information I need to know:

In the event of an emergency I will immediately call 911 or police.

If I need immediate crisis support or a referral to a program or service I can contact VictimLink BC at 1-800-563-0808 anytime of the day or night.

I can fill out the table below with service providers in my community that can help me.

Service Provider	Contact Person	Phone Number and/or Email Address

This resource was adapted as part of the Online Domestic Violence Safety Planning Training course co-funded by BC Housing and the Ministry of Public Safety and Solicitor General, Government of British Columbia.

Adapted with permission from the U.S. based National Network to End Domestic Violence (NNEDV), www.nnedv.org.

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

This is a summary of the risk and safety factors that have been associated with an increased likelihood of future violence in relationships or are of particular concern for support workers in domestic violence cases. This resource has been developed to assist support workers in safety planning and is consistent with tools used by police in domestic violence cases, including the *Summary of Domestic Violence Risk Factors* job aid and the B-SAFER risk assessment tool.

Client Name: _____ Meeting Date(s): _____

RELATIONSHIP FACTORS

Status of Relationship		Yes	No
Living Situation	<ul style="list-style-type: none"> ❖ Does the woman live alone or with others (including children)? ❖ What access does the abuser have to her? ❖ Is she living with the abuser? ❖ Is she in an unstable or unsafe living situation? 	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Past, Recent or Pending Separation	<ul style="list-style-type: none"> ❖ Is there past, recent, or pending separation in the relationship? <p><i>Note: Social science experts indicate that the intensity and lethality of violence often escalates after the victim leaves the relationship.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
Child-Related Concerns		Yes	No
Children exposed to violence	<ul style="list-style-type: none"> ❖ Have children been exposed to/witnessed violence? 	<input type="checkbox"/>	<input type="checkbox"/>
Child abuse or threats	<ul style="list-style-type: none"> ❖ Was there direct abuse or neglect of any of the children? ❖ Were the children ever threatened with abuse? <p><i>Note: If yes to either of the above, contact the Ministry of Children and Family Development helpline at 310-1234, ideally after having discussed this with the woman.</i></p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Custody or access concerns	<ul style="list-style-type: none"> ❖ Who are the children's parents? Who has custody of the children? ❖ Is there a custody dispute? ❖ Were there threats to take the children? ❖ Does the abuser have visitation rights/access to the children? ❖ Is visitation supervised? 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

ABUSER FACTORS

Violence in the Current Relationship		Yes	No
Controlling or Coercive Behaviour	❖ Does the abuser display jealous behaviour or controlling coercive behaviour (e.g. limiting mobility, activities, relationships or access to finances)?	<input type="checkbox"/>	<input type="checkbox"/>
Threats of Violence	❖ Has the abuser ever threatened – directly or indirectly, by implication – to kill or harm the woman, family members, children, other intimate partners of the woman, another person, or a pet?	<input type="checkbox"/>	<input type="checkbox"/>
Actual Violence or Abuse	❖ In this relationship, has the abuser ever actually used violence against the woman, a family member, children, other intimate partners of the woman, another person, or a pet? <i>Note: A previous history of violence in a relationship has been identified as one of the most common risk factors for increased severity (escalation) of future violence, including lethality.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Escalation in Abuse	❖ Is there escalation in the frequency/intensity of violence or abuse towards the woman, a family member, children, other intimate partners of the woman, another person, or a pet? <i>Note: Escalation of violence has been linked with lethality in domestic violence cases.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Forced Sex	❖ Has the abuser ever sexually assaulted the woman?	<input type="checkbox"/>	<input type="checkbox"/>
Strangling, Choking or Biting	❖ Has the abuser ever strangled, choked or bitten the woman? <i>Note: Strangling is a risk factor that has been associated with increased severity (escalation) of future violence.</i>	<input type="checkbox"/>	<input type="checkbox"/>

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

Stalking	❖ Has the abuser ever stalked or harassed the woman, family members, children, or other intimate partners? <i>Note: Obsessive behavior on the part of the abuser (including stalking or frequent harassment) has been linked with lethality in domestic violence cases.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Current Court Orders	❖ Is the abuser currently bound by any court orders?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Has the abuser violated a court order related to the current relationship?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Are family and criminal court orders inconsistent?	<input type="checkbox"/>	<input type="checkbox"/>
Abuser History		Yes	No
History of Criminal Violence	❖ Does the abuser have a history of threats, violence, sex assaults, and criminal harassment not apparently related to domestic violence?	<input type="checkbox"/>	<input type="checkbox"/>
History of Domestic Violence	❖ Is there a history of stalking, violence or abuse in a previous intimate partner relationship?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Is there any history of threats or actual violence or abuse against children, other family members, friends, co-workers or family pets related to domestic violence?	<input type="checkbox"/>	<input type="checkbox"/>
Court Orders	❖ Has the abuser ever violated a court order unrelated to the current relationship?	<input type="checkbox"/>	<input type="checkbox"/>
Alcohol and Drugs	❖ Does the abuser have a problem with drug or alcohol use?	<input type="checkbox"/>	<input type="checkbox"/>
Employment Instability	❖ Is the abuser unemployed/underemployed or experiencing financial problems?	<input type="checkbox"/>	<input type="checkbox"/>

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

Mental Illness	❖ Does the abuser have a history of mental illness?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Has the abuser been diagnosed with a mental illness?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Note: An abuser's mental health problems, in particular depression, have been linked with lethality in domestic violence cases.</i>			
Suicidal Ideation	❖ Has the abuser ever threatened or attempted suicide?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Note: Prior threats or attempts to commit suicide on the part of the abuser have been linked with lethality in domestic violence cases.</i>		
Weapons/Firearms		Yes	No
Access to Weapons/Firearms	❖ Does the abuser have access to firearms or other weapons?	<input type="checkbox"/>	<input type="checkbox"/>
Weapons/Firearms Used or Threatened	❖ Has the abuser used or threatened to use a firearm or weapon against anyone, including the woman, a family member, children, other intimate partners of the woman, another person, or a pet?	<input type="checkbox"/>	<input type="checkbox"/>

VICTIM SAFETY FACTORS

		Yes	No
Victim's Perceptions of Risk from the Abuser	❖ Does the woman fear the abuser or fear that the abuser will harm her or others in the future?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Why is she fearful?		
	❖ Does the woman believe the abuser will disobey any protection orders (i.e. no contact orders)?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Does the woman fear further violence if the abuser is released from custody?	<input type="checkbox"/>	<input type="checkbox"/>
	<i>Note: Social science experts indicate that victims' assessments of their own risk are associated with domestic violence recidivism although it has also been observed that some victims underestimate their danger.</i>		

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

Relative Social Powerlessness	❖ Are marginalization factors present, such as cultural/family pressures, disability, homelessness, lack of transportation, language issues, literacy issues, mental health issues, poverty or substance use issues?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Is the woman Aboriginal, an immigrant or refugee, LGBTQ2S, young, or elderly?	<input type="checkbox"/>	<input type="checkbox"/>	
Level of Personal Support	❖ What kinds of supports does the woman have from family, friends, co-workers and neighbours?			
	❖ Is the woman socially isolated?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Do people in her life know that she is experiencing violence and may be in danger?	<input type="checkbox"/>	<input type="checkbox"/>	
Pregnancy	❖ Is the woman pregnant?	<input type="checkbox"/>	<input type="checkbox"/>	
Impacts of Abuse	❖ Does the woman have difficulty absorbing information or making and following through on decisions, including reaching out for help?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Does the woman have physical injuries/disabilities that make her particularly vulnerable?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Does the woman minimize her level of risk for future violence?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Does the woman use drugs or alcohol to cope?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Does the woman exhibit extreme fear resulting in an inability to act?	<input type="checkbox"/>	<input type="checkbox"/>	
	<i>Note: Extreme fear that affects a victim's ability, energy and motivation to take self-protective actions to address their situation is of particular concern.</i>			
Financial Dependence on the Abuser	❖ Is the woman financially dependent on the abuser?	<input type="checkbox"/>	<input type="checkbox"/>	
	❖ Does the woman have the resources to support any children on her own?	<input type="checkbox"/>	<input type="checkbox"/>	

FACTORS TO CONSIDER WHEN DOMESTIC VIOLENCE SAFETY PLANNING

SYSTEM FACTORS

		Yes	No
Availability and Accessibility of Services	❖ Are the services that a woman needs available in the community (e.g. transition house, counselling, child care, interpreter, legal aid)?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Can services adapt to different situations and meet a woman's diverse needs (e.g. flexible service delivery models; accessible services)?	<input type="checkbox"/>	<input type="checkbox"/>
Provision of Information	❖ Does the woman know about available services in the community (e.g. transition house, counselling, child care, interpreter, legal aid)?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Does the woman have information about available notification services for cases involving the justice system?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Does the woman have case specific information, including case status or offender status?	<input type="checkbox"/>	<input type="checkbox"/>
Coordination of Services	❖ Are services and systems in the community working together and sharing information?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Are women receiving proactive referrals?	<input type="checkbox"/>	<input type="checkbox"/>
	❖ Is someone advocating for the woman to assist her to get the services she needs?	<input type="checkbox"/>	<input type="checkbox"/>

OTHER CONSIDERATIONS (IF APPLICABLE)

		Yes	No
Other Information	❖ Is there any other relevant information not captured above that should be noted?	<input type="checkbox"/>	<input type="checkbox"/>



CREATING A SAFETY PLAN

Adapted by:



Ministry of
Public Safety
and Solicitor General



BC Housing

January 2012

acknowledgments

This booklet was adapted with permission from the Peel Committee Against Woman Abuse in Ontario. BC Housing and the Ministry of Public Safety and Solicitor General would like to thank the Peel Committee Against Woman Abuse for their generosity in making this resource available for use in British Columbia.

This booklet was put together by women who have survived abuse. They offer their guidance to you through this resource.

We thank them for their strength and their wisdom.

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I.

INTRODUCTION

This booklet was designed to provide women with strategies to increase their safety.

Whether you are living in a violent relationship, thinking about leaving a violent relationship, or have already left a violent relationship, there are a number of ways in which you can increase your safety and that of your children.

Whenever the potential for violence is identified in a woman's life, it is important to develop a safety plan. Creating a safety plan involves identifying action steps to increase safety and to prepare in advance for the possibility of further violence.

Since abusive situations and risk factors can change quickly, it is recommended that you become familiar with and review and/or revise your safety plan regularly.

It is very important that your abusive partner not find out about your safety plan. Be sure to keep this document and your safety plan in a safe location unknown to the abuser.

In creating a safety plan, it is important to remember that:

- You are not to blame for the violence or for your children's exposure to it.
- You are not responsible for your (ex) partner's abusive behaviour.
- You cannot control your (ex) partner's violence, but it may be possible to increase your own safety as well as the safety of your children.
- The safety of you and your children is always the most important thing.
- You are not alone. There are resources available in the community to provide support in a number of ways (e.g., counselling, housing, financial assistance, etc.).

II.

TAKING CARE OF YOURSELF

One of the most crucial, yet frequently overlooked, aspects of safety and safety-planning is taking care of yourself. This includes your physical, emotional and spiritual well-being. It is important to understand some of what you, as a woman who has experienced violence, may be dealing with. You may be:

- experiencing ongoing violence, threats of violence, or surviving the impacts and trauma of past violence.
- fearful for your safety and your children's safety.
- dealing with practical problems such as finding housing, financial support, and/or employment.
- in the process of criminal and/or family law proceedings.
- feeling isolated, alone, overwhelmed, helpless and/or hopeless.
- feeling blamed for the violence and/or your children's exposure to it.
- fearful of being an outcast in your family or community.
- fearful of losing your children because of their exposure to the violence.
- accused of being an unfit mother.
- experiencing additional barriers such as racism, classism, heterosexism, ageism, ableism, language barriers, etc.

Trying to survive in or escape a violent relationship can be exhausting and emotionally draining. There are a number of things you can do to help you cope in difficult times. These are just a few suggestions:

- Always remember that safety – your own as well as the safety of your children – is what matters the most.
- If you have left the relationship, are feeling down and are considering returning to a potentially violent situation, call a friend, relative, counsellor, etc. for support.
- Get connected to community resources. There are lots of organizations that can help you and assist you in navigating the way to services and supports that will meet your needs.
- When you have to communicate with your (ex) partner, in person or by telephone, arrange to have a trusted and supportive person present.
- Attend individual or group counselling sessions if you can.
- Become involved in community activities to reduce feeling isolated.
- Take steps to improve your finances (e.g., consider a part-time job or applying for social assistance, upgrade your skills, etc.).
- Join women's groups to gain support and strengthen your relationships with other people.
- Take time for yourself (read, meditate, play music, etc.).
- Fulfill your spiritual needs in whatever way is appropriate for you.
- Give yourself permission to feel angry. Find constructive ways to express it.
- Spend time with people who make you feel good and are supportive .

- Take part in social activities (e.g., programs at your local community centre, dinner with friends, etc.).
- Try to get adequate sleep and rest.
- Eat regular healthy balanced meals.
- Write or talk about your feelings, especially when you are feeling low or vulnerable.
- Take time to prepare yourself emotionally before entering stressful situations like talking with your partner, meeting with lawyers, or attending court, etc.
- Try not to overbook yourself - limit yourself to one appointment per day to reduce stress. Write down the dates, times, and locations of your appointments.
- Be creative and do whatever makes you feel good.
- Focus on your strengths.
- Stay active. It will boost your energy levels and increase your overall sense of well being.
- Remember that you are the most important person to take care of right now.

III.

AN EMERGENCY ESCAPE PLAN

The Emergency Escape Plan focuses on the things you can do in advance to be better prepared in case you have to leave a violent situation very quickly.

The following is a list of items you should try to set aside and hide in a safe place (e.g., at a friend or family member's home, with your lawyer, or in a safety deposit box):

A) Make a photocopy of the following items and store in a safe place, away from the originals. Hide the originals someplace else, if you can.

- Passports, birth certificates, Indian/First Nations status cards, BCID, citizenship papers, immigration papers, permanent resident or citizenship cards, etc. for all family members
- Driver's license, registration, insurance papers
- Prescriptions, medical and vaccination records for all family members
- School records
- All income assistance documentation
- Work permits
- Marriage certificate, divorce papers, custody documentation, court orders, protection orders, or other legal documents
- Lease/rental agreement, house deed, mortgage documents

- Bank books
- Address/telephone book
- Picture of spouse/partner and any children
- Health cards for yourself and family members
- All cards you normally use, for example, credit cards, bank cards, phone card, Social Insurance Number (SIN) card

B) Try to keep all the cards you normally use or copies of them in your wallet:

- Social Insurance Number (SIN) card
- Credit cards
- Phone card
- Bank cards
- Health cards

C) Try to keep your wallet and purse handy and containing the following:

- Keys for your home, car, workplace, safety deposit box, etc.
- Cheque book, bank books/statements
- Driver's license, registration, insurance
- Address/telephone book
- Picture of spouse/partner and any children
- Emergency money (in cash) hidden away
- Cell phone

D) Keep the following items handy so you can grab them quickly:

- Emergency suitcase containing immediate needs or a suitcase that you can pack quickly
- Special toys and/or comforts for your children
- Medications
- Jewelry and items of special sentimental value
- A list of other items you would like to take if you get a chance to return to your home to collect more belongings later

E) Other Considerations:

- Open a bank account in your own name and arrange that no bank statements or other calls be made to you. Or, arrange that mail be sent to a trusted friend or family member.
- Save and set aside as much money as you can (e.g., a bit of change out of grocery-money if/when possible). Locate your local food bank so you can save money on groceries.
- In a place you can get to quickly, set aside \$20 to \$30 for cab fare, and quarters for a pay phone.
- Hide extra clothing, keys, money, etc. at a friend/family member's house.
- Plan your emergency exits, taking into consideration mobility and accessibility concerns, as well as appropriate modes of transportation and how to arrange it (e.g., taxi, bus, HandyDART, etc.).
- Plan and rehearse the steps you will take if you have to leave quickly, and learn them well.
- Keep an emergency packed suitcase hidden or handy/ready to pack quickly.
- Consider getting a safety deposit box at a bank that your partner does not go to.

F) When Dialing 911:

- Remember that there is no charge when dialing 911 from a pay phone. The call is also free from cell phones.
- Remember that if you call from a land line, you can leave the phone off the hook after you have dialed 911 and the police will come to your location. However if you call from a cell phone, the police cannot tell where you are calling from, so be sure to give them your address immediately.
- For TTY access (telephone device for the deaf) press the spacebar announcer key repeatedly until a response is received.
- If you do not speak English, tell the call-taker the name of the language you speak. Stay on the line while you are connected to interpreter services that will provide assistance in your language.
- Try to remain on the line until the call-taker tells you it is okay to hang-up.

G) Additional Notes:

- When you leave your home, take the children if you can. If you try to get them later, the police cannot help you remove them from their other parent unless you have a valid court order.
- If you have left your home, the police can escort you back to the home later to remove additional personal belongings, if it is arranged through the local police department. At this time, you can take the items listed above as well as anything else that is important to you or your children.
- Police involvement will usually result in the involvement of Child Protection Services if children reside with you. The goal of this involvement is to reduce the risk to a child, not to remove the child from the care of the non-offending parent/caregiver. Child welfare workers can provide support to you and advocate for you when you attempt to access financial, residential, and other practical services.

IV.

CREATING A SAFER ENVIRONMENT

There are many things a woman can do to increase her safety. It may not be possible to do everything at once, but safety measures can be added step-by-step over time. Here are a few suggestions:

A) AT HOME

If you are living with your abusive partner:

- Get your Emergency Escape Plan in order and review it often.
- Create a list of telephone numbers including local police, nearest women's transition house/shelter/safe home, crisis line (or VictimLink BC 1-800-563-0808), family members, friends, counsellors, children's friends, etc.
- Make arrangements with friends or family so that you can stay with them if necessary.
- Notice what triggers your partner's violence. This can help you try to predict the next likely incident and give you a chance to prepare (i.e., by making plans for the children to be sent to friends/family in advance).
- If you have call display on your phone, be careful about who can get access to stored numbers such as the last number you dialed or received a call from. You can also regularly erase stored numbers.
- Check your vehicle for a Global Positioning System (GPS) which your abuser may have installed in or under your car to track your movements.

- Teach your children to use the telephone (and cell phone, if you have one) to contact the police, ambulance, or the fire department.
- Teach your children how to make a collect call to you and to a trusted friend if your partner takes the children.
- Create a code word with your children and/or family/friends so they know when to call for help.
- Plan your emergency exits and teach them to your children.
- Teach your children their own Safety Plan (See page 19).
- Consider a plan for the safety and wellbeing of your pet(s) such as making arrangements with friends or family to care for them if need be.
- Be aware of any weapons in the home or your partner's access to weapons
- When using the computer, be aware that your abuser may track the websites you have visited. For information on hiding your tracks, see Appendix A (page 21)

If you are not living with your abusive partner:

- Tell those who know of your whereabouts to tell your abusive partner, if asked, that they do not know where you are or how to contact you.
- Change the locks on the doors, windows, garage and mailbox. Install a peephole in the door that your children can see through as well. If possible, install an alarm system.
- Keep doors and windows locked at all times.
- Have a pre-recorded anonymous message on your telephone answering service rather than your own voice and do not identify yourself by name.
- If possible, trade in your car for a different make and model.
- Check your car for a Global Positioning System (GPS) which your abuser may have installed in or under your car to track your movements.
- Instruct your children to tell you if someone is at the door and to not answer the door themselves.

- Carry a cell phone and a personal alarm.
- If the police arrest the abuser, find out if he/she will be held in custody or released. You can provide input into release conditions to the investigating officer. Ask for a copy of the conditions of his/her release.
- Keep a copy of your protection order near you at all times. Inform your friends, colleagues, family that you have a protection order in place.
- If your protection order is destroyed or lost, you can obtain another copy from the Victim Safety Unit (1-877-315-8822), who can also provide you with ongoing notifications regarding an accused/offender who is being supervised by BC Corrections either in custody (jail) or the community (e.g., bail, probation).
- If your partner violates the protection order or is threatening you in any way, immediately call the police to report the violation. Key things to identify to the police are whether there has been a pattern of violence, whether your partner owns weapons or has access to them, your partner's use of drugs/alcohol, and any concerns in regards to mental health or significant stress (i.e., related to recent job loss or life changes, etc.)
- Record all phone calls/messages; save all emails/text messages and Facebook contacts; and document all in-person contacts made by the abuser.
- Make sure that the school, day care, and police have a copy of all court orders, including protection orders, custody and access orders, as well as a picture of the abusive partner.
- Request the police to put a 'caution code' on your abusive partner's file in PRIME. This will provide additional information and security for officers responding and alert them of a potentially dangerous history of relationship violence.
- Notice what triggers your partner's violence and abuse. This may help you predict the next likely violent incident and give you a chance to prepare.

- If you have call display on your phone, be careful about who can get access to the stored numbers (e.g., last number dialed).
- Have your telephone number unpublished, as it is harder to track than when it is unlisted. You can block your number when calling out by dialing *67 before the number you are calling. Dialing *69 will trace the last call you received, although this service may include a cost.
- Consider getting a cell phone and preprogram numbers of people to call.
- Contact your local victim service program to inquire about the availability and your eligibility for the D.V.E.R.S. emergency response system/home alarm program. Victim services can also assist you with emotional support, safety planning, accompaniment to criminal court and information about the criminal justice system and the court process.
- Consider rearranging your furniture as this is something your partner may not anticipate, and it may cause them to bump into it and give you some warning.
- Put your kitchen utensils and knife block in the cupboards so they are not as easily accessible.
- If you live in an apartment, check the floor carefully when getting off the elevator. Look in mirrors when turning corners in hallways and be aware of doorways in hallways. Speak to your building manager/security to request increased safety measures in your building.
- Replace wooden doors with steel/metal doors if possible.
- Install smoke detectors and fire extinguishers for each floor.
- Consider the advantages of getting a dog that barks when someone approaches your house or get a "Beware of Dog" sign.
- Install a motion detection lighting system outside your home that lights up when a person is coming close to your house.
- Do whatever you can to increase security, including additional locks, window bars, poles to wedge against doors/windows, an electronic system, etc., and keep trees and bushes trimmed – anything to provide added security.

- Electronic security measures when using the computer may also be helpful including changing your passwords, creating new email addresses for yourself and your children, blocking unwanted emails and/or senders, etc.
- If you agree to see your partner, meet in a public place and limit your isolation. Make sure someone knows where you are and when to expect you to return.
- If your abusive partner has legal access to your children, talk to a lawyer about getting supervised access or having access denied.
- If your abuser has visitations with your children, arrange for transportation for your children so that you do not have to have contact with the abuser.

B) IN THE NEIGHBOURHOOD

- Tell your neighbours that you would like them to call the police if they hear a fight or screaming in your home.
- Tell people who take care of your children, including schools and daycares, which people have permission to pick up your children.
- Tell the school, daycare, babysitter, and people who have permission to pick up your children that your (ex) partner is not permitted to do so and ask that they not give your contact information to anyone.
- Tell people in your neighbourhood that your partner no longer lives with you and that they should call the police if your ex-partner is seen near your home. You may wish to give them a photo and description of your ex-partner's car.
- Ask your neighbours to look after your children in an emergency.
- Hide clothing and your Emergency Escape Plan items at a neighbour's house.
- Use different grocery stores and shopping malls and shop at hours that are different from when you were living with your abusive partner.
- Use a different bank or branch and take care of your banking at hours different from those you used with your abusive partner, or take care of your banking online.
- If possible, change your doctor, dentist and other professional services that you would normally use.
- Do not put your name in your apartment building directory or mailbox.

C) AT WORK

Each woman must decide for herself if and/or when she will tell others that her partner is abusive and that she may be at risk. Friends, family and co-workers may be able to help protect you. However, each woman should consider carefully which people to ask for help. If you are comfortable, you may choose to do any or all of the following:

- Show a picture of your (ex) partner and provide a description of their car to colleagues, neighbours, and building security personnel to make them aware and alert to your safety needs.
- Tell your boss, the security supervisor, and other key people or friends at work about your situation, and ask that they refrain from giving anyone personal information about you.
- Ask to have your calls screened at work or use voicemail to screen your calls. Document any unwanted calls from your abuser.
- Discuss the possibility of having your employer call the police if you are in danger from your (ex) partner.
- Block unwanted emails or send them to a folder where you do not have to read them.



When arriving at or leaving work:

- Let someone know when you'll be home and when to expect you to arrive at work, and that you will call them when you have safely arrived.
- Carry your keys in your hands.
- Get a remote or keyless-entry car door opener.
- Walk with someone to your car.
- Scan the parking lot.
- Walk around your car, look under the hood to check if anything has been tampered with and check your brakes. Keep your car seats forward so you can easily look into your car from the outside. When parking, reverse the car into the parking spot or driveway so it is possible to make a quick exit if necessary.
- If your partner is following you, drive to a place where there are people to support you, e.g., police station.
- If problems occur while you are driving, use your cell phone (with a hands-free device), honk your horn continuously, and drive directly to a well-lit, open, populated place or directly to a police station.
- If you have underground parking, consider parking somewhere else as underground parking lots can be dark and secluded.
- Keep a sign in your car saying "call police".
- If you are walking, take a route that is populated and well-lit.
- Change the patterns of when you arrive and leave work and the routes you take.
- If you see your partner on the street, try to get to a public place such as a store or call attention to yourself and request help if you feel in danger.
- If you use public transit, sit close to the front near the driver and have someone you know meet you at the bus stop to walk home with you.
- Once you have arrived home/at work, call a friend or relative to let them know you have arrived safely.

V. DURING A VIOLENT INCIDENT

The following is intended for anticipating an escape from violence in the home. Here are a few tips:

- Remind yourself that you have an Emergency Escape Plan, and go over it in your mind.
- Start to position yourself to get out quickly or near a phone so you can call 911, if necessary.
- Try to move to a space where the risk is the lowest. Try to avoid arguments in the bathroom, garage, kitchen, near weapons, or in rooms without access to an outside door.
- Make as much noise as possible (set off the fire alarm, yell "FIRE", break things, turn up the stereo or TV) – so that neighbours may call the police for you.
- If you are being physically assaulted, curl into a ball to protect your head and face. Be aware that scarves or anything else worn around your neck may be used by the abuser to hurt you.
- Use your code word with your children so they can call for help.
- Use your judgment and intuition. If the situation is very serious, you may decide to placate or agree with the abuser to protect yourself until you are out of danger.

- During or after an assault, call the police at 911 if you can. Tell them you have been assaulted and that it is an emergency. Leave the phone off the hook after your call.
- Once you are in a safe place, have a friend/family member take photographs of any injuries you sustained during the assault. This can also be done at the hospital if you choose to seek medical attention. Note that bruises can often take several days to appear.
- Take photographs of damaged clothing and/or property to be used as evidence.
- If you have been sexually assaulted, and if you choose to seek medical assistance, don't bathe or shower. Go directly to a hospital where a trained professional will examine you and be able to collect evidence. Keep the clothes you were wearing during the assault (don't wash them) and provide them to the investigating officer for use as evidence.

VI. A CHILD'S SAFETY PLAN

This plan was developed to help mothers teach their children some basic safety planning.

It is based on the belief that the most important thing that children can do for their mothers and their families is to get away from the area of violence. Although children often try to stop the violence by distracting the abuser or directly interfering in the violent incident, it is important to tell children that the best and most important thing for them to do is to keep themselves safe.

Children who experience or are exposed to violence can be profoundly affected. It is very traumatic for them to be faced with violence directed at them or at someone they love. Personal safety and safety planning are extremely important and necessary for children whose families are experiencing violence. Children should learn ways to protect themselves.

There are several ways to help you develop a safety plan with your children:

- Have your child pick a safe room/place in the house, preferably with a lock on the door and a phone. The first step of any plan is for the children to get out of the room where the violence is occurring.
- Stress the importance of being safe, and that it is not the child's responsibility to make sure that his/her mother is safe.
- Create a code word to use with your children so that they know when to run to safety and to call for help.
- Teach your children how to call for help. It is important that children know they should not use a phone that is in view of the abuser. This puts them at risk. Talk to your children about using a neighbour's phone or a pay phone if they are unable to use a phone at home. Remember that there is no cost when dialing 911 from a pay phone or cell phone.

- If you have a cell phone, teach your children how to use it.
- Teach them how to contact the police by dialing 911.
- Ensure that the children know their full name and address.
- Rehearse what your child/children will say when they call for help.

For example:

Dial 911.

An operator will answer and say: "Police, Fire, Ambulance."

Your child should say: Police.

Then your child should say:

My name is_____.

I need help. Send the police.

Someone is hurting my mom.

The address here is_____.

The phone number here is_____.

- It is important for children to leave the phone off the hook after they are done talking. The police may call the number back if they hang up, which could create a dangerous situation for yourself and your children.
- Pick a safe place to meet your children, out of the home, so you can easily find each other after the situation is safe.
- Teach your children the safest route for them to take to the planned place of safety.
- Practice and role-play this safety-plan with your children including what to do and where to go if something violent happens.

VII.

APPENDIX A – TRACKING WEBSITE ACTIVITY

Be aware that someone who has access to your computer may be able to see what websites you have visited, or read your email messages.

There are steps you can take to make it more difficult for someone to track your activities, however, your abuser may still find ways of tracking your activities on your home computer that are difficult to prevent. If your abuser knows a lot about computers, it might be better for you to use a computer outside the home - at a library, school, internet café, at work or at a friend's house.

- There are a few easy ways for someone to find out what websites you have visited. Computers have what is called a cache file. The cache (pronounced "cash") automatically saves web pages and graphics. Anyone who looks at the cache file on your computer can see what information you have viewed recently on the internet. Also, most web browsers (the software on your computer that lets you search the internet and display internet pages – like Internet Explorer and Mozilla Firefox) keep a list of the most recent web sites and links that you have visited in a history file. You can look at your own history by clicking on the history button on your toolbar (the bar at the top of your screen).
- While it is possible to clear the cache and history files so that your computer doesn't keep a list of the sites you have visited, **YOU SHOULD BE VERY CAUTIOUS ABOUT DOING THIS.** If your abuser is comfortable with computers and sees that you have cleared all the cache and history files on your computer (including the sites the abuser has visited), this could make the abuser suspicious or angry. If that is a possibility, it would be better for you to use a computer that they cannot access - for example, at a library, school, internet café, a friend's house, or at work.

- If you do decide to clear your browser history, instructions can be found at www.domesticviolencebc.ca. Scroll to the bottom of the screen and click on the "Use This Site Safely" link.
- Your abuser may have ways of tracking your activities on your home computer that are difficult to prevent.
- If you are concerned about the safety of using your home computer, if possible, use a computer at a public library, a school, an internet café, or at the home of a trusted friend.

VIII.

RESOURCES FOR WOMEN IN CRISIS IN BRITISH COLUMBIA

EMERGENCY (POLICE, FIRE, AMBULANCE) 911

24-HOUR CRISIS AND REFERRAL LINE 1-800-563-0808

VictimLink BC

Free and confidential services are available 24 hours a day, 7 days a week in over 100 languages. Visit www.victimlinkbc.ca for more information.

SUPPORT SERVICES (SHELTERS, VICTIM SERVICES, COUNSELLING)

Call VictimLink BC (1-800-563-0808) to receive a referral to a local victim service program, transition house program (shelter), or violence against women counselling or outreach program. Programs are free of charge and are available in communities across the province.

For more information on services available visit “Domestic Violence – It’s Never OK” at www.domesticviolencebc.ca.

For more information on women’s transition houses, safe homes and second stage housing visit: www.bchousing.org

CRIME VICTIM ASSISTANCE PROGRAM

The Crime Victim Assistance Program (CVAP) provides medical expenses, counselling services, protective measures, income support and other benefits to assist eligible victims of crime and their immediate family members to recover from the impacts of crime. For more information on CVAP please call 1-866-660-3888 (toll-free) or visit www.pssg.gov.bc.ca/victimservices/financial/.

VICTIM NOTIFICATION PROGRAM

The Victim Safety Unit (VSU) provides ongoing notifications regarding an accused/offender who is being supervised by BC Corrections either in custody (jail) or community (e.g., bail, probation). For more information on this program, please call 1-877-315-8822 (toll-free) or visit www.pssg.gov.bc.ca/victimservices/victim-safety/.

LEGAL SERVICES

For information on legal services, including criteria and eligibility for legal aid, contact the Legal Services Society by visiting www.lss.bc.ca or calling 1-866-577-2525 (toll-free).

HEALTH SERVICES

HeathLinkBC is a provincial resource for health information and advice. Call 811 if you would like to speak with a nurse or pharmacist any time of day or night, every day of the year. You can also visit www.healthlinkbc.ca for more information.

SERVICES FOR CHILDREN

Children Who Witness Abuse programs provide individual and group counselling services for children who have been exposed to violence in the home. Support is also provided to the child’s non-offending parent or caregiver. To connect with a program in your area, call VictimLink BC at 1-800-563-0808.

The Helpline for Children is a toll-free number that connects with a child welfare worker (social worker) 24 hours a day, 7 days a week. Call 310-1234 (no area code required) if you have reason to believe that a child may be abused, neglected, or is for any other reason in need of protection.

You can let your children/youth know that they can call the Kids Help Phone anytime if they need to talk to someone about what’s going on at home or school. The Kids Help Phone can be reached at 1-800-668-6868 and is free, anonymous and confidential. For more information visit www.kidshelpphone.ca.

PERSONAL NOTES

This image shows a single page of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

PERSONAL NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

ENDING VIOLENCE

Association of BC

Conditional Permanent Resident Status

A SPONSORED SPOUSE MUST COHABIT IN A LEGITIMATE RELATIONSHIP WITH THEIR SPONSOR FOR TWO YEARS OR THE STATUS COULD BE REVOKED.

Citizenship and Immigration Canada (CIC) has introduced amendments to the *Immigration and Refugee Protection Regulations* (the Regulations). These amendments apply to **common-law** or **conjugal** spouses in a relationship of two years or less with their sponsor and who do not have **children in common** with their sponsor at the time the sponsorship application is submitted. The sponsored spouse must **cohabit** in a legitimate relationship with their sponsor for two years from the day on which they receive their permanent resident status in Canada. If they do not remain in the relationship, the sponsored spouse's status could be revoked.

This conditional measure only applies to permanent residents whose applications are received on or after October 25, 2012.

This conditional permanent residence does not differ from the regular permanent residence. Sponsored spouses have access to the same rights and benefits as other permanent residents. They will be allowed to work and study without a work or study permit; they will not be subject to different tuition fees in post-secondary schools; and they will have the same access to health coverage and social benefits, including social security (or income support).

If the relationship breaks down, the sponsor remains financially responsible until the end of the three-year undertaking period, irrespective of the cause of the breakdown.

Exception In Cases Of Abuse Or Neglect

The proposed condition of cohabitation for two years would cease to apply in instances where there is evidence of abuse (i.e. physical, sexual, psychological or financial) or neglect (failure to provide the necessities of life) by the sponsor, or of a failure to protect from abuse or neglect by a person related to the sponsor, whether that person is **habitually residing** in the household or not during the conditional period.

The exception would also apply in the event of the death of the sponsor.

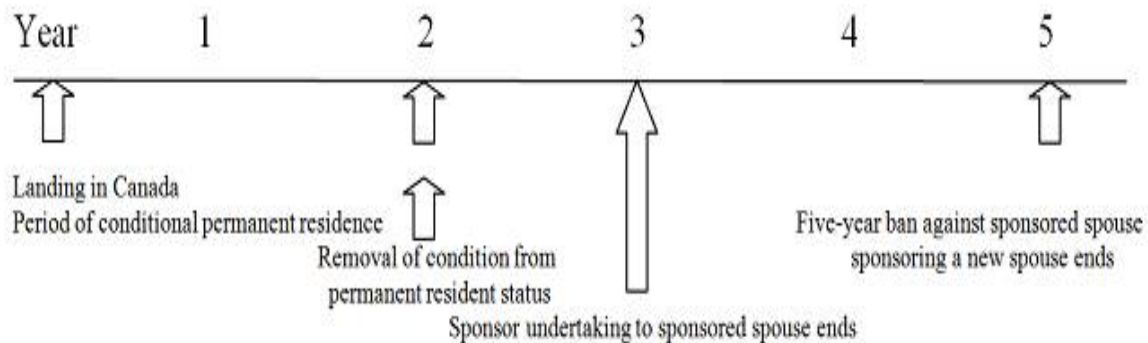
How To Request An Exception From The Application Of The Condition

Sponsored persons who are subject to the condition may request an exception from the condition at any time during the two-year conditional period, or they may request an exception at the time of an investigation. They can do so by calling the CIC Call Centre at 1-888-242-2100 or by sending a detailed email to question@cic.gc.ca.

Sponsored Spouses Sponsoring A New Spouse

In March 2012, CIC introduced a measure that prohibits sponsored spouses from sponsoring a new spouse for five years following the date they become a permanent resident. Please see the CIC website (www.immigration.gc.ca/antifraud) for advice on how to immigrate to Canada.

Timeline for sponsoring spouses to come to Canada



This information was retrieved from the Citizenship and Immigration Canada website. For more information, please visit the website at:

http://www.cic.gc.ca/english/department/media/releases/2012/2012-10-26.asp?utm_source=media-centre-email&utm_medium=email-eng&utm_campaign=generic

CIC Backgrounders

- [Conditional Permanent Resident Status](#)
- [Exceptions from Conditional Permanent Residence for Victims of Abuse or Neglect](#)

EVA BC Backgrounders

As part of its Safety of Immigrant Women Project, EVA BC, in partnership with MOSAIC and Vancouver and Lower Mainland Multicultural Family Support Services, has prepared a series of resource materials including a literature review, legal analysis and briefing documents related to immigration reform and the safety needs of immigrant, refugee and non-status women suffering abuse. These can be accessed at:

<http://www.endingviolence.org/The+Safety+of+Immigrant%2C+Refugee%2C+and+Non-Status+Women+Project>

Victim Services, Support And Resources

Victim Services Directory:

English version: www.justice.gc.ca/eng/pi/pcvi-cpcv/vs_d-rsv/index.html.

French version: www.justice.gc.ca/fra/pi/cpcv-pcvi/rsv-vsd/index.html.

The Department of Justice Canada produces a publication titled “[Abuse is wrong in any language](#),” which provides information about abuse and resources to help victims of abuse. It has been published in multiple languages and is available on their website at www.justice.gc.ca/eng/pi/fv-vf/pub/abus/abus_lang/fe-fa/index.html.
[Read: Annex H - Victim Services/Resources](#)

Also, visit Ending Violence Association of British Columbia: www.endingviolence.org

Community-Based Victim Services in BC: http://www.endingviolence.org/find_a_service



**Legal
Services
Society**

British Columbia
www.legalaid.bc.ca



**Provincial Training Conference:
Legal Information and Resources for Settlement Workers**
Legal Services Society and The Law Foundation
Tuesday, March 24th and Wednesday, March 25th, 2015

AGENDA – Wednesday, March 25th 2015

Time	Session	
8:00 – 9:00	Continental Breakfast	
9:00 – 10:30	PLENARY: Immigration Overview (Main Room)	Deanna Okun-Nachoff Lawyer, McCrea Immigration Law Facilitator: Lois Shelton
10:30 – 10:45	Break	
10:45 – 12:15	Break Out Sessions: <ul style="list-style-type: none"> Immigration Law Changes Affecting Vulnerable Immigrants (Main Room) LSS Immigration and Family Law Services: Update on Coverage and Intake Procedures (Oceanview 4) Legal Issues in Child Protection (Oceanview 3) 	Deanna Okun-Nachoff Lawyer, McCrea Immigration Law Facilitator: Lois Shelton Sherilyn Thompson Provincial Supervisor, Legal Aid Applications Facilitator: Alex Peel Amanda Rose Lawyer, Atticus Legal Facilitator: Baljinder Gill
12:15 – 1:30	Lunch	
1:30 – 3:00	Break Out Sessions: <ul style="list-style-type: none"> Cyberbullying (Oceanview 4) Support For People With Disabilities (Oceanview 3) Self-Care (Oceanview 5 and 6) Senior Issues (Oceanview 7 and 8) 	Chrissie Arnold Education Manager, West Coast LEAF Facilitator: Alex Peel Ashley Silcock Advocate, Disability Alliance Facilitator: Lois Shelton Vikki Reynolds Consultant, Vikki Reynolds Facilitator: Baljinder Gill Grace Balbutin Director, BC Centre for Elder Advocacy and Support Facilitator: Silvia Tobler
3:00 – 3:30	Closing Remarks	

Transformative Change in Canadian Immigration Law

Legal Information and Resources for Settlement Workers - Opening Plenary Session

25 March 2015

Deanna L. Okun-Nachoff
102-1012 Beach Avenue
Vancouver BC V6E 1T7
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Tel: 604.662.8200



Overview



➤ The Philosophical Underpinnings of Immigration Law Reform:

- ❖ “organizing principles” of Canadian immigration law and policy are shifting
- ❖ “managing the message” of immigration policy reform
- ❖ growing emphasis on program integrity and enforcement
- ❖ increasing use of Ministerial Instructions
- ❖ growing bureaucracy and decreased transparency in operation

➤ Key Law/Policy Changes

- ❖ family reunification
- ❖ temporary foreign workers
- ❖ economic class selection policy
- ❖ citizenship policy
- ❖ humanitarian resettlement programs

Objectives of Canadian Immigration A3(1) of IRPA



The objectives of this Act with respect to Immigration are:

- (a) to permit Canada to pursue the **maximum social, cultural and economic benefits of immigration**;
- (b) to **enrich and strengthen the social and cultural fabric of Canadian society**, while respecting the federal, bilingual and multicultural character of Canada;
- ...
- (d) to see that **families are reunited** in Canada;
- (e) to **promote the successful integration of permanent residents into Canada**, while recognizing that integration involves mutual obligations for new immigrants and Canadian society;
- ...
- (g) to **facilitate the entry of visitors, students and temporary workers** for purposes such as trade, commerce, tourism, international understanding and cultural, educational and scientific activities;
- ...
- (i) to **promote international justice and security** by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks; and
- (j) to work in cooperation with the provinces to **secure better recognition of the foreign credentials of permanent residents** and their more rapid integration into society.

2015 Immigration Levels Plan



➤ On November 2014, CIC announces the 2015 Immigration Levels Plan

In 2015, Canada will welcome between 260,000 and 285,000 new permanent residents.

The 2015 Immigration levels plan supports the government's economic growth strategy by addressing labour and skills shortages, reuniting families sooner and reducing backlogs. The economic immigration category will account for the largest segment of the 2015 levels plan, at almost 65 percent of overall admissions. The remaining 35 percent will consist of family class immigrants, refugees and others admitted under humanitarian programs.

Immigration Levels Plan (2006-2015)



Plan	Type	2006 Low	2006 Low	2015 Low	2015 High
Economic	Skilled Workers	114,000	127,000	140,000	149,000
	Caregivers	3,000	5,000	26,000	30,000
	Business	9,000	11,000	6,100	7,700
	Economic Total	126,000 56%	143,000 56.08%	172,100 66.19%	186,700 65.51%
Family	Spouses, CL and Kids	44,000	46,000	45,000	48,000
	PGP	17,000	19,000	18,000	20,000
	Family Total	61,000 27.11%	65,000 25.49%	63,000 24.23%	68,000 23.86%
Humanitarian	PPs Inland & Deps Abroad	22,500	28,800	10,000	11,000
	GARs	7,300	7,500	5,800	6,500
	Visa Office Referred	0	0	700	1,000
	PSRs	3,000	4,000	4,500	6,500
	Fed Resettlement Assisted	0	0	400	500
	Public Policy - Other	0	0	500	700
	H & C	5,100	6,500	3,000	4,000
	Humanitarian Total	37,900 16.84%	46,800 18.35%	24,900 9.58%	30,200 10.60%
	Permit Holders	100	200	0	100
	OVERALL	225,000	255,000	260,000	285,000

Ministerial Instructions



- 29 Nov 2008 (MI1): FSW limited to AEO, 38 in-demand occupations & students/TFWs
- 26 Jun 2010 (MI2): FSW cap @ 20k; 28 occupations w/ 1k sub-caps & language test
- 1 Jul 2011 (MI3): FSW limited to 10k p.a. in 29 occupations (sub-caps of 500 per)
- 5 Nov 2011 (MI4): 2 yr pause on PGP stream; FSW PhD stream introduced
- 1 Jul 2012 (MI5): pause on all FSW applications
- 2 Jan 2013 (MI6): FSTP created
- 30 Mar 2013 (MI7): Start-Up Visa created
- 4 May 2013 (MI8): FSW pause lifted; 5k p.a. w/ 300 sub-caps in 24 occupations, language/educational assessments and sub-caps on PhD and FSTC
- 15 Jun 2013 (MI9): PGP re-opened for 1 Jan 2014 w/ 5000 p.a. limit
- 9 Nov 2013 (MI10): CEC cap @ 12k p.a. w/ 200 NOC B sub-caps and 6 precluded NOCs
- 31 Dec 2013 (MI11): direction to suspend WP processing on LMIA suspension
- 1 May 2014 (MI12): FSW capped at 25k p.a. w/ 50 occupations (sub-caps 1,000 per); PhD stream cap @ 500 p.a.; FST capped at 5k and CEC at 8k
- 31 Oct 2014 (MI13): PR and TR processing suspension for Ebola-

Changes to Family Reunification Provisions



- PGPs: in addition to the 5k quota imposed in Jan 2014, CIC imposed higher financial thresholds and longer 'undertaking to support'
- Sponsored Spouses: initiatives to "curb marriage fraud" have included -
 - Mar 2012: 5yr ban on subsequent spousal sponsorship by a sponsored spouse
 - Oct 2012: conditional PR for sponsored spouses w/out children who are in a relationship of less than 2yrs at the time of application
- Sponsored Children: Jan 2014, maximum age of dependents reduced from 22 to 19, with no exception for continuous full-time students

Changes to TFW Program



- On 1 April 2011, CIC introduced a maximum cumulative duration of 4 years on TRs, at which point they must leave Canada for 4 years before they can re-apply (unless subject to one of the exemptions)
- TFWP re-branded as an option of “limited and last resort” under the “Canadians first” agenda
- Employers of all TFWs subject to stricter advertising/recruitment requirements, and LMIA and IMP filing fees have been imposed/increased
- LMIA applications for most “high skilled” positions now require a viable transition plan setting out employers’ strategy to diminish reliance on TFWs over time (but puts TR program at odds with economic class PR programs)
- Employers of “low skilled” TFWs subject to diminishing caps and reductions
- Increased compliance/enforcement measures include broader powers to search and seize, blacklist and fine; but at the expense of transparency and procedural

Introduction of “Express Entry”



- Express Entry changes the rules of engagement - FNs no longer have a right to apply for PR (even if they meet economic class criteria); they can only seek admission to the pool of candidates from which CIC invites PR applicants
- This triage mechanism virtually mandates labour market engagement via an LMIA or provincial nomination
- The new system will have a particularly adverse impact on: PGWP holders, FNs who came to Canada on an IEC permits, spouses of foreign students, those in occupations where “full-time employment” is elusive (e.g. geologists, artists, film-makers, consultants, researchers), etc.

Changes to Citizenship Rules



- Initiatives to “protect the value of Canadian citizenship”
 - Stronger penalties created for fraud and misrepresentation
 - Increased revocation powers for those convicted of terrorism, high treason or spying, with similar prohibitions on PRs seeking to obtain citizenship
 - Sharp increase to simplify the revocation process and crack down on cases of “citizenship fraud”
 - Imposition of stricter language requirements
 - Extension of Canadian knowledge tests to a greater number of citizenship applicants
 - Increasing the residency requirement from 3/4 to 4/6 (plus 183 days/yr)
 - Creation of the ambiguous “intent to reside” provision

Changes to Humanitarian Resettlement



- Initiatives to reduce “bogus refugee claims”
 - visa requirements for countries with high volumes of asylum claimants
 - creation of 2-tier system with lesser rights for those from DCOs
 - tightened timelines for refugee determination processes
- New restrictions imposed on access to H&C and PRRA decision-making
- Provisions introduced to increase powers to designate, detain and impose PR bars on those who arrive by “irregular means”
- Use of new cessation quotas to strip refugees of their status

What do these Changes Mean for Settlement Workers?



- Policy change will impact on the demographics of who settles in Canada
- Demand for settlement services, legal information advice and legal advocacy will be high from TRs struggling to transition to PR status - many of who will not be eligible for settlement services, and many of whom will be unsuccessful in regularizing their status as PRs without substantial support from their Canadian employer
- Those who will be eligible for settlement services will not require those services to the same degree, having been chosen based on factors that make them unlikely to require settlement services (the "ready made immigrant")
- Those seeking to transition from PR (pre language testing) to citizenship will have greater need for language services
- PRs may have fewer family supports, and may become disenfranchised by inability to become full-fledged citizens

Transformative Change in Canadian Immigration Law

Legal Information and Resources for Settlement Workers - Vulnerable Newcomers Session

25 March 2015

Deanna L. Okun-Nachoff
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Tel: 604.662.8200



Overview



- Discussion regarding the conditional permanent residence provisions for sponsored spouses, and their impact on victims of domestic abuse and violence
- Two “Pathways to Permanent Residence” to replace the Live-in Caregiver Program:
 - ❖ The LCP as it was Pre-November 2014
 - ❖ Post-November 2014 - TR Admissions for Caregivers
 - ❖ The Caring for Children Class
 - ❖ Caring for People with High Medical Needs Class
 - ❖ Interaction with Maximum Cumulative Duration Rules
 - ❖ Other Transitional Issues

The PR Condition Imposed on Certain Sponsored Spouses



- Effective **25 Oct 2012** CIC introduced “conditional PR” provisions (s.72.1 IRPR), which apply to sponsored spouses who have been in a relationship with their Sponsor for 2 years or less and have no children with their Sponsor at the time of application
- If subject to the condition, an Applicant “must cohabit in a conjugal relationship with their Sponsor for a continuous period of 2 years after the day on which they became a PR
- Failure to meet the condition within the initial 2 year period could face PR revocation proceedings

Conditional Permanent Residence for Sponsored Spouses (defined)



➤ There are two “exceptions” that will cause the condition to cease applying:

❖ Where the Sponsor dies in the 2 yrs immediately following the Applicant's arriving in Canada as a PR (s.72.1(5) IRPR)

❖ Where an officer determines that the Sponsor has abused/neglected the Applicant, the Applicants's child, or a relative of the Sponsor or Applicant who lives in the home (s.72.1(6) IRPR)

➤ Operational Bulletin 480 contains directions re. administration of the condition and exceptions

Policy Rational for Conditional PR



➤ The Regulatory Impact Analysis Statement (RIAS) provided the following policy rationale:

"The spousal sponsorship process is open to abuse when individuals enter into relationships of convenience in order to facilitate entry into Canada"

"While firm figures on the extent of relationships of convenience are not available, out of 46 300 immigration applications for spouses and partners processed in 2010, approximately 16% were refused. It is estimated that most of these cases were refused on the basis of a fraudulent relationship"

"Other countries, such as Australia, the United States and the United Kingdom, employ a form of conditional status period as a deterrent to those who would commit marriage fraud. The lack of a comparable conditional status measure to deter marriage fraud makes Canada vulnerable to this type of unlawful activity".

Conditional Permanent Residence (cont'd)



- The condition doesn't apply where there was a child of the relationship at the time of application, but no exception for a children was born after PR approved
- The condition applies even where there is no allegation or evidence of fraud (in fact, the department is issuing "random inspection" letters)
- In spite of the exceptions for abuse and neglect, the condition may severely impact persons facing domestic violence given:
 - ❖ the psycho-social issues of placing an abused/neglected newcomer to Canada into the enforcement arena;
 - ❖ the practical challenges of proving abuse/neglect;
 - ❖ that there is no guarantee the exception will be granted (which may further discourage reports of domestic violence).

Abuse defined



➤ Abuse, as defined at R72.1(b) of IRPR, includes:

- ❖ Physical abuse, including assault and forcible confinement;
- ❖ Sexual abuse, including sexual contact without consent;
- ❖ Psychological abuse, including threats and intimidation; OR
- ❖ Financial abuse, including fraud and extortion...

... against the Sponsored Spouse, a child of the Sponsored Spouse or the Sponsor, or a person who is related to the Sponsored Spouse and who is habitually residing in their household, OR

...where the Sponsor has failed to protect the Sponsored Spouse or any child of the Sponsor Sponsored or the Sponsor, or a relative of the Sponsored Spouse or the Sponsor who is habitually residing in their household, from abuse perpetrated by any person who is related to the Sponsor, whether that person is residing in the household or not.

Neglect defined



➤ Neglect, as defined at R72.1(b) of IRPR, includes:

❖ the failure to provide the necessities of life, such as food, clothing, medical care or shelter, and any other omission that results in a risk of serious harm

... by the Sponsored Spouse, a child of the Sponsored Spouse or the Sponsor, or a person who is related to the Sponsored Spouse and who is habitually residing in their household, OR

...where the Sponsor has failed to protect the Sponsored Spouse or any child of the Sponsor Sponsored or the Sponsor, or a relative of the Sponsored Spouse or the Sponsor who is habitually residing in their household, from abuse perpetrated by any person who is related to the Sponsor, whether that person is residing in the household or not.



Discussion on Front-line Experience with R72.1

Discussion Scenario - Conditional PR



- Marla is a citizen of Romania who married a Canadian citizen in October 2013. In November 2013, her husband Sponsor her for PR, and she was landed four weeks ago
 - Since she arrived in Canada, Marla's husband has become insanely jealous, threatening to tell CIC that she has defrauded him to get PR status. He is restricting her freedom and threatening physical harm
 - Marla has no money, no friends and no safe place to stay in Canada if she leaves her husband. She wants to get away from him, but is afraid to jeopardize her Canadian immigration status
-
- ❖ What questions need to be asked?
 - ❖ Can she can apply for social assistance?
 - ❖ Is the condition on Marla's landing enforceable?
 - ❖ Should Marla proactively disclose her plans to leave or "wait and see"?

Entering the LCP (pre-November 2014)



- All applications needed to be processed by a visa office outside Canada
- Applicants need equivalent of Canadian HS, PLUS 1yr of related f/t paid work within the prior 3yrs OR 6 mos of equivalent classroom training
- Applicants also needed sufficient EN/FR proficiency to do their job
- LMIA is required, but recruitment exemption was in place for FNs in Canada, and 2 wks on job bank was enough where recruitment needed
- LMIA approved job offers were being coded as (2006) NOC 6474 whether for care of children, elders or persons with disabilities
- Employers were required to pay minimum wage (not prevailing wage) and abide all ES rules regarding board and lodging, overtime, etc.
- LMIAs/WPs were generally issued for 51 months, and WPX apps for the same employer required no new LMIA

Becoming a PR in the LICC



- LCP workers continue to be eligible for PR in the LICC on completion of 24 months f/t authorized Canadian work as a LIVE-IN caregiver within the preceding 4 years, or the equivalent hours over min 22 months
- LICC applicants must maintain status in Canada on a work permit "as a live-in caregiver" until approved for PR
- LICC applications can be filed with OWP applications, which are typically approved within 4 months of PR submission (R207(a))
- Processing of LICC applications typically span between 2 and 6 years, and overseas dependents are often denied "early admission"
- No caps on PR admissions; no language testing; no credential assessment; no second medical exam required per A30(1)(a)

LMIA's for caregivers

Post Nov 2014



- Jobs that lead to the new PR pathways are ESDC classified as follows:
 - "Caring for Children":
 - Home childcare providers (2006 NOC 6474)
 - "Caring for People with High Medical Needs" :
 - RNs (2006 NOC 3152)
 - LPNs (2006 NOC 3233)
 - Nurse Aides/Patient Service Associates (2006 NOC 3413),
or
 - Home Support Workers (2006 NOC 6471)
- LMIA's under NOCs 6474, 3413 and 6471 are processed under the "lower skilled" stream; all remaining NOCs under the "higher skilled" stream (regardless of whether the caregiver entered Canada in the LCP)

LMIA's for caregivers

Post Nov 2014 (cont'd)



- No recruitment variations or exemptions, except that the employers' street addresses needn't be listed in the ad
- Employment requirements for different roles are now limited to what's in the NOC (i.e. LCP education/training requirements eliminated)
- LMIA's and WPs will be issued for a maximum duration of 2 years, following which an entirely new LMIA (with recruitment) will be required
- Caregivers can no longer be required to live-in, and if they do live-in, board and lodging must be free
- Employers must meet prevailing wage for the occupation/location (not just minimum wage)

Applying for WPs for caregivers



since November 2014 (cont'd)

- The requirement that the caregiver must apply for their initial work permit at a visa office outside Canada has been eliminated
- We have no idea (yet) how the visa offices will treat work permit applications by low-skilled caregivers. Many questions have been posed to CIC including:
 - Will Manila keep administering their self-styled "SPEAK test"?
 - Will the refusal rate go up now that qualifying for PR can no longer be presumed?
 - Will CIC be limiting the intake of initial work permits by caregivers to match the number of PR applications they're intending to accept? (ESDC will not)
 - Will the training/work experience requirements become truly obsolete?

PR applications in the Carin for Children Class



- Candidates must prove 24 months of authorized Canadian f/t work experience in a (2011) NOC 4411 role within the preceding 4 years (no extra credit given for O/T hours, and work done during periods of f/t study or self-employment don't count)
- Applicants must prove language proficiency at CLB 5
- Applicants must have a Canadian post-secondary credential of at least one year or a foreign diploma/certificate/credential with ECA confirming equivalence to a Canadian credential of at least 1 year post-secondary
- PR applications will be capped at 2750 p.a.
- No LMIA exemption nor any "cumulative duration" exemption is prescribed for CFC class applicants at AIP of their PR application, so it is unclear what will happen to those who reach their 4 year cap before PR is approved
- CIC has undertaken to process these PR applications within 6 months

PR in the Caring for Persons with



High Medical Needs Class

- Candidates must prove 24 months of authorized Canadian f/t work experience in a (2011) NOC 3012, 3233, 3413, 4412 role within the preceding 4 years (no extra credit given for O/T hours, and work done during periods of f/t study or self-employment don't count)
- Applicants must prove language proficiency at CLB 5 if qualifying work experience was in a (2011) NOC 3233, 3413 or 4412 role, and at CLB 7 if NOC 3012
- All other requirements identical to the Caring for Children Class

Discussion Issues



- Have these changes mitigated hardship on caregivers, or will we be returning to the untenable situation under the FDM where caregivers are left without means to regularize their status in Canada?
- How have the new measures better positioned ESDC to assess if there is a true labour market need for foreign workers in this area?
- The new division between NOCs will mean that certain employers need to provide a \$5 raise to caregivers in elder care positions. How will this impact on the workers and their employers?
- Is it in the best interest of Canadians requiring that employers must “go back to the drawing board” every 16 months to meet their ongoing needs?

Changes to Humanitarian Resettlement



QUESTIONS?

Working with LSS Intake



March 2015

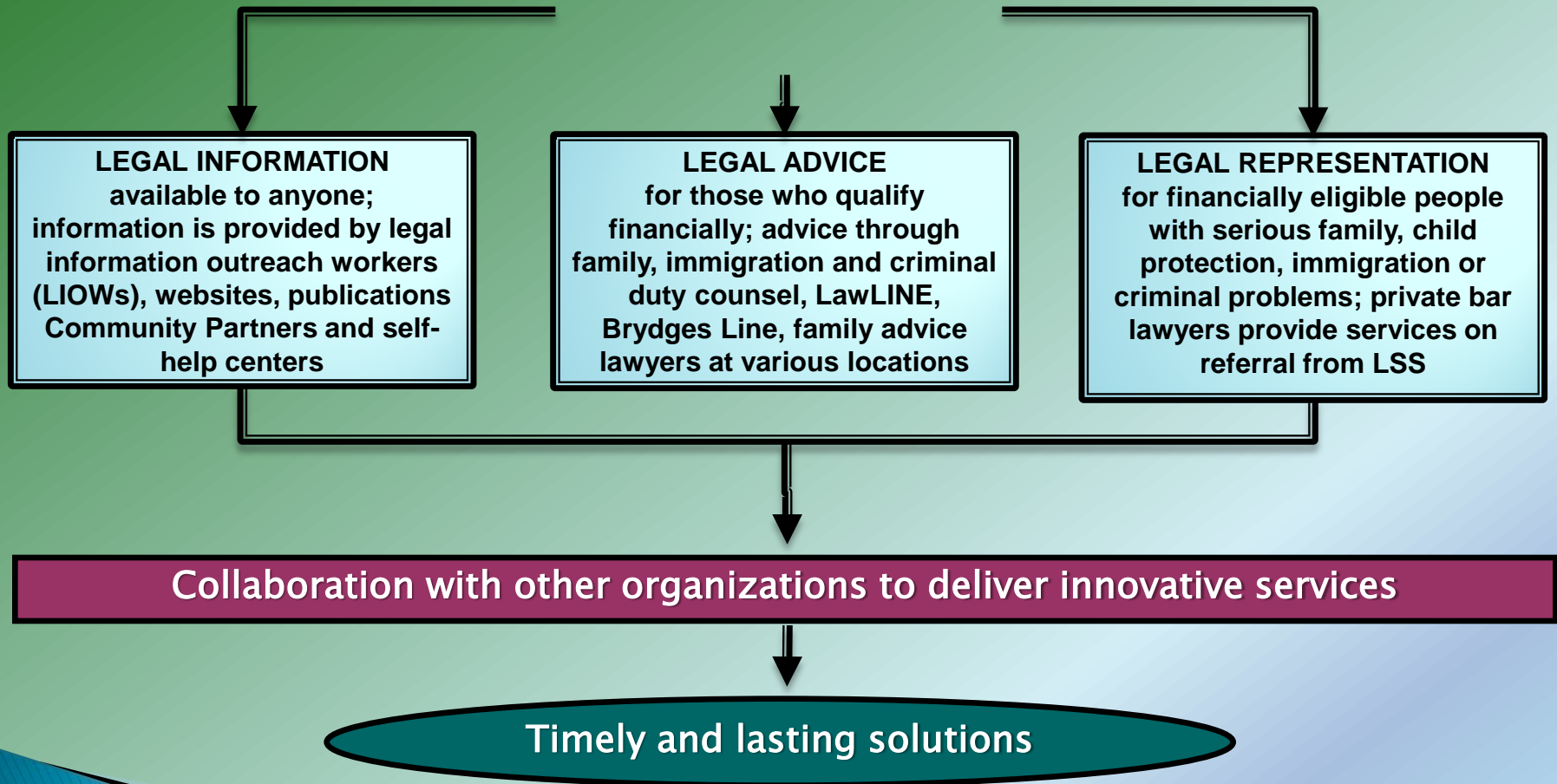
Sherilyn
Provincial Supervisor, Legal Aid Applications
Tel: 604-601-6093

Our Clients



Services Overview

Legal Aid



Legal Information

Legal Information Outreach Worker



Public Legal Education

- Information session for general public
- Legal information session for staff and volunteers
- Training for Advocates, Community and Settlement Workers
- Elan Newsletter



LSS Self-Help Websites

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Frequently asked questions



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Welcome to the Legal Services Society (LSS), the organization that provides legal aid in BC.

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Our services

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- Lawyer
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LSS Self-Help Publications

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Self-

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Guides



Community Partners

Community partners are available in 35 communities around the province. Clients can:

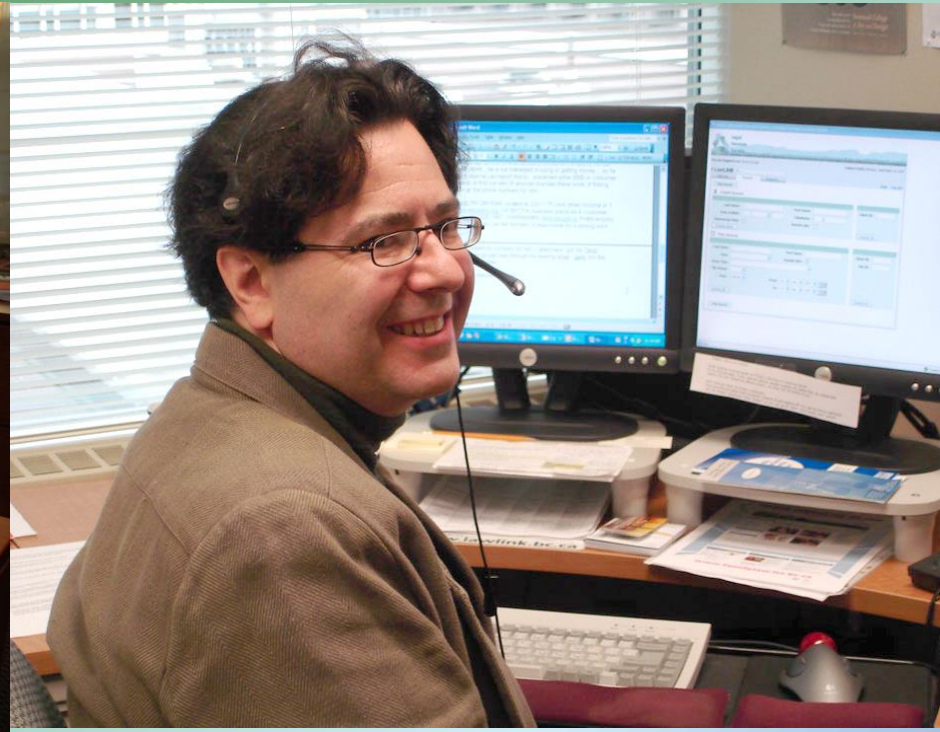
- get free legal information;
- call Legal Aid;
- find nearest Legal Aid office;
- get legal help online; and
- connect with people who can help.



Legal Advice



Duty Counsel



Family LawLINE

Duty Counsel

Duty Counsel provides legal advice in the following areas of law:

- **Family law**
- **Criminal**
- **Immigration Law (if in detention)**

Justice Innovation Projects

- Expanded Criminal Duty Counsel (Out Of Custody –Port Coquitlam)
- Expanded Family Duty Counsel (Victoria)
- Parent Legal Centre (Vancouver)
- Expanded Family Law Line
- Parent Legal Centre (Vancouver)
- Family Mediation



Expanded Criminal Duty Counsel (Out Of Custody – Port Coquitlam)

The Expanded Criminal Duty Counsel is a new pilot program offered by the Legal Services Society in Port Coquitlam. They hope to achieve early resolution of files and contribute to court efficiency. Under the pilot program, Criminal Duty Counsel will retain conduct of select uncomplicated files and provide services to a broader range of clients. The Expanded CDC program will deal with matters other than those that qualify for a Tariff Lawyer.

Expanded Family Duty Counsel (Victoria)

LSS is expanding this program to provide greater continuity of advice as well as new services such as legal coaching to support people who are representing themselves. It is located at the Justice Access Centre in Victoria. Clients will be able to set appointments so that they can work with the same lawyer throughout the service. The lawyers can also now provide up to 6 hours of service for each current legal matter.

Family LawLINE (Enhancement)

The Family LawLINE is a telephone advice service that provides brief next-step help for people representing themselves. We are expanding this service to include preparation and review of legal documents, and coaching of the client in self-representation. Clients will now be able to set up appointments so they can work with the same lawyer throughout. They can now provide up to 6 hours of service with the same lawyer for each current legal matter.

PARENTS LEGAL CENTRE (PLC)

This service is for eligible parents who will be appearing in Vancouver's Robson Street Court. They will assist eligible clients with early, collaborative resolution of child protection issues. They will focus on trying to resolve cases consensually out of court, and identify alternative methods before they escalate to court. A lawyer and an advocate will be assisting clients. The lawyer will provide advice and representation at an early stage, including at mediation and case conferences. The advocate will support parents in resolving underlying issues that led to the protection concern, and liaise with community supports and resources.

FAMILY MEDIATION PROGRAM

This is a program that is being offered by LSS and Mediate BC. The program is to assist eligible clients who would not qualify for a referral to a legal aid lawyer. The program is designed to assist clients achieve an early resolution of family disputes that include property division, debt and support issues when they are in conjunction with other family matters. LSS will issue a referral to Mediate BC for 6 hours of paid family mediation services.

APPLYING FOR LEGAL AID

Call LSS Provincial Call Centre at 604-408-2172 in Greater Vancouver or 1-866-577-2525 (no charge)

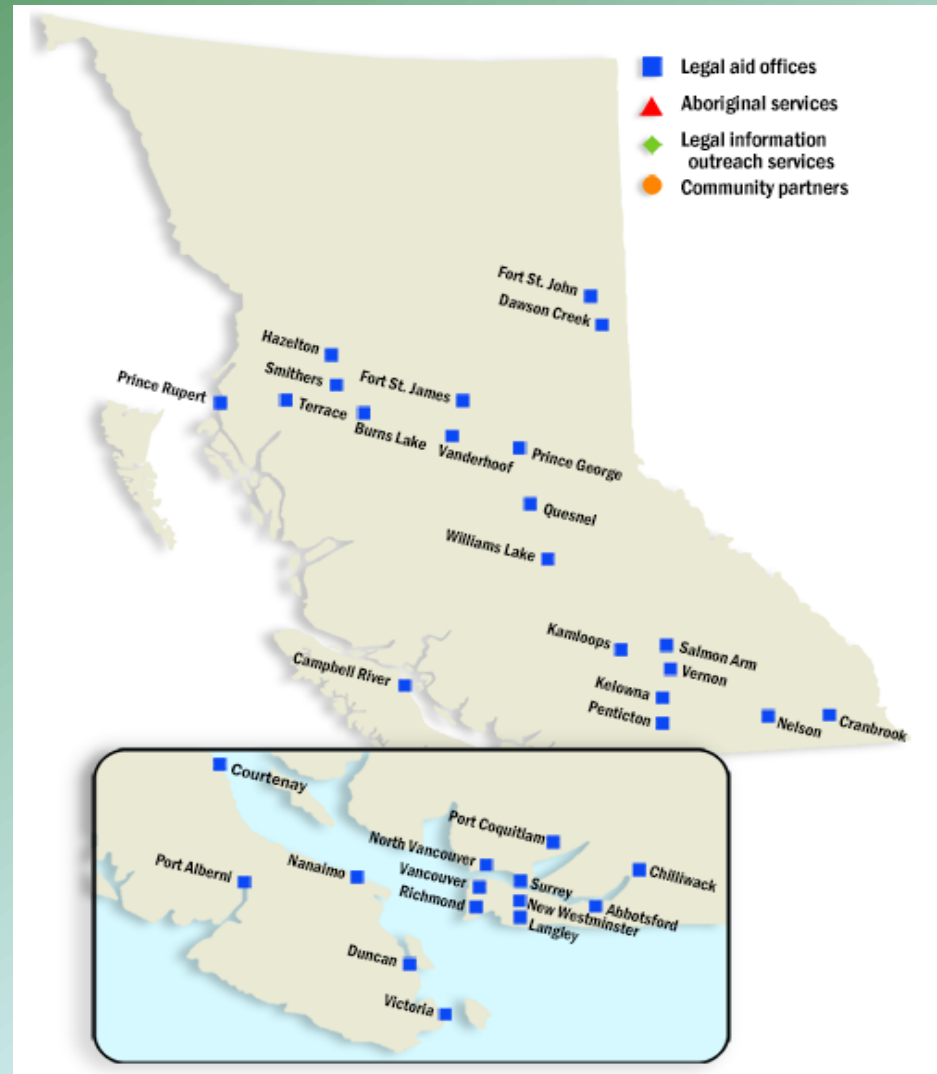
Clients applying for immigration matters can call the LSS Immigration Line at 604-601-6076 or 1-888-601-6076 (no charge)



Come into one of our Legal Aid offices, their contact information is available on our website www.legalaid.bc.ca

Legal Aid Offices

There are 33 communities in BC where someone can apply for legal aid and get legal information.



Who Qualifies for Legal Aid?

A client qualifies for legal aid when:

- The legal problem is covered by LSS; and
- The client meets LSS financial guidelines



What Legal Problems Are Eligible For Coverage?

Criminal – Where charges are serious and there is a likelihood of jail



Family Law – Serious family situations regarding parenting (guardianship, parenting arrangements or custody/access), protection orders, child support and more depending on the issues. The issues need to be addressed immediately to ensure the safety of the children and/or the client.



Child Removal – Where the Ministry of Children and Family Development or a Designated Agency has removed a child or where there is a **threat** of a child being removed. This could also include custody and/or access issues arising from a child in care.



Reciprocals – Where the client's legal matter may be in another province. This generally encompasses family legal aid problems where the other party resides in another province or the client resides in another province. However, on occasion criminal and immigration cases have gone through the reciprocals process as well.



Immigration – Where the client may wish to claim refugee status or where the client faces an immigration proceeding that may result in their removal from Canada.



Financial Eligibility

Income chart (All case types)



Household Size

Monthly Net Income

1	\$1,480
2	\$2,070
3	\$2,670
4	\$3,260
5	\$3,850
6	\$4,405
7 or more	\$5,040

Financial Eligibility

Personal Property (All case types)



Household Size

1

2

3

4

5

6 or more

Exemption

\$2,000

\$4,000

\$4,500

\$5,000

\$5,500

\$6,000

Requesting A Review of A Denial

A client can request a review of a denial for legal aid

- This request must be in writing
- The client should state why they disagree with the denial and explain why they believe they should get legal aid
- The client should include any supporting documents

Coverage and financial eligibility reviews must be submitted within 30 days of the denial of legal aid to:

Provincial Supervisor
Vancouver Regional Centre
400 – 510 Burrard Street
Vancouver, BC V6C 3A8
Fax: 604-682-0787



Working together

You can help your clients:

- Understand the intake process
- Prepare for the interview
- Organize documentation
- Make sure they follow up and provide intake with requested information



Presenter:

Sherilyn

Provincial Supervisor, Legal Aid Applications

Phone: 604-601-6093

Fax: 604-682-0787

Email: intake@lss.bc.ca



Family coverage

General policy

To qualify for legal aid representation, an applicant must:

- ❖ Be financially eligible, and
- ❖ have a family law problem covered by the family coverage guidelines:
 - need an initial, or a change to the current, guardianship or parenting arrangement order if there is a risk of harm or violence to the client or their child or children;
 - have guardianship of a child/children who have been unlawfully held by the access parent/party;
 - have been permanently or repeatedly denied contact or parenting time with a child;
 - need a family law protection order or other legal assistance to protect themselves or their children from harm or violence;
 - need an order to prevent the other parent from permanently relocating their children out of the province. The threat must be real and imminent, and involve a permanent change of residence;
 - be a respondent in a maintenance enforcement committal proceeding
- ❖ be eligible for coverage provided through the exception review process.

Who is covered?

When the legal issue involves children, an applicant must be a:

- ❖ parent (including a same-sex parent), or
- ❖ party to the proceeding who is a:
 - member of the children's immediate or extended family,
 - relative or individual who has lived with the children in a parental or custodial relationship, or
 - member of the community who has a cultural or traditional responsibility towards the children (this applies to emergency referrals only).

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal aid representation.

Exception

Youth under the age of 18 who are wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Also, applications where the client does not have a coverable issue but has property, asset, debt, spousal support or other issues likely to be resolved by mediation can be sent for an exception review for assessment for a family mediation referral to Mediate BC.

CFCSA

General policy

To qualify for legal representation, an applicant must:

- ❖ be financially eligible; and
- ❖ have a CFCSA problem covered by the CFCSA coverage guidelines.

An applicant must be:

- ❖ a parent (including parents in a same-sex relationships), or
- ❖ a party to the proceeding who is a:
 - member of the children's immediate family,
 - relative or individual who has lived with the children in a parent or custodial relationship, or
 - member of the community who has a cultural or traditional responsibility towards the children.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

Where an applicant is financially eligible and his or her children have been removed or are at risk of being removed, coverage is provided.

An applicant is not eligible for legal aid if he or she is in the care of the Ministry of Children and Family Development (MCFD). In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Couples who are living together

If a case involves a couple who are living together we can issue a single referral for one lawyer. We will only issue a separate referral if there is a conflict between the two people that prevents one of the lawyers from representing both parties.

Immigration Coverage Guidelines

General policy

To qualify for legal aid representation, an applicant must:

- ❖ be financially eligible, and
- ❖ have an immigration law problem covered by the LSS immigration coverage guidelines.

An applicant is covered if he or she:

- ❖ is making a refugee claim in Canada, or
- ❖ faces an immigration proceeding that could result in deportation from Canada to a country where his or her life is in danger or if he or she has other compelling reasons for not returning to his or her country.

LSS screens immigration cases for merit to determine whether the applicant has a reasonable chance of being successful in his or her case.

Refugee claims

Referrals for refugee and protected persons claims made in Canada are issued for (in two stages):

- ❖ Personal Information Form (PIF) preparation, and
- ❖ representation at refugee hearings.

Other immigration cases

The following types of cases will be referred to the LSS Judicial Appeals Section at the Vancouver Regional Centre. The Judicial Appeals Section screens these cases for merit and issues referrals if they determine that the applicant has a reasonable chance of being successful in his or her case.

- ❖ an appeal of a refugee claim refusal to the Refugee Appeal Division
- ❖ admissibility hearings before the Immigration and Refugee Board Adjudication Division
- ❖ judicial Review applications to the Federal Court of Canada, and appeals to the Federal Court of Appeal or the Supreme Court of Canada to review an order of the Immigration and Refugee Board or an immigration officer
- ❖ applications to stay a removal from Canada made to the Federal Court of Canada
- ❖ applications to reopen or reinstate proceedings before the Immigration and Refugee Board
- ❖ permanent resident (landed immigrant) deportation appeals to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board
- ❖ Pre-Removal Risk Assessment (PPRA) submissions to Citizenship and Immigration Canada
- ❖ Humanitarian and Compassionate (H&C) submissions to Citizenship and Immigration Canada
- ❖ applications by people detained by immigration who cannot access duty counsel

Criminal Coverage Guidelines

General policy

To qualify for legal representation, an applicant must:

- ❖ be financially eligible, except for specified exceptions, and
- ❖ have a criminal law problem covered by the criminal coverage guidelines.

An applicant is covered if he or she:

- ❖ faces a criminal proceeding,
- ❖ is charged with a criminal offence, and
- ❖ if convicted, faces a risk of jail (includes house arrest).

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

Additional grounds for coverage

Less serious summary offences may be covered for adult applicants in very limited circumstances.

An applicant who does not necessarily face a risk of jail may be covered if he or she:

- ❖ faces a loss of livelihood upon conviction,
- ❖ has a mental or physical disability, or
- ❖ faces immigration complications that may result in deportation.

Aboriginal hunting and fishing rights

An applicant is covered if:

- ❖ they are Aboriginal, and
- ❖ the alleged offence:
 - occurred in a geographic area the applicant claims is his or her traditional territory, or
 - involves a traditional right;OR
 - occurred outside the applicant's traditional territory, but involves the exercise of an existing Aboriginal right extended to the individual by:
 - a traditional Aboriginal law or custom,
 - a band bylaw, or
 - Aboriginal government legislation.
- ❖ The applicant does not have to face a risk of jail if convicted.

Overview of LSS Coverage Guidelines

Youths

Anyone under the age of 18 who is not a ward of the Ministry of Children and Family Development is covered for all Criminal Code and other charges under federal legislation (such as drug charges). They do not have to be financially eligible or meet LSS criminal coverage guidelines.

Youths under age 18 charged with provincial offences, such as motor vehicle offences, must be financially eligible and the case must meet criminal coverage guidelines.

Over age 18, facing Youth Criminal Justice Act charges

Applicants over the age of 18 who face Youth Criminal Justice Act charges are covered until the end of the case.

Exception

Youth under the age of 18 who are wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Justice Innovation and Transformation Initiatives (JITI) Pilots

Family Mediation Referral

A mediation referral is approved and issued by provincial supervisors on exception review. An applicant must be financially eligible for representation and have a property, debt, asset, spousal support or other non-coverable issue likely to be resolved by mediation.

On a mediation referral, clients receive up to 6 hours of mediation through Mediate BC. This includes pre-mediation meetings and screening.

Services may include drafting of a mediation agreement if a lawyer conducts the mediation. If not, the mediator may draft a Memorandum of Understanding (MOU).

Clients can also receive summary legal advice from family duty counsel/advice lawyers or Family LawLINE prior to mediation as well as after mediation on the agreement reached.

Expanded Family LawLINE

The expanded Family LawLINE is piloting the following service enhancements:

- ❖ Up to six hours of service per legal matter (increased from three hours of service)
- ❖ Appointments so that one lawyer and client can work together throughout
- ❖ Help with preparing documents for court or other legal processes
- ❖ Legal coaching to help clients represent themselves in court

These services are in addition to the regular Family LawLINE services (brief next-step advice on court processes and options for resolving legal issues outside of court, and referrals to online resources and other agencies).

Expanded Family Duty Counsel (Victoria)

Expanded family duty counsel at the Victoria Justice Access Centre (JAC) is modelled on the expanded family duty counsel program in Vancouver.

Expanded family duty counsel will provide up to six hours of service per legal matter (increased from three); set appointments so that clients can work with the same lawyer throughout their legal matter, and introduce legal coaching to help clients represent themselves in court.

These services are in addition to regular family duty counsel services (information and advice on family law issues, court processes, and options for resolving legal issues outside of court; help with document preparation and preparation for court appearances; representation in court on brief uncontested issues; and referrals to online resources and other agencies).

Overview of LSS Coverage Guidelines

Parents Legal Centre (Vancouver)

The Parents Legal Centre (PLC), located at the Provincial Court in Vancouver (Robson Square), will provide advice and limited representation services to parents facing child protection issues that would be heard in the Vancouver Provincial Court (Robson Square), to support early, collaborative resolutions outside of contested hearings.

The applicant must be:

- ❖ a parent (including parents in a same-sex relationship), or
- ❖ a party to the proceeding with whom the child resides and who stands in place of the child's parent or guardian

The PLC will provide:

- ❖ information and advice on options for resolving child protection issues out-of-court
- ❖ legal advice and representation, where appropriate, at collaborative processes such as mediation and family case planning conferences
- ❖ information and advice on court processes
- ❖ legal advice and representation at uncontested hearings
- ❖ referrals to other services, including online resources and other public agencies

All eligible applicants will be referred to the PLC instead of receiving a CFCSA representation referral under the *CFCSA Tariff*. If the issues cannot be resolved collaboratively and the applicant meets coverage and financial eligibility guidelines for a CFCSA representation referral, LSS may appoint a lawyer to complete the case.

Expanded Criminal Duty Counsel (Port Coquitlam)

Expanded criminal duty counsel (CDC) is located at the Provincial Court in Port Coquitlam. Expanded CDC will provide out-of-custody duty counsel services, including summary advice and assistance, to accused people making initial appearances. The pilot lawyer will retain conduct of select non-complex cases up to the trial fix date where the applicant meets the pilot's coverage and financial eligibility guidelines. The pilot lawyer will provide continuing services to try to achieve early resolution of cases, such as:

- ❖ reviewing disclosure
- ❖ having discussions with Crown Counsel
- ❖ attending court if a guilty plea is required to resolve the case
- ❖ expanded criminal duty counsel will not conduct bail hearings

All eligible applicants will be referred to expanded CDC instead of receiving a criminal representation referral under the *Criminal Tariff*. If the case cannot be resolved before the trial fix date and the applicant meets coverage and financial eligibility guidelines for a criminal representation referral, LSS may appoint a lawyer to represent him or her at trial.

The expanded CDC in Port Coquitlam will replace regular out-of-custody duty counsel at the pilot location. In-custody duty counsel will continue to be done by lawyers on the criminal duty counsel roster.

Exception review guidelines

Exception review merit considerations

The decision to approve a case on exception review is a discretionary decision made by the Provincial Supervisor, Legal Aid Applications, and is based on established guidelines, a merit test, and available budget.

Family cases

An application dealing with a matter under the Family Law Act can be sent for an exception review if:

- ❖ the applicant has recently been denied extended family services (within the past year);
- ❖ the emergency services referral policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex;
- ❖ the applicant has a mental or physical disability and is unable to represent him or herself (there must be a significant barrier that will create an injustice if the applicant is not represented);
- ❖ a significant injustice can only be avoided by appointing counsel; or
- ❖ the applicant is so traumatized by past abuse that he/she is unable to represent him/herself.

Criminal cases

If a policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex.

If an applicant has been charged with spousal assault (summary or indictable offence) where:

- ❖ there is no risk of jail if convicted,
- AND
- ❖ he or she has a referral for a family or CFCSA issue that might be negatively affected by the spousal assault charge,

Denial of Legal Aid

If a client is denied legal aid they can request a review of the decision. They must submit a written request within 30 days of the date of the decision. They should state why they disagree with the refusal and explain why they believe they should get legal aid. They also need to include any supporting documents that support their request.

The request for review can be sent to:

Provincial Supervisor, Legal Aid Applications
Vancouver Regional Centre
400 – 510 Burrard Street
Vancouver, BC
V6C 3A8
Fax: 604-682-0787

Legal Issues in Child Protection

Amanda J. Rose

Family Lawyer

Child Protection : The Basics

- **The Ministry for Child and Family Development** (MCFD) is the government branch that investigates child protection reports, and, if needed, can provide supports or intervene.
- Social workers do the investigations, and team leaders authorize more serious action that needs to be taken.
- “The Director” is the legal representative of MCFD, and appears for them in court.

Child protection Vs. Family law

- Child protection is a branch of family law, but there are two very different areas, governed by different law.
- (1) **Parent Vs. Parent** – when parents are in a dispute over children the law that governs this is the Family Law Act (FLA)
- (2) **Parent Vs. MCFD** – when there is a dispute over children between the parents and government social workers. Governed by Child Family and Community Services Act (CFCSA)

How do MCFD get involved?

Child Protection Report :
minor or no basis for
intervention

- Investigation: outcome: no action needed, file closed
- Investigation: outcome: support needed, supports offered (voluntary).

Child Protection Report –
report real, requires MCFD
help

- Investigation: report true/substantiated: supports offered to family, depending on seriousness.
- If Parent works with MCFD to resolve issues : file closed

Child Protection Report -
Serious and immediate
MCFD help needed

- Investigation: serious protection concerns found: Parent required to address immediately
- If parent does not address, child may be removed if there is no other way to ensure their safety.

The Law

- Child Family and Community Services Act (“CFCSA”)
www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96046_01
 - The act that governs all of child protection work
- Relatively short act.
- Sets out timelines – how long a child can be in care
- Sets out principles – what should govern the social workers work.
- Sets out legal framework (steps in a case).

Steps in Child Protection

- There is a great legal aid resource for parents who have MCFD involvement:
- <http://www.lss.bc.ca/publications/pub.php?pub=77>
- Parents rights, kids rights.
- Set out the law, and resources.

Principles of the Act

- Guiding Principles of the Act – this is important, the Court will assess the social workers actions in light of the guiding principles (if it goes to court).
- S2 of the CFCSA
- **Guiding principles**
- **2** This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:
 - (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
 - (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
 - (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
 - (d) the child's views should be taken into account when decisions relating to a child are made;
 - (e) kinship ties and a child's attachment to the extended family should be preserved if possible;
 - (f) the cultural identity of aboriginal children should be preserved;
 - (g) decisions relating to children should be made and implemented in a timely manner.

Service Principles

- **Service delivery principles**
- **3** The following principles apply to the provision of services under this Act:
 - (a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
 - (b) aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children;
 - (c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;
 - (d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the [Community Living Authority Act](#);
 - (e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.

Best interests of the Child

- **Best interests of child**
- **4** (1) Where there is a reference in this Act to the best interests of a child, all relevant factors must be considered in determining the child's best interests, including for example:
 - (a) the child's safety;
 - (b) the child's physical and emotional needs and level of development;
 - (c) the importance of continuity in the child's care;
 - (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
 - (e) the child's cultural, racial, linguistic and religious heritage;
 - (f) the child's views;
 - (g) the effect on the child if there is delay in making a decision.
- (2) If the child is an aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests.

What can a social worker do?

- Their powers are pretty broad – they can:
 1. Talk to the school, neighbors
 2. Talk to the child alone
 3. review school reports or hospital reports about your child
 4. come to your home and ask to see the child. If you say NO, they can remove the child.

On what grounds can they remove a child?

- Section 13 of the CFCSA governs this:
 - - can be a failure to protection from domestic violence
 - Neglect
 - Physical abuse
 - Sexual abuse
 - Psychological harm
 - List is not exhaustive.
 - Failure to provide medical care – blood transfusions etc.

What to do if your child is removed

- (1) Call Legal Aid – if a parent financially qualifies, they can get a lawyer to represent them.
- (2) Get as much information as possible to advise lawyer.
- (3) Don't fight with the social workers over it (leave that to the lawyer!)
- If possible, have a third party present (advocate, or calm family member) when meeting with a social worker.

Timelines after a child is removed.

- (1) Within 7 days, the Director must go to court for the “Presentation Stage” – this is where they file a report to the court about the circumstances under which a child is removed.
- (2) If a parent disagrees, they can ask for a Presentation Hearing, in which the Judge can assess if the child was removed with enough grounds. If not, the child has to be returned.

Reality: Presentation Hearings can take up to 6 months to happen due to court schedule. If the parent doesn't seek a hearing, the Director otherwise gets an “interim order” for 45 days.

Presentation Hearings are usually unsuccessful for the parent. If the parents evidence and the social workers evidence is different, the court basically has to accept the social workers evidence.

Ways to support parents who have children removed

- If they have a lawyer, ask the lawyer (and the parent!) if you can attend the meetings to help the parent understand what is going on, and to help create a plan.
- Lawyers are only a piece of the puzzle to fix it. Advocates/settlement workers, support workers can help the parent just as much by addressing the issues that might have led to a removal.

Ways Child Protection Disputes can be resolved

- (1) **Mediation** – Where a trained mediator works with the family and the social workers, usually over a full day, to identify the issues and discuss a way to resolve them.

At any stage of the proceedings, parents can request a mediation. If they have a lawyer, then their lawyer requests it and attends.

The benefits of mediation

- Can improve the relationship between the social worker and the parent
- Can help the parent or the social worker understand a little more about what happened. Often, both sides are in the dark about what has led to the situation.
- Can help create a “Plan” – or a mediated agreement, which is usually very helpful for the parent. The biggest complaint parents usually have in the process is that they are in the dark about what to do, and how long it will take.

Ways child protection disputes are resolved:

- Court – if the parent disagrees with MCFD about the removal or continued care of their child, they can have a trial on the issue.

The downsides of this:

- Time consuming – can take many months to get a hearing
- Success rates are usually fairly poor.
- Trial is usually very stressful for parents, and breaks them down even further.

Complaint's

- Parents do have the right to complain about the social worker. Complaints about MCFD are handled regionally, and internally.
- Complaint process is actually handled fairly well, but can be time consuming.
- Information can be found on MCFD website.

A parent should talk to their lawyer first before complaining.

Resources

- Parents Legal Center – Robson Square courthouse. A lawyer and advocate is there full time to assist in court and with investigations (supporting the parent). New program and run by an experienced child protection lawyer.
- Legal Aid: call the intake center (they also have translators)
- Legal Aid Publications – Child protection book for parents.
<http://www.familylaw.lss.bc.ca/resources/publications/pub.php?pub=77>

Resources

- Resources to help kids in care
- Representative for Children and Youth
- <https://www.rcybc.ca/>
- Not part of MCFD – they report directly to legislative assembly
- They can advocate and monitor services for youth who are in MCFD care or receiving services from MCFD



Cyberbullying & Misogyny

Some statistics

1. 99% of students in grades 4-11 are able to access the Internet outside of school in Canada
2. Increasing rates of youth with their own Facebook accounts
3. 23% of students reported they have done “something mean or cruel to someone online”
4. 37% reported that someone had said or done something mean or cruel to them online that made them feel bad about themselves.
5. Risks for young people online: content, contact, conduct

Source: Steeves, V (2014c). Young Canadians in a wired world, phase III: Life online. Ottawa: MediaSmarts.

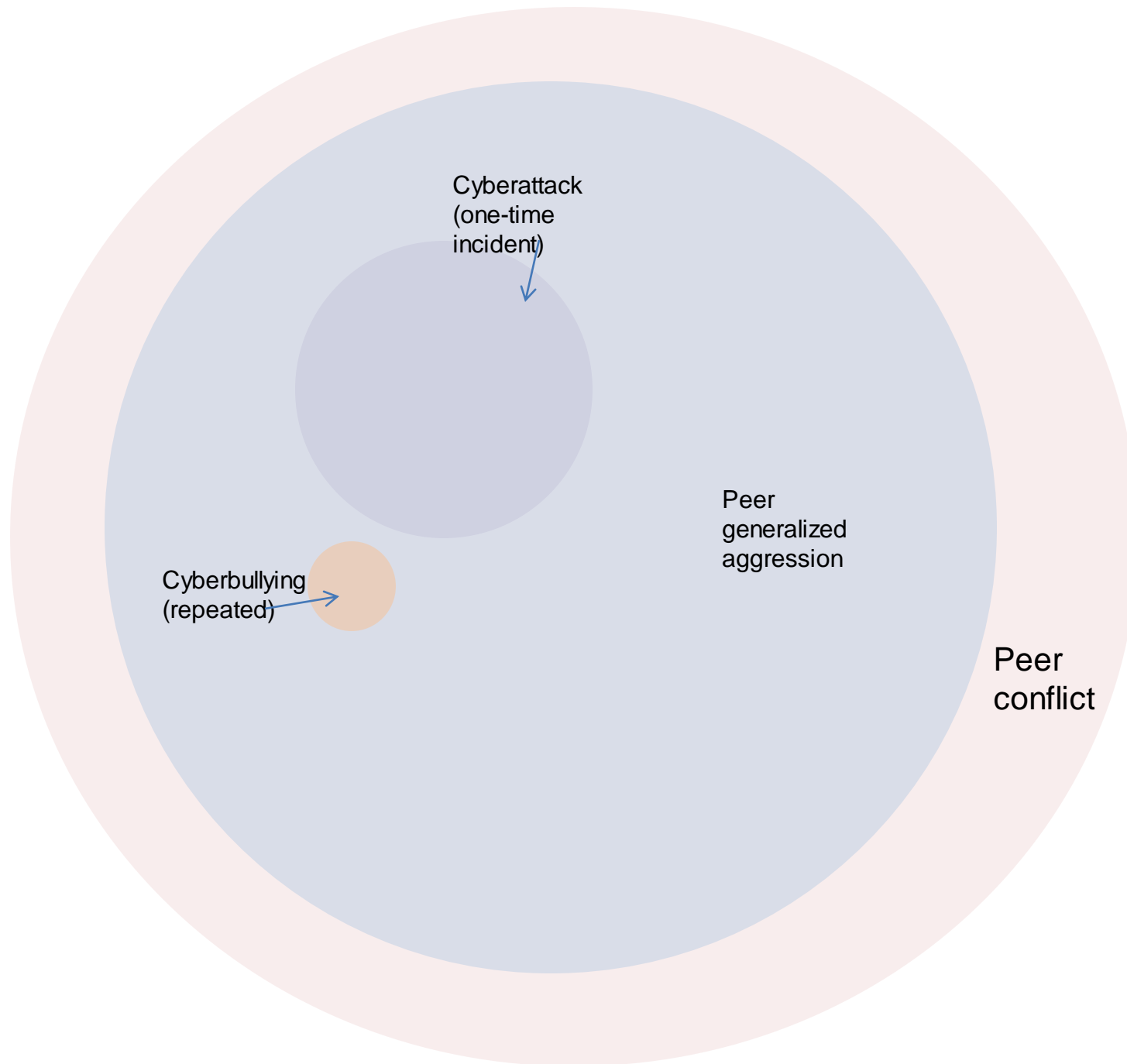
Prevalence of cyberbullying

1. Highly variable prevalence rates
2. Major studies cite anywhere from 1.2% of students to 44.1% of students
3. No clear increase (or decrease) in the prevalence of cyberbullying in recent years

Source: Hinduja & Patchin (2012); Livingstone & Smith (2014); Olweus (2012); Smith (2012)

Defining cyberbullying

1. Many use traditional definition and extend it to online space, which includes
 1. Repetition
 1. Intention to harm
 2. Power imbalance
3. Other factors include:
 1. Anonymity
 2. No time or space limitations
 3. Greater publicity
 4. Missing or ambiguous social cues
4. Conflation with generalized peer aggression

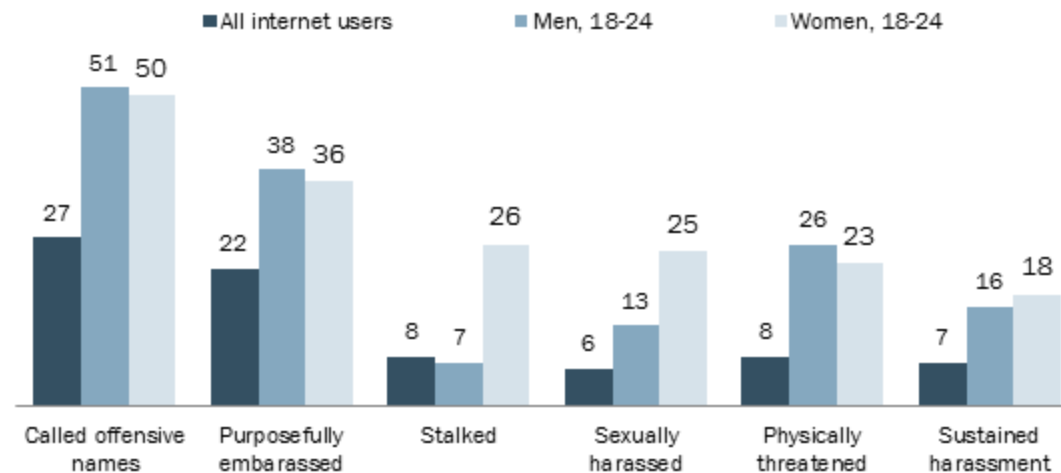


“cyberbullying”?

- 90% of victims of “revenge porn” are women and girls (Cyber Civil Rights Initiative)
- 40% of trans students have been victimized by online harassment and hate (EGALE)
- 72.5% of those reporting abuse online are female (Working to Halt Online Abuse)

Young women experience particularly severe forms of online harassment

Among all internet users, the % who have personally experienced the following types of online harassment, by gender and age...



Source: American Trends Panel (wave 4). Survey conducted May 30-June 30, 2014. n=2,839.

PEW RESEARCH CENTER



Manifestations of cyber misogyny

1. Revenge porn
2. Sexting & child pornography
3. Cyberstalking
4. Sexual Exploitation & Internet Luring
5. Gender-based hate speech

Criminal Law Options

- Criminal Harassment
- Child pornography
- Extortion
- Sexual exploitation & Internet luring (youth)

Civil Law Options

- Defamation
- Invasion of Privacy
- Intentional infliction of mental suffering: “Flagrant or outrageous conduct” resulting in a “visible or provable illness”

Debates in the field

- Freedom of speech
- Importance of anonymity
- Role of the school
- Responsibility of internet service providers



Is that legal?

UNDERSTANDING CANADIAN LAW ABOUT ISSUES OF ONLINE HARASSMENT, EXPLOITATION, AND ABUSE

WE KNOW THE INTERNET IS AN AMAZING RESOURCE. It lets us connect, communicate, learn, play, and create. But it also has its dark side. Some people use the Internet to harass, exploit or abuse other people. Often, they target people they perceive as “different,” or who are extra vulnerable in some way. For example, LGBTQ folks, people with disabilities, racialized people, and women and girls are at particular risk of being harassed and bullied online.

Everyone has the right to be safe online. Knowing how to recognize illegal behaviour on the Internet, and knowing what you can do about it, can help you make the Internet a safer place for yourself and the people around you.

THIS BOOKLET DESCRIBES four common scenarios addressing issues of online harassment, exploitation, and abuse that happen to people online, and tells you about the laws that might apply in each case. If you or someone you know is experiencing something similar to any of these scenarios, help is available.

REVENGE PORN	2
SEXTING & CHILD PORNOGRAPHY	3
CYBERSTALKING	5
SEXUAL EXPLOITATION & INTERNET LURING	6
RESOURCES	8



This booklet provides general information about the law in British Columbia. It is not meant to give you legal advice on your specific problem. Because each person's case is different, you may need to get legal help (for example, you may need to speak to a lawyer). If you are looking for help, we have included a list of resources on the back page.



CRIMINAL HARASSMENT

IN CANADA, IT IS A CRIMINAL OFFENCE...



To communicate repeatedly with a person or someone they know in a way that causes the person to **"reasonably fear"** for their safety or the safety of someone they know.



To engage in **"threatening conduct"** towards a person or their family member in a way that causes the person to **"reasonably fear"** for their safety or the safety of someone they know.



To threaten to kill or harm someone.



To threaten to burn, damage, or destroy someone's property.



To threaten to kill a person's pet.

WHAT COUNTS AS "REASONABLE FEAR"?

It depends on the circumstances, but the following factors could be taken into consideration:

Difference in age



Gender dynamics



Nature & history of the relationship between the people



Differences in size and strength



WHAT IS "THREATENING CONDUCT"?

The courts say: "a tool of intimidation designed to instill fear in the recipient." It can be...

Verbal



Behaviour (like chasing someone or blocking their way)



Indirectly (through another person)



WHAT DOES THIS LOOK LIKE ONLINE?

It can take many forms, including:

Sending threatening images to someone through their friends on social media.



Sending threatening texts.



Sending someone emails after they've told you to stop.



Posting or threatening to send out intimate images without the person's permission to do so.



If you think you have been subject to criminal harassment, talk to an adult you trust if possible. This could be a parent/guardian/family member, a teacher, a counsellor, or a family friend. You can also go to the police.

Disclaimer: The information in this infographic is legal information only; if you are in trouble, you should speak to a lawyer.



CHILD PORNOGRAPHY

**IN CANADA,
CHILD
PORNOGRAPHY
REFERS TO:**



a picture



a video



or another
visual
representation

...that shows a person under 18 **engaged in intimate sexual activity**

OR

...that depicts a **sexual organ or the anal region** of a person under 18. To qualify as child pornography, the depiction of a sexual organ or anal region must be the **dominant characteristic** of the image or recording, and the depiction must be for a **sexual purpose**.

Creating, possessing, and distributing child pornography are all criminal offences in Canada. If you are under 18, it is illegal for another person to be in possession of a naked or sexually explicit picture of you, even if you consent to it.

THERE ARE A FEW **EXCEPTIONS** TO THIS LAW:



If you are under 18, it is legal for you to take a photo or video of yourself and your partner engaged in **lawful and consensual** sexual activity, as long as (1) you **both agreed** to the recording; (2) it was **created together**, and (3) you keep the image or video **private** between the two of you.



Visual material depicting only **casual sexual contact**, like touching, kissing, or hugging, is considered legal since these are not depictions of nudity or intimate sexual activity.



Visual material that is **not for a sexual purpose** – like pictures of naked kids playing in the bath, for example – **may** be considered legal. The context of the material is very important.



Material made for an artistic, educational, scientific, or medical reason, **may** be accepted by the courts as well. Again, the context of the material is very important.



Possessing and distributing child pornography is a very serious criminal offence.

-You can be charged with this offence even if you are under 18 yourself.

-In theory, you could also be charged for distributing child pornography even if you are the one depicted in the photo (though this has not happened in Canada as far as we know). When a naked photo or sexual video goes beyond your own private use, it is child pornography, and it cannot be lawfully possessed or shared.

Disclaimer: The information in this infographic is legal information only; if you are in trouble, you should speak to a lawyer.



Questions?

Accessing Income Supports

UPDATED JANUARY 28, 2015



we are all
connected

Monthly Income Support Programs

-
- The Ministry of Social Development and Social Innovation
 - Income Assistance (IA)
 - Persons With Persistent Multiple Barriers to Employment (PPMB)
 - Person With Disability Designation (PWD)
 - Canada Pension Plan Disability (CPP)

The Ministry of Social Development and Social Innovation

Benefits from the Ministry of Social Development and Social Innovation (MSDSI) are both income and asset tested based on the family unit's income and assets. A person applying for income assistance or disability benefits with MSDSI must first show that they are financially eligible.

Asset Levels

	Item	Maximum amount
Single person applying for or on IA	Saving, investments, RRSPs, GICs etc.	\$2, 000
Single person applying for or on PWD	Saving, investments, RRSPs, GICs etc.	\$5, 000
Couples, one or two parent families applying for or on IA	Saving, investments, RRSPs, GICs etc.	\$4, 000
Couples, one or two parent families where at least one person is applying for or on PWD	Savings investments, RRSPs, GICs etc.	\$10,000
Single person, couples and families applying for or on IA	Vehicle	10, 000
Single person, couples and families where at least one person is on or applying for PWD	Vehicle	Unlimited

How the rates are calculated

Support Rate + Shelter Maximum = Monthly Benefits

The shelter maximum is only paid if there are shelter costs.

A single person on income assistance would qualify for:

$$\$235 \text{ (support)} + \$375 \text{ (shelter maximum)} = \$610$$

A single person on PWD would qualify for:

$$\$531.42 \text{ (support)} + \$375 \text{ (shelter maximum)} = 906.42$$

A couple where one person is on PWD and the other is deemed employable would qualify for:

$$\$700.56 \text{ (support)} + \$570 \text{ (shelter maximum)} = 1270.56$$

A couple where both adults are on PWD would qualify for:

$$\$949.06 \text{ (support)} + 570 \text{ (shelter maximum)} = 1519-.06$$

About family units

A person with a disability living with their family or a roommate can qualify for income assistance or disability benefits as a single person.

However, if they live with a spouse or a partner MSDSI will expect the couple to apply and will take the partners income and assets into question when determining financial eligibility for the family unit.

Step 1: The Self Serve Assessment and Application

The application is online at: <https://www.iaselfserve.gov.bc.ca>

For people who do not have access to a computer or do not know how to use one the Ministry offices have computers available for completing the online application.

If there is an emergency need for food, shelter or urgent medical care the Ministry should fast track an application for assistance.

Stage 2: Eligibility interview

The Ministry should respond to any online application over the phone within 5 business days. They will give a list of documents that will help them determine financial eligibility. This can include:

- Identification Documents
- Confirmation of address and shelter costs
- Verification of any income
- 60 day bank statements
- Vehicle registration
- Income tax assessment

Persons with Disabilities Designation Application (PWD)

The PWD forms are a 28 page book split into three sections.

Part 1 (pages 3-5): The applicant's section

Part 2 (pages 9-13): The physician section

Part 3 (15-27): The assessor's section

PWD eligibility requirements:

- Applicant must be over 18 years of age,
- The disability must be severe and expected to continue for at least 2 years, and
- The disability must significantly restrict the applicant's ability to perform daily living activities

AND because of the disability the person must need:

- significant help from another person, or
- help from an assistive devices, or
- help from an assistance animal.

Daily Living Activities include:

- Personal self care
- Meal preparation
- Management of medications
- Basic housework
- Daily shopping
- Mobility inside of the home
- Mobility outside of the home
- Use of transportation
- Management of finances
- Social functioning

	Income Status	Earnings Exemption
Single person or couples on IA	Earned	\$200 per month
A family unit with at least one person approved for PPMB	Earned	\$500 per month
Single person on PWD (with or without children)	Earned	\$9600 per year
A family unit with two adult recipients where only one person has PWD	Earned	\$12, 000 per year
A family unit with two adult recipients who have both been approved for PWD	Earned	\$19, 200 per year
Dependant child who is a full-time student	Not considered income	Fully exempt
Dependant child who is not a full time student	Earned	Income is added to the total earned income for their family unit.

Contacting the MSDSI

1 – 866 – 866 – 0800

Other Benefits

THINGS YOU MAY BE ABLE TO QUALIFY FOR IF YOU ARE GETTING INCOME ASSISTANCE, PPMB, OR PWD.

Medications

If you are on any level of assistance with the Ministry of Social Development and Social Innovation you should have no Pharmacare deductible to pay.

Dental

A person on PWD or PPMB will receive \$1, 000 over a two year period for dental. Dentists must get approval before they do any dental work.

Bus Pass

Bus pass if you are over 60 and in receipt of income assistance or any age and approved for PWD you can apply for the Annual Bus Pass.

Phone the Bus Pass Program at 1-866-866-0800 and ask for an application to be mailed to you or download the application form from www.sd.gov.bc.ca/programs/bus-pass.html

If you live in the Metro Vancouver area you will be issued a COMPASS card.

Special Transportation Subsidy

If you are on PWD but unable to take public transit (including handyDART and taxis) because of your disability you can give up the annual bus pass and get an annual payment to assist with arranging alternative transit options.

You must obtain a Special Transportation Subsidy application from the Ministry and have your doctor complete it.

Monthly diet supplements

Anyone getting money from the Ministry can apply for a diet supplement. There are no forms to fill in for a diet supplement request. Your doctor must state your medical condition in writing, the kind of diet you require and how long you will need it for. You can only get one diet allowance at a time. The 9 diet supplements are:

- | | |
|---|----------------|
| ➤ High protein diet (see next slide for the requirements) | \$40 per month |
| ➤ Gluten-free diet | \$40 per month |
| ➤ Low-sodium diet | \$10 per month |
| ➤ Ketogenic diet (high fat, low carb for refractory epilepsy) | \$40 per month |
| ➤ Phenylalanine diet | \$40 per month |
| ➤ Cystic fibrosis diet allowance | \$50 per month |
| ➤ Diabetes diet allowance | \$35 per month |
| ➤ Dysphagia diet allowance | \$40 per month |
| ➤ Kidney dialysis diet allowance | \$30 per month |

High protein diet

In order to qualify your doctor must indicate that you have one of the following conditions:

- Cancer (and receiving therapy or medical treatment)
- Chronic bacterial infection
- Chronic inflammatory bowel disease
- Crohn's disease
- Hepatitis B or C
- HIV / AIDS
- Hyperthyroidism
- Osteoporosis
- Tuberculosis
- Ulcerative colitis

Short-term nutritional supplement

Anyone receiving money from the Ministry of Social Development can apply. The supplement provides products like Ensure or Boost, for a three-month period. Like diet allowances the Ministry have no set forms for the short-term nutritional supplement so your doctor must state in writing that you have an **acute short-term need** for caloric supplementation to prevent weight loss due to:

- Serious disease
- Severe injury
- Surgery
- Treatment side effects

Monthly Nutritional Supplement

You must be on PWD to apply for the Monthly Nutritional Supplement. People on IA or PPMB are not eligible. To apply you must obtain an application form from the Ministry of Social Development.

The supplement is split into two parts:

- | | |
|--|--|
| ➤ Nutritional items: | \$165 per month (this benefit will only be provided if you need to supplement your regular diet, you cannot collect this supplement and a diet supplement at the same time.) |
| ➤ Vitamin and / or Mineral supplementation | \$40 per month |

To qualify for the MNS

You must have a chronic and progressive deteriorating condition that causes at least two of the following:

- Significant deterioration of a vital organ.
- Immune suppression (moderate to severe)
- Malnutrition
- Significant muscle mass loss
- Significant neurological degeneration
- Significant weight loss
- Underweight status

Crisis Supplements

- Up to \$100 per person per year for clothing.
- \$20 per person per month for food and emergency rent assistance.

To qualify for a crisis supplement you need to be able to show the Ministry that you had an unexpected need. To have the greatest chance of success also do a basic budget showing the Ministry that you cannot afford to meet that need out of your support cheque.

Unexpected need: Medication side effects have caused rapid weight gain.

Income: 906 per month

Expense	Cost	\$\$ remaining from cheque
Rent		
Food		
Phone		
		\$0.00

Clothing needed:

Clothing items	Value Village	Army and Navy
3 x shirts	35	40
2 x pants	25	20
Underwear	5	5
Bra	15	15
Rain jacket	20	25
Total	100	105

Natal Allowance

The Natal Allowance is an extra \$45 per month. You will need to provide a doctor's letter confirming the pregnancy.

Medical Equipment and Devices

The Ministry of Social Development and Social Innovation will pay for certain medical equipment and devices. You need to get approval **before** you buy the device(s), you need to show you have no resources to buy them and that the equipment is the least expensive appropriate device.

The Ministry will consider paying for the following equipment and devices:

- canes, crutches, and walkers
- wheelchairs
- wheelchair seating systems
- scooters
- bathing and toileting aids
- hospital beds
- pressure relief mattresses
- floor or ceiling lift devices
- positive airway pressure devices
- orthoses
- hearing aids
- Non-conventional glucose meters

-
- Medical devices under \$500 must be prescribed in writing by a doctor, nurse practitioner or through a written assessment by an occupational therapist or physical therapist.
 - Medical devices over \$500 a “Equipment Request and Justification” form must be completed by a physician and possibly an occupational therapist or a physical therapist.

Medical supplies

The Ministry of Social Development and Social Innovation will consider covering the following medical supplies if a doctor or a nurse practitioner will prescribe them:

- Wound care – including bandages, dressings, skin ulcer products, gel pads, protectors, burn treatment garments. Wound care supplies does not include band aids for minor wounds.
- Ongoing bowel care due to loss of muscle function – including bowel stimulants ,fleet enemas, and skin care products.
- Medical supplies for draining the bladder – including catheters, urinary drainage bags, skin care products, and powder.
- Medical supplies for incontinence – including diapers, pads, leg bags, and skin care products.
- Skin parasite care – including medicated shampoo for parasitic skin infections such as scabies or lice.

Medical Supplies Continued

- Limb circulation – compression stockings
- Food thickeners
- Lancets – for obtaining blood samples for people with diabetes (Fair Pharmacare provides other supplies)
- Needles and syringes – may be considered for delivering medication or feeding.
- Ventilator supplies – including vinegar, hydrogen peroxide, and distilled water may be considered for the essential operation or sterilization of a ventilator.
- Tracheostomy supplies – including tubes and bandages may be considered.

Optical

- The Ministry of Social Development and Social Innovation will pay up to \$44.83 for an optometrist's exam and 48.90 for an ophthalmologist's exam once every two years.
- The Ministry will provide single vision or bi-focal frames once every three years for an adult and once a year for a child.
- If you have a condition such as diabetes where your vision may change dramatically during the three year period the Ministry may consider paying for a new prescription. The optometrist or ophthalmologist will have to submit a request to the Ministry.

Camp Fees

The Ministry of Social Development and Social Innovation may be able to pay all or part of camp fees for children whose parents are on Income Assistance or PWD.

- The camp must be in B.C.
- The camp could be a day camp or overnight.
- Themed camps are acceptable.
- Camps where parents go with the children do not count.
- Limited to the actual cost of the camp fees - \$200 which ever is lower.

If the Ministry will pay for camp fees will often depend on the funds available.



ADVOCACY ACCESS
HELPSHEET
BC DISABILITY BENEFITS

2
FEBRUARY 2014

The Persons with Disabilities (PWD) Application

This Help Sheet is funded by the Legal Services Society of BC, Human Resources and Skills Development Canada: Homelessness Partnering Strategy and the Health Sciences Association of British Columbia.

The BC Coalition of People with Disabilities has prepared this Help Sheet to help you complete the Ministry of Social Development and Social Innovation's (MSDSI) designation application form for the Persons with Disabilities (PWD) benefit.

This Help Sheet provides you with easy to follow directions that take you through the application form step-by-step. It includes letters to give to your doctor and assessor (a health care professional who must describe your disability on the form). There is also a checklist to help you identify the daily living activities you need assistance with.

Before you do anything, please read this guide and the designation application carefully. If you cannot understand the guide or the form, ask a friend, family member or advocate to help you.

Getting started

If you already receive income assistance, contact MSDSI at 1-866-866-0800 and ask for a PWD application. If you do not yet receive assistance, contact MSDSI for information on how to apply for income assistance or see our Help Sheet 12.

What you will get with PWD

- You will receive up to \$906 a month if you are a single person without dependants
- You will not be expected to look for work
- You will be able to keep up to \$800 a month in earned income



Advocacy Access is a program of BC Coalition of People with Disabilities

Ask about other Help Sheets in this series. All our publications are available at www.bccpd.bc.ca. Information in this Help Sheet is based on the legislation that was current at the time of writing. The legislation and policy may be subject to change. Please check the date on this Help Sheet.



- You will be eligible for a range of health supplements
- You will be eligible for an annual bus pass (\$45 per year)

Annual Earnings Exemption

In 2015, the Ministry plans to implement an Annual Earnings Exemption for people receiving the PWD benefit. BCCPD, and other organizations, have been working closely with the Ministry on this positive change. An annual exemption will benefit people who earn high amounts over a short period of time. As more details on the exemption are made available, we will update our Help Sheets, and announce the changes on our website, blog and e-newsletter. You can sign up for our free e-news at www.bccpd.bc.ca.

What does “disability” mean?

This is a summary of the definition of a person with a disability. To be eligible for PWD:

- you must be at least 18 years of age,
- your disability must be severe and be expected to last for at least two years, and
- it must directly and significantly restrict your ability to perform daily living activities (explained on page 3).

Also, because of your disability, you need:

- significant help from another person, **or**
- help from an assistive device (e.g. a wheelchair), **or**
- help from an assistance animal.

The PWD Designation Application

The designation application form for PWD has three sections:

Section One: is the section you fill out.

Section Two: is the section your doctor fills out.

Section Three: is the section an “assessor” fills out. An assessor can be:

- your doctor (your doctor can fill out Sections Two and Three), or
- a registered psychologist, or
- a registered nurse or registered psychiatric nurse, or
- an occupational therapist, or
- a physical therapist, or



- a social worker, or
- a chiropractor, or
- a nurse practitioner.

You are asked to fill out the sections of the designation application form in order. In other words, Section One must be completed first, then Section Two, and then Section Three.

Section One (for you to fill out)

When you look at Section One (page 3 of the application) you will see that it says you can have someone help you to fill it out. You may find it helpful to have a friend, family member or advocate help you complete it.

A - Personal Information

Complete this part by filling out each box with your name, date of birth, address etc. If you do not have a phone, remember to put “no phone.”

B - Disabling Condition (your disability)

When you look at Section One of the application form, you will see it says “you are not required to complete this section.” **However, we strongly advise that you do complete it. The more information that you provide the Ministry about your disability, the better it is.**

Because you have to complete Section One first, the doctor and assessor may use it as a guide when they fill out their sections: Sections Two and Three. So it is important to include as much information as you can about your disability when you answer Question B.

Before you answer the questions in Section One, it is a good idea to do a first draft on a separate piece of paper. You may want to have someone else, like an advocate or friend, look at your first draft to help make sure that you have remembered everything that you want to include. When you are ready, write your answer on the application form.

B (1.) “Please describe your disability.”

It is important that you clearly list and explain all your disabilities. For example, you may have Hepatitis C, depression, anxiety and learning disabilities. Again, the more information you can include the better it is.



B (2.) “How does your disability affect your life and your ability to take care of yourself?”

Think about all the ways that your disability makes it difficult or impossible to do the things you need to do on a regular basis. The Ministry lists the following as daily living activities:

- performing personal hygiene and self care (for example, bathing)
- preparing meals
- taking medications
- keeping the home clean
- shopping for personal needs
- moving about indoors and outdoors
- using public or personal transportation facilities (for example, a bus)
- managing personal finances.

For people with mental health disabilities, daily living activities also include:

- making decisions about personal care, activities, or finances
- relating to, communicating with, or interacting with others effectively (in other words, getting along with other people).

Before you answer the question “How does your disability affect your life and your ability to take care of yourself?,” look at the checklist attached to this Help Sheet. Go through it and mark things that you cannot do or find it hard to do on your bad days. Then, using the checklist as a guide, write out the answer to the question. If you need help to complete any of the activities on the list, remember to include this in your answer, **even if you are not actually getting the help you need.**

You should think about any ongoing help you get from friends, family, support groups, mental health teams, or other forms of counselling. Also consider any assistive devices you may need such as canes, splints or grab bars.

Another issue to think about is how long it takes you to complete one of the activities above when no help is available. For example, it may take you two or three times longer than other people to wash your dishes. Remember to include these examples when you answer question B(2).

C - Declaration and Notification

When you have completed Section One remember to sign your name and to date your form. You are also asked to have your signature witnessed, but this is not mandatory.

If someone is unable to sign the PWD designation application due to mental incapability, it may be signed by a guardian or someone with legal authority.



Section Two (for your doctor to fill out)

Section Two (page 6 of the application), is the part that your doctor must fill out. It begins with some directions and information for your doctor. He or she must fill out the part of Section Two that begins on page 8 and says “to be completed by the applicant’s physician only.” If you have more than one doctor, ask the doctor who knows you best to fill out the form.

Because Section Two is to be completed by your doctor, we are not going to go through each question. We will give you a few general ideas that we think will help.

Make an appointment with your doctor to discuss the form

Section Two has many questions for your doctor to answer. Your doctor’s ability to answer them correctly will depend on how well he or she knows you. Meet with your doctor to discuss the form and go through the questions before he or she fills it out. This is particularly important if you do not have a family doctor and you go to a walk-in clinic.

What to take with you when you go to see your doctor:

- Your PWD designation application form with your section completed
- You may want to photocopy and complete Section Two and then show it to your doctor to see if they think it is accurate. If your doctor agrees with what you have written, they may want to use it as a guide. It will make their job easier and help them understand how your disability affects you on a daily basis.
- Page 7 of this guide: “letter to doctors”
- A copy of your completed checklist.

Section Three (for your assessor or doctor to fill out)

Section Three (page 13 of the application) is the part that your assessor or doctor must fill out. It begins with some directions and information for your assessor or doctor.

Take a look at the list of assessors who can fill out Section Three listed on page 2 of this guide. Your assessor must be a registered professional. For example, if a social worker is filling out Section Three for you, he or she must be working as a social worker for the provincial government or, if they are in private practice, registered under the Social Workers Act. An Employment and Assistance worker (EAW) cannot act as an assessor. Remember, if you do not have an assessor, your doctor can complete Section Three.



What to take with you when you go to see your assessor:

- Your PWD designation application form with your section and your doctor's section completed
- You may want to photocopy the form and this time fill out Section Three. Show your completed copy of Section Three to your assessor
- Page 8 of this guide: "letter to assessors"
- A copy of your completed checklist.

Application Checklist and submitting your application

When your PWD application is completed, look at the Applicant Checklist on page 23 of the form. Make sure that you have included everything. If you want the Health Assistance Branch to confirm it has received your application, put your name and address in the space provided under the client checklist. **Do not forget to make a photocopy of your completed form.**

When you are sure that everything is complete, mail your application by putting it in the envelope included with the form. No postage is required.

Frequently Asked Questions

Below are answers to questions we are frequently asked.

Q: What do I do if I don't have a doctor?

A: We know that finding a doctor can be difficult, but you must have a doctor complete Section Two of the PWD application. Once you have found a doctor, it is a good idea to see him or her a few times before you ask to have the form completed. It is important that they know you.

Q: Do I have to pay to have my doctor or assessor to fill out the application?

A: No, the provincial government pays doctors and assessors to do this. Health professionals should not charge you any extra fees.

Q: What do I do if I do not know any health professionals who can be my assessor?

A: The Ministry will accept only certain professionals as assessors on your PWD designation application. There is a list of accepted professionals in the application. Ask your doctor to complete the assessor section if you do not have another health professional who knows you.



Q: What if I am turned down for PWD ?

A: You have the right to appeal if you are turned down for PWD. You have 20 business days from the day you receive the letter telling you that your application has been rejected to give the Ministry your reconsideration request. You must get the reconsideration request form from an MSDSI office.

We recommend that you phone MSDSI (1-866-866-0800) office as soon as you receive the PWD denial letter. Within about 24 hours, the office should put together a reconsideration package that includes the reconsideration request form, a copy of your application and any other information that was sent in with your PWD application.

Remember to include any supporting letters with the reconsideration request before the 20 business-day deadline. For more information on appealing, please see our Help Sheets 5A and 5B.

If you miss the 20 business-day deadline (or are worried you cannot meet the deadline), ask MSDSI for an extension. You also have the right to re-apply if you have new information that you can add about your disability. If you need assistance with your appeal, you should contact your local advocacy group.

Q: Are children eligible for PWD ?

A: No. You have to be 18 years old to receive PWD benefits. You can begin the PWD application process up to six months before your 18th birthday.

Q: Is the PWD designation permanent? Will the Ministry ask me to re-apply for PWD in the future?

A: Although the PWD designation is not a permanent designation, the current MSDSI practise is not to ask people to re-apply for PWD. In other words, you will not be asked to complete another 23-page application.

Q: Do I have to be on income assistance before I apply for PWD?

A: No. Although you have to be financially eligible to apply for PWD, there are some cases where you may not be eligible to get income assistance, but you can still apply for PWD. For example, if your income is over \$610 per month (the current welfare rate), but under \$906 (the current PWD rate), or if your assets are over \$2,000, but are about \$5,000, then you are allowed to apply for PWD. For more information, see our Help Sheet 12 or contact your local advocacy group.



Q: Can I apply for PWD if my assets exceed the allowed asset limits for PWD (\$5,000 for a single person)?

A: In some situations, you can. For example, if you have no income, you are living on your savings and you expect your assets to be under \$5000 in a few months, then you should be allowed to apply for PWD.

Q: How long does it take for the Ministry to make a decision regarding my PWD application?

A: Adjudication times can vary. However, it is not unusual for the Ministry to take 3 months or more to make a decision on your PWD eligibility.

Q: Can PWD applications be fast-tracked?

A: The Ministry can sometimes do this. If you have a grave medical condition, it is important to let the Ministry know by asking the application be expedited when you submit it. Youth who have developmental disabilities and 17-year-olds who get At Home Medical Benefits can also have their applications for PWD fast-tracked.



Letter to doctors

Dear Doctor:

Your patient is applying for the PWD (disability) designation and needs your assistance with the application. Section Two is to be completed by the applicant's physician. You may also be asked to complete Section Three – the Assessor Report. To assist you and your patient in completing this form we have highlighted below the key components of the PWD eligibility requirements. We hope you will have the opportunity to discuss the application with your patient before you fill it in.

- The applicant's medical condition(s) must be deemed to be a **severe physical or mental impairment**. It should be noted that, if your patient has a number of medical conditions, they can combine to severely impair the person's functioning. It is helpful if you assess the full impact (especially on bad days) of your patient's disability and to use the word "severe" to describe the level of impairment.
- The impairment must be expected to continue for at least **two years**.
- The impairment must **significantly restrict your patient's ability to perform daily living activities**, either continuously or periodically for extended periods. You are asked to assess your patient's functional skills (such as walking, climbing stairs, lifting and carrying, mental functions) and their ability to manage daily living activities. Daily living activities include personal care, meal preparation, management of medications, housework, shopping, mobility, use of transportation, management of finances and social functioning. Please indicate all the tasks that your patient has difficulty performing. If your patient is restricted periodically, it is important to note the frequency and duration of the limitations.
- As a result of the above limitations, **significant help from other people or assistive devices** must be required. Support people may include family, friends, health professionals, and community agencies. It should be noted when assistance is needed but not available – in these circumstances the applicant may struggle and take longer than normal to complete tasks.

The above outline describes the key PWD eligibility criteria. Your patient should be able to provide you with more details about how their disability affects their daily functioning. May we suggest that you return the application form to your patient once you have completed your section(s).

Thank you for your assistance and co-operation.



Letter to assessors

Dear Health Professional:

Your patient is applying for the PWD (disability) designation and needs your assistance with the application. Section Three—the Assessor Report—is to be completed by the applicant’s physician or a qualified assessor. (The list of licensed professionals who may complete the assessor report is on page 14 of the application form.) To assist you and your patient/client in completing this form, we have highlighted below the key components of the PWD eligibility requirements. We hope you will have the opportunity to discuss the application with your patient/client before you fill it in.

- In order to qualify for the PWD designation, the applicant must have a severe physical or mental impairment that significantly restricts their ability to perform daily living activities either continuously or periodically for extended periods, and as a result of this disability, significant help from others or assistive devices must be shown to be needed.
- As the assessor, you are asked to assess the applicant’s physical and mental ability in relation to their ability to perform daily living activities. Daily living activities include personal care, housework, shopping, meal preparation, mobility in and outside of the home, managing finances and medication, using transportation, and social functioning.
- The form is designed so that the assessor has to measure the applicant’s ability to perform daily tasks on the basis of whether they need help from other people, an assistive device, or whether they take much longer to do things on their own. A person can be deemed to require help even if it is not available to them. Someone with a mental health condition, for example, may be marginalized and isolated but refuse help because of their poor social functioning – such a person can be deemed to require ongoing assistance.
- If your client has “periodic” restrictions it is important to note the frequency and duration of their limitations. If they are struggling to do things on their own, it is helpful to estimate how much longer than normal it may take them to complete a task. In situations where symptoms may vary from day to day, be sure to explain the impact of “bad days” on your client’s overall functioning.

The above outline describes the key PWD eligibility criteria. Your client/patient should be able to provide you with more details about how their disability affects their daily functioning. May we suggest that you return the application form to your patient once you have completed your section.

Thank you for your assistance and co-operation.



Checklist of Daily Living Activities

Persons with Disabilities (PWD) Designation Application

This checklist is to help applicants complete Section One of the PWD designation application. The rules say that to get disability benefits you must show that you need help with daily living activities. The checklist will help you understand what daily living activities the Ministry thinks are important and help you identify whether you have limitations in these areas. You can also show it to your doctor or assessor to help them understand what daily living activities you need help with.

When going through the checklist, you should also ask yourself the following questions:

- Which activities do I have problems doing at least some of the time?
- If I have problems part of the time, how often do these problems happen?
- If there is no one to help me, what help do I need?
- If there is no help and I must do things on my own, how much longer than normal does it take to do it?

There are two sections at the end of the checklist to help you think about the people or assistive devices you may be getting or need help from. If you need help from people or assistive devices that are not on the list, jot this down in the “Other” space.

My disability makes it difficult for me to do the following activities:

1. Personal care routines:

- o getting in and out of the bathtub
- o standing in the shower
- o reaching up and down to wash my body or hair
- o shaving, brushing my teeth, hair and washing my face
- o remembering or having the motivation to do at least basic hygiene daily
- o getting ready for bed
- o getting in or out of bed
- o dressing

2. Preparing and eating meals:

- o standing at the sink, counter and stove
- o moving food from shelves to counters to stoves and ovens
- o chopping, peeling, mixing or stirring food
- o opening cans and jars, opening and resealing bags
- o understanding recipes and labels
- o remembering to take food off the stove or out of the oven
- o remembering to throw out expired or “gone off” food
- o chewing and swallowing
- o remembering to eat regular meals and healthy foods



3. Taking medications:

- o remembering to take the right medications at the right doses at the right times
- o getting prescriptions filled and remembering to get them re-filled

4. Keeping the home clean:

- o doing dishes and putting them away, cleaning counters and sink, cleaning floors
- o cleaning my bathtub, toilet, bathroom sink and floor
- o vacuuming, dusting, cleaning windows
- o carrying, doing and folding my laundry and putting it away
- o remembering or having motivation to keep my home clean

5. Shopping for personal needs:

- o walking around stores, standing long enough to make good choices from the shelves and managing cash register line-ups
- o picking out items from shelves, loading them in the basket, taking them out of the basket and putting them onto the cashier's desk
- o taking the groceries home (carrying them to the bus, on the bus, to my home, or loading them into and out of my car)
- o not getting anxious, scared, frustrated or angry in stores because of crowds, the light, sound and motion or long line-ups

6. Moving about indoors and outdoors:

Indoors

- o going up and down stairs or ramps
- o getting in and out of furniture including my bed
- o opening and closing doors and drawers
- o walking from room to room
- o bending to pick things off the floor
- o kneeling and getting up from a kneeling position

Outdoors

- o walking on flat ground
- o walking on uneven ground
- o going up or down stairs or ramps
- o going out without being anxious or scared

7. Using public or personal transportation:

- o walking to and standing at the bus stop
- o getting on and off the bus or train
- o standing, getting in and out of my seat and remembering to get off at my stop
- o understanding bus or train schedules



8. Managing personal finances:

- o understanding bills and remembering to pay them on time including the rent
- o budgeting for groceries and other things I need
- o stopping myself from buying things I don't need

Because of my mental health disability I:

- o experience a lot of anxiety, agitation, stress, or depression
- o experience a lot of confusion
- o have difficulty making decisions and planning ahead
- o have difficulty doing the most important things first and finishing tasks
- o have difficulty making rational (good) choices
- o have difficulty remembering information and remembering appointments
- o experience sensitivity to light, sound and motion
- o have difficulty socializing without becoming anxious and scared
- o have difficulty interacting with friends, family, and/or my partner
- o have difficulty interacting with strangers in public
- o have difficulty establishing and maintaining relationships with people
- o have difficulty asking for help when I need it
- o experience difficulty being able to deal with unexpected situations

Communication (Note: English language issues are not relevant here)

- o have difficulty making myself understood by others when I speak or write
- o have difficulty understanding what others say to me
- o have difficulty understanding what I read
- o have difficulty hearing what others say to me in person or on the phone
- o feel anxious or scared when I speak to or listen to other people

I get or need help from:

- o community agencies
- o counsellors
- o family members
- o friends
- o health professionals
- o home support workers
- o roommates
- o support groups
- o volunteers
- o other _____



I get or need help from the following assistive devices:

- ☐ adaptive housing
- ☐ bathing aids
- ☐ braces
- ☐ breathing device
- ☐ cane
- ☐ commode
- ☐ communication devices
- ☐ crutches
- ☐ feeding device
- ☐ hospital bed
- ☐ interpretive services
- ☐ lifting device
- ☐ ostomy or urological appliances
- ☐ prosthesis
- ☐ scooter
- ☐ splints
- ☐ orthotics
- ☐ toileting aids
- ☐ walker
- ☐ wheelchair
- ☐ other_____

I need or have an assistance animal

- ☐ yes



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BC DISABILITY BENEFITS

3

FEBRUARY 2014

Checklist for the Persons with Disabilities (PWD) Benefit

This Help Sheet is funded by the Legal Services Society of BC, Human Resources and Skills Development Canada: Homelessness Partnering Strategy and the Health Sciences Association of British Columbia.

These are some of the programs and benefits you **may be** eligible for if you receive the Persons With Disabilities (PWD) benefit from the Ministry of Social Development and Social Innovation (MSDSI).

See **MSDSI Programs** on page 2 for benefits or supplements available through the Ministry. Benefits from other sources are listed under **Benefits Through Other Organizations**, on page 5.

Helpful tips

Apply for the Annual Bus Pass

One of the first things you should do once you have been approved for PWD is to apply for the Annual Bus Pass. Phone the Bus Pass Program at 1-866-866-0800 (then press 4, then 3) and ask for an application form to be mailed to you. When you receive it, you can pay the \$45 fee at your local bank and the Bus Pass Program will mail you the pass. You can also download an application from www.sd.gov.bc.ca/programs/bus-pass.html.

MSDSI Toll-Free Number

You can call MSDSI free from anywhere in BC at 1-866-866-0800. For any MSDSI-related benefit listed in this Help Sheet, you can call this number to talk to a Ministry worker.



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Ask about other Help Sheets in this series. All our publications are available at www.bccpd.bc.ca. Information in this Help Sheet is based on the legislation that was current at the time of writing. The legislation and policy may be subject to change. Please check the date on this Help Sheet.



MSDSI Programs

The following programs and benefits are available through MSDSI.

Benefits you are automatically eligible for when you have PWD

- ☐ **Dental coverage, including denture services, of up to \$1,000 over a two-year period.**

This \$1,000 limit can only be exceeded in exceptional circumstances, such as in the emergency relief of pain. Dentists must get approval before they do any dental work.

- ☐ **Glasses**—lenses and frames every three years
- ☐ MSDSI pays up to \$44.83 for an **optometrist's exam** and \$48.90 for an **ophthalmologist's exam**, every two years.
- ☐ **Medical Services Plan (MSP) coverage**
- ☐ **Prescription drugs**

- ☐ **Annual bus pass**

In 2014, the Annual Bus Pass for people living in Metro Vancouver will be issued as a COMPASS Card. The COMPASS system is expected to be fully implemented in the fall of 2014. Annual Bus Pass holders who live outside of Metro Vancouver, but need to come to the city, will be issued day passes by TransLink upon request.

Benefits you may be eligible for when you have PWD

Health Benefits

There is a range of health benefits you may be eligible for once you receive PWD, if you meet the requirements. Contact MSDSI for information on the items below to find out how to apply.

- ☐ **Diet supplements** ranging from \$10-\$50 per month for specific diagnoses only. MSDSI does not have a standard application form. You can ask your doctor to write a note listing your condition and the kind of special diet you need. This is a renewable benefit.



- ☐ **Monthly Nutritional Supplement benefit (MNS)** of up to \$205 per month for people with nutritional needs because of a chronic health condition. This benefit is divided into a vitamin amount (\$40) and a nutritional amount (\$165). If you receive the vitamin amount, you can also receive the diet allowance. However, if you receive the nutritional amount, you are not eligible for the diet allowance. To obtain an MNS application, contact MSDSI.
- ☐ **Disposable medical or surgical supplies**
For example, bandages and dressings for wound care, medicated shampoo for parasitic skin infections, and needles and syringes for medication.
- ☐ **Extra chiropractic, massage therapy, physiotherapy and podiatry visits**
- ☐ **Medical equipment and devices, including mobility aids**
For example, hearing aids, wheelchairs, canes, walkers, scooters, custom-made foot wear, CPAP machines, orthotics, hospital beds, bathing and toileting aids, and non-conventional glucose meters.
- ☐ **Medical transportation**
Funding for transportation to medical appointments. This must be approved in advance by MSDSI.
- ☐ **Transportation allowance** to and from residential alcohol and drug treatment facilities.

Also see Help Sheet 7: Health Supplements for People with Disabilities.

Employment Income

☐ **Earnings exemption**

The following earnings exemptions apply to households with PWD members:

- Single people may earn up to \$800 per month without deductions from benefits.
- Couples where one person is PWD can earn up to \$1,000 per month without deductions.
- Couples where both people are PWD can earn up to \$1,600 per month without deductions.

Please note that MSDSI expects you to report any income changes (up or down) on your cheque stub. This information must be submitted to MSDSI by the 5th day of the following month.



☐ **Annual Earnings Exemption (AEE)**

In 2015, the Ministry plans to implement an Annual Earnings Exemption for people receiving the PWD benefit. BCCPD, and other organizations, have been working closely with the Ministry on this positive change. The AEE is currently being piloted and will probably be implemented in 2015.

Also see Help Sheet 10: Employment, Education and Training for People with Disabilities.

Other MSDSI benefits

☐ **Special Transportation Subsidy**

For people unable to use public transit, including handyDART. Contact MSDSI for an application.

☐ **Moving costs and security deposits**

Contact MSDSI for information.

☐ **Christmas Supplements**

\$35 for a single person; \$70 for couples; \$70 for families, plus \$10 per child.

☐ **Crisis Supplements**

Up to \$100 per person per year for clothing, \$20 per person per month for food and emergency rent assistance. Funding may also be provided for a one-time emergency need.

☐ **Natal Allowance of \$45 per month**

You will need to provide a doctor's letter.

☐ **Guide Animal Supplement of \$95 per month**



Benefits Through Other Organizations

These programs and benefits are available through various organizations and agencies.

Housing

☐ **Accessible/Affordable Housing**

Phone the Housing Registry (BC Housing) at 604-433-2218 or 1-800-257-7756.

Website: www.bchousing.org.

☐ **Additional Home Owner Grant for People with Disabilities**

For home owners with disabilities. Contact your municipal property tax department.

☐ **Property Tax Deferment**

Contact your municipal property tax department.

Transportation

For some of these programs you must have limited mobility

☐ **Autoplan Disability Discount (ICBC)**

Phone ICBC Customer Service at 604-661-2100 or 1-800-663-3051 if you are outside Metro Vancouver. You can also contact your local ICBC agent. You must be in receipt of the Provincial Motor Vehicle Fuel Tax Refund for Persons with Disabilities. Website: www.icbc.com.

☐ **BC Ferry pass**

Apply directly to the BC Ferry Corporation. You will need a Release of Information form from your MSDSI office. Phone 1-888-223-3779 for an application form or go to the website at www.bcferries.bc.ca.

☐ **Federal Excise Gasoline Tax Refund**

Phone the Canada Revenue Agency at 1-877-432-5472. The phone lines are open from 12 pm to 9 pm (BC time). Website: www.servicecanada.gc.ca/eng/goc/gasoline_tax_refund.shtml.

☐ **Flight Discount**

Your attendant may accompany you free of charge; ask the airline for details.

☐ **Provincial Motor Vehicle Fuel Tax Refund for Persons with Disabilities**

Phone the Ministry of Finance at 1-877 388-4440

Website: www.sbr.gov.bc.ca. See Bulletin MFT004



☐ **Parking Permits for People with Disabilities**

To apply for a permit, phone:

- Beacon Community Services (Sydney) 250-656-5537
- City of Kelowna 250-469-8757
- Cowichan Valley Independent Living Resource Centre 250-746-3930
- Kamloops People in Motion 250-376-7878
- Nanaimo Independent Living Centre 250-758-5547
- Richmond Centre for Disability 604-232-2404
- Vernon Independent Living Resource Centre 1-877-288-1088
- Victoria Disability Resource Centre 250-595-0044
- Wescom Medi-Lend (Langford) 250-478-5373

For all other areas, phone: Social Planning and Research Council of BC
604-718-7744.

☐ **HandyDART**

Look for the HandyDART listing in your phone book.

☐ **HandyPass and Taxi Saver**

In the Metro Vancouver, contact your local TransLink office or go to www.translink.bc.ca. People in other areas should contact their local transit office.

☐ **Greyhound (and bus lines other than transit) and Via Rail**

Attendants travel free with a Disability Travel Card from the Lions Society of BC, on behalf of Easter Seals Canada. Phone 604-873-1865, or 1-800-818-4483 if you are outside the Metro Vancouver. Blind or sight impaired individuals can present their CNIB Card.

Leisure

☐ **Camping is free in BC Provincial Parks**

Obtain a Release of Information form from an MSDSI office to give to campsite operators. Full or partial funding is available for camping at certain recognized camps.

☐ **Fishing License fee reduction**

Look under Service BC Government Agents in the blue pages of your local phone book. They will be able to provide you with the information you need and an application form.



☐ **Access to Recreation/Community Centres and Programs**

Most municipalities provide some assistance for people with disabilities who want to access their recreational programs. Call your local recreation/community centre for information.

Other programs you may find helpful

Equipment and assistive devices

For information on equipment and assistive devices to assist you with daily living activities, contact the provincial government's Personal Supports Information Line at 1-888-818-1211 or visit www.personalsupports.bc.ca.

Registered Disability Savings Plan (RDSP)

This is a federal government initiative that is available to people with disabilities and their families. There are three steps you must follow to be eligible for the RDSP.

1. Make sure you are eligible and apply for the Disability Tax Credit.
2. Have a valid Social Insurance Number.
3. Be up-to-date in filing your tax returns.
4. Be under the age of 60

For more information on RDSPs, see our Help Sheet 14: The Registered Disability Savings Plan and the Disability Tax Credit.

BC Hydro Energy Savings Kits

BC Hydro provides free energy saving kits for low income people and families. The kit includes items such as low-flow shower heads, weather stripping and compact fluorescent light bulbs. To qualify, you must have a BC Hydro account in your name. Call BC Hydro at 1-877-431-9463 or contact the BCCPD office.

Stay Informed

As more details on the Annual Earnings Exemption are made available, we will update our Help Sheets, and announce the changes on our website, blog and e-newsletter. You can sign up for our free e-news at www.bccpd.bc.ca.



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BC DISABILITY BENEFITS

7
FEBRUARY 2014

Health Supplements for People with Disabilities

This Help Sheet funded by the Legal Services Society of BC, Human Resources and Skills Development Canada: Homelessness Partnering Strategy and the Health Sciences Association of British Columbia.

If you have a disability, you may be able to access a range of medical services and supplies provided by the Ministry of Social Development and Social Innovation (MSDSI). The BC Coalition of People with Disabilities has prepared this Help Sheet about health supplements to help you understand what services and supplies you may be eligible for from MSDSI.

You should talk to MSDSI about any of the services and supplies listed here. They will be able to explain how you apply for them.

It is important to understand that MSDSI will not reimburse you for any of these services and supplies. The Ministry must provide authorization for most of the supplements listed in this Help Sheet **before** you may access them. Also, you may be asked if you can afford to pay for them yourself before they are provided to you.

Who is eligible?

You may be eligible for a range of health supplements from MSDSI if any of the following describes your situation:

- You are receiving the Persons with Disabilities (PWD) benefit
- You are a dependent of a person receiving PWD
- You are a single person receiving the Persons with Persistent and Multiple Barriers to employment (PPMB)



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- You are living in a household where one or more adults receive PPMB
- You live in a special care facility or if you have been admitted to hospital for extended care
- You are the dependant of a person in special care.

Medical Services Only (MSO)

You will be eligible for health supplements from MSDSI, if you fit into any of the following categories:

- you went off PWD benefits for employment and you are eligible for Medical Services Plan (MSP) Premium Assistance
- you were receiving PWD or PPMB benefits and have turned 65, and you are eligible to receive the Guaranteed Income Supplement or federal Spouse's Allowance
- you were receiving PWD benefits, but left the program because your CPP disability benefits are higher than the PWD rate
- you were receiving MSO benefits prior to 2002

Please note that MSDSI may ask applicants to demonstrate financial need when they apply for a health supplement.

However, you will **not** be able to access:

- the diet supplement
- the Monthly Nutritional Supplement
- the natal supplement, or
- orthodontics

Direct and imminent life-threatening health need

MSDSI may grant certain health supplements—medical supplies, medical equipment and devices, medical transportation—even if you do not normally qualify for health coverage, when the following conditions apply:

- you are facing a direct and imminent life-threatening need
- you have no other resources to meet that need
- you are receiving MSP Premium Assistance, and
- you meet all the regulatory requirements for the medical supplies, medical equipment or medical transportation.

If you are still not sure whether you are eligible for health supplements from MSDSI, contact MSDSI or an advocate.



Health supplements you may be able to obtain

There are different kinds of health supplements. Some require no pre-approval from MSDSI. These are:

- Medical Service Plan (MSP)*
- Prescription drugs covered by Pharmacare*
- Eye glasses every three years for adults, with a prescription, or every year for dependent children*

*Everyone on income and disability assistance is entitled to this coverage.

Dental supplements

Basic dental services

These services are provided based on a Schedule of Fee Allowances and are administered by Pacific Blue Cross. MSDSI pays only for the services listed in this schedule, at the amount listed. Dentists may charge an extra fee, if they think MSDSI rate is not sufficient.

- Adults are entitled to basic dental coverage of \$1,000 over a two-year period
- Dependent children receive \$1,400 basic dental coverage over a two-year period

Other dental supplements

- Crown and bridgework supplement: may be provided if your dental condition cannot be corrected by basic dental services and it has been confirmed that you are unable to use a removable denture for major health reasons.
- Dentures: full and partial dentures may be provided or replaced if certain conditions are met. These conditions include whether you have had extractions in the past six months or whether you have been on assistance for at least two years. MSDSI can pay more than the basic dental coverage limit of \$1,000 for dentures, in some cases. Generally, MSDSI will not pay for replacement dentures more than every five years. However, Health Assistance Branch may approve an exception to the five-year rule, if loss or damage was beyond your control and new dentures are necessary to avoid health problems.
- Emergency dental and denture services for immediate relief of pain, or to control infection or bleeding or other serious health problems may be provided.
- General anaesthetic or intravenous sedation provided in a dentist's office may be authorized in special circumstances.
- Orthodontic services may be covered when strict eligibility requirements are confirmed by an orthodontist.



Other health supplements

You should talk to MSDSI about the supplements listed below. To qualify for them, you may be required to supply medical information. Some of them also require you to provide financial information.

Optical

Eye Exams

- MSDSI pays up to \$44.83 for an optometrist's exam and \$48.90 for an ophthalmologist's exam, every two years. To obtain an eye exam, you will need to provide your optometrist or ophthalmologist with your Care Card. The MSP may pay the full cost for an exam, if you have a particular medical condition. As well, you may be able to get an exam more often than every two years. Check with your ophthalmologist or optometrist to see if you qualify.

Basic Eyewear

- MSDSI may provide single vision or bi-focal lenses and frames every three years for adults or once a year for children, with a valid prescription.
- Eyeglass lenses more frequently than every three years: Your physician must confirm that you have a specific medical condition such as, for example, diabetes and your ophthalmologist or optometrist must confirm that you need a new prescription.
- Eyeglass repairs.
- Specialized eyewear, such as tinted lenses or contact lenses, if basic eyewear does not meet your needs. The need for the eyewear must be confirmed by your ophthalmologist or optometrist and pre-authorized by Health Assistance Branch.

Medical supplies

MSDSI may pay for medical or surgical supplies, if they are required for any of the following purposes:

- wound care
- ongoing bowel care
- catheterization
- incontinence
- skin parasite care
- limb circulation care.

Medical supplies also include lancets, needles and syringes, ventilator supplies and tracheostomy supplies.



These supplies must be prescribed by a doctor or nurse practitioner, the least expensive appropriate supplies, and necessary to avoid an imminent and substantial danger to health. And, there must be no other resources available to you. MSDSI does not consider nutritional items or prescription drugs medical supplies.

Medical equipment and devices

MSDSI can pay for certain medical equipment or devices, if the following conditions are met:

- payment is approved in advance by the Ministry
- there are no other resources available
- the equipment is the least expensive appropriate medical equipment.

In most situations, MSDSI will ask for a prescription from a doctor or nurse practitioner and/or an assessment from a health professional, such as an occupational therapist or physical therapist.

MSDSI can purchase or replace equipment, but they do not have to replace or repair equipment that they consider to be damaged through misuse.

MSDSI can pay for the following equipment and devices:

1. canes, crutches, and walkers
2. wheelchairs
3. wheelchair seating systems
4. scooters
5. bathing and toileting aids
6. hospital beds
7. pressure relief mattresses
8. floor or ceiling lift devices
9. positive airway pressure devices (e.g., CPAP machines and nebulizers)
10. orthoses (custom made or off-the-shelf foot orthotics, custom made footwear, a permanent modification to footwear, off-the-shelf orthopaedic footwear, an ankle brace, an ankle-foot orthosis, a knee-ankle-foot orthosis, a knee brace, an upper extremity brace, a cranial helmet, a torso or spine brace)
11. hearing aids
12. non-conventional glucose meters.

For some of the above categories of equipment and devices, MSDSI has also imposed additional restrictions such as spending limits (e.g., they will not pay more than \$450 for one pair of custom-made foot orthotics) and replacement time limits (they will not replace a wheelchair for at least five years).



Extended therapy

- Acupuncture, chiropractic, massage therapy, naturopathy, physiotherapy or podiatry visits: A physician must confirm that you have an acute need for the service. You must have used the 10 visits allowed under the Medical Services Plan. The Ministry can approve up to 12 extra visits in a one-year period.

Medical transportation

- If you have no other means of getting to a medical appointment, the Ministry can pay for transportation costs to a doctor's office, clinic or hospital. The Ministry must agree to cover these expenses before your appointment. MSDSI can pay for transportation, meals and accommodation, if the only available medical treatment is at an out-of-town medical facility.

Alcohol and drug treatment supplement

Up to \$500 a year can be paid to cover the cost of alcohol and drug counselling, and treatment services.

Monthly diet supplements

There are nine monthly diet supplements you may be eligible for. There is no special application form for these supplements. To qualify, your doctor must state your medical condition in writing, the kind of diet you require and how long you need it. MSDSI can ask you to renew the request every 12 months or 24 months. Because MSDSI will only pay for one diet supplement at a time, apply for the highest diet allowance you think you are eligible for.

The supplements and their special requirements are as follows:

1. High protein diet: You may be eligible for a monthly high protein diet supplement of \$40 a month. In order to qualify, your physician must say that you have one or more of the following conditions:

- Cancer (if you are receiving therapy or medical treatment)
- Chronic bacterial infection
- Chronic inflammatory bowel disease
- Crohn's disease
- Hepatitis B or C
- HIV/AIDS
- Hyperthyroidism
- Osteoporosis
- Tuberculosis
- Ulcerative colitis



You may also qualify for a supplement, if your physician, dietician or nutritionist state that you need either of the following:

2. **Gluten-free diet** (\$40 per month)
3. **Low-sodium diet** (\$10 per month)
4. **Ketogenic diet** (\$40 per month)
5. **Phenylalanine diet** (\$40 per month)

Or, if you have one of the following conditions:

6. **Cystic fibrosis** (\$50 per month)
7. **Diabetes** (\$35 per month)
8. **Dysphagia** (\$40 per month)
9. **Kidney dialysis** (\$30 per month)

Monthly Nutritional Supplement (MNS)

You may be eligible for a monthly nutritional supplement of up to \$205 a month, if you are receiving PWD—people receiving PPMB are not eligible. The nutritional supplement is divided into two parts for a total of \$205 a month:

1. Nutritional items: \$165. This part of the benefit will only be provided if you need to supplement your regular diet. You cannot receive both this supplement and a diet supplement (e.g., high protein diet).
2. Vitamin or mineral supplementation: \$40.

To receive the nutritional allowance, you must have a chronic and progressive deteriorating condition causing at least two of the following symptoms:

- Significant deterioration of a vital organ
- Immune suppression (moderate to severe)
- Malnutrition
- Significant muscle mass loss
- Significant neurological degeneration
- Significant weight loss
- Underweight status.

To qualify for the nutritional items or the vitamin/mineral supplementation, your doctor must state that you need each of these supplements to alleviate your identified wasting symptoms and to prevent an imminent danger to your life. This means your health will deteriorate significantly without the nutritional supplement. Contact MSDSI



and ask for a Monthly Nutritional Supplement application form. Ask your doctor to complete the form, and return it to MSDSI.

For more information on MNS, see Help Sheet 4, Monthly Nutritional Supplement.

Short-term nutritional supplement

This supplement provides nutritional supplementation products, such as Ensure or Boost, for a three-month period. Your doctor must confirm an acute short-term need for a caloric (nutritional) supplement to prevent critical weight loss resulting from one of the following:

- Serious disease
- Severe injury
- Surgery
- Treatment side effects.

Natal supplement

If you are pregnant, you will be eligible for a natal allowance during your pregnancy and until your child reaches seven months of age. To qualify for this allowance, you must provide documentation from a medical practitioner or a midwife registered with the College of Midwives. You will receive:

- \$45 a month, if you are pregnant with one child
- \$90 a month, if you are pregnant with more than one child.

Infant formula

MSDSI can also provide infant formula for children under 12 months of age if:

- a child has a medical condition where a specialized infant formula is required, or
- the child is at risk of contracting a transmittable disease from the mother's breast milk.

Tube feed nutritional supplement

MSDSI can provide nutritional products to people whose primary source of nutrition is through tube feeding.

Right to appeal

If your application for any of these health goods and services is denied, you have the right to appeal. Contact MSDSI immediately after you receive your denial. You may want to ask an advocate to help you with your appeal.





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Income Assistance Application Process for People with Disabilities

This Help Sheet is funded by the Legal Services Society of BC, Human Resources and Skills Development Canada: Homelessness Partnering Strategy and the Health Sciences Association of British Columbia.

This Help Sheet is for people with disabilities who need to apply for disability benefits from the Ministry of Social Development and Social Innovation (MSDSI) for the first time. We describe the steps you must take before you get the application for the Persons with Disabilities Designation (PWD) benefit (for information about how to apply for the PWD designation, please see our Help Sheet 2).

Before you get started

Computers and telephones

Applications for financial assistance through MSDSI now require access to a computer and a telephone. If you do not have access to a computer, do not know how to use one or if you do not own a reliable telephone, we urge you to phone MSDSI and explain your situation. Local MSDSI offices have computers that applicants can use, and MSDSI staff can provide assistance to you, if you are unable to use the computer on your own. However, if you have your own telephone and computer and have access to the internet, the new system allows you to start your application for income assistance without leaving home.

About disability benefits (PWD)

You should also understand that people with disabilities do not automatically qualify for disability benefits, and that it can take a week or more to go through the process and get all the necessary documents. First, you need to show you are financially eligible. Second, you must get the PWD application. It must be completed by your doctor and sent to Victoria for approval. If Victoria approves your PWD application, you will



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then be recognized as a “person with disabilities” and be eligible to receive the disability assistance rate. Disability benefits are not back-dated. This means they are paid from the month the Ministry decides you are eligible. It can take Victoria as long as 3 months to adjudicate your PWD application.

Most new applicants will not qualify for the Persons with Persistent and Multiple Barriers to Employment (PPMB) benefit because you have to be on assistance for 12 months before you can apply for it.

About income

Income assistance and disability benefits are income tested. This means, if you have too much money, you may not qualify for assistance. For example, if you are a single person whose monthly income is over \$610 per month, it is not likely that you will qualify for regular income assistance. Single people with monthly incomes over \$906 will not usually qualify for disability benefits. It is possible to apply for disability benefits if your income is over \$610, but under \$906.

About assets

Income assistance and disability benefits are also asset tested. For example, a single person on income assistance can have up to \$2,000 in assets and still qualify for assistance. You are also allowed to have a car worth up to \$10,000 and own the home you live in. A person with a disability can have up to \$5,000 in the bank, own a car worth any value, own the home they live in and still receive disability benefits. In fact, a person with over \$5,000 can apply for disability benefits, if they are using this money to live on because it usually takes three months or more to process a PWD application.

If you apply for PWD, but are not eligible for basic assistance because you have assets exceeding the income assistance limit, you can receive basic assistance while you wait for PWD. Here are two examples to help you understand this:

- If you are a single person with assets over \$2,000, but under \$5,000, you can receive basic assistance of up to \$610 a month while you wait for your PWD.
- PWD applicants who own a car worth more than \$10,000 can receive basic assistance while they wait for their PWD.

If MSDSI denies you PWD, you will not have to pay back the money you received during the PWD application process.



About people you live with

A person with a disability living with a family member or roommate can qualify for income assistance or disability benefits as a single person. However, if you live with a spouse or partner, the MSDSI will want to know the total income and assets of your household. You will be expected to apply for income assistance as a couple. If MSDSI misunderstands your living arrangement, we recommend you seek the advice of an advocate.

Getting started

MSDSI has one contact number for applicants and recipients of income assistance and disability benefits: **1-866-866-0800**

Stage 1: The Self-Serve Assessment and Application

Find this Application online at: <https://www.iaselfserve.gov.bc.ca>.

As mentioned earlier, it is now MSDSI practice to ask all new applicants to complete the first stage of the application process online: the Self Serve Assessment and Application (SSAA). The SSAA has over 90 questions that you must answer. In addition to asking for your name, address and Social Insurance Number, there are numerous questions about your financial situation (income and assets) and living arrangements. One question asks whether you intend to apply for the PWD designation (the answer is “yes”). There are also questions about your employability. These questions must be answered, even if you have indicated that you have a disability that prevents you from working.

Before you submit this application, we recommend you print a copy (or forward it to your email address) and make a note of the application number.

Immediate needs assessment

The SSAA includes questions about whether you have an immediate need for food, shelter or urgent medical attention. If you answer “yes” to any of these questions, an MSDSI worker should contact you within 24 hours to do an eligibility interview and fast track your application for assistance. If you do not hear from MSDSI within 24 hours, we recommend you call MSDSI (1-866-866-0800) and tell them you are in urgent need of assistance.

Job search requirement

MSDSI regulations state that people who are able to work and have never applied for assistance before must complete a five-week job search before they can receive benefits. Employable people who have been on assistance before must do a three-week job search.



People with disabilities are not automatically excused from looking for work, unless they already have the PWD designation. However, if you have a medical condition that prevents you from looking for work, you can be excused from the job search.

Stage 2: The eligibility interview and determining eligibility

Once your online application has been submitted, an MSDSI worker should contact you by phone within five days (or 24 hours if you have indicated you need “immediate needs assistance”). If you do not receive a call within this time period, we recommend you call MSDSI (1-866-866-0800) and ask about the status of your application.

When the MSDSI worker contacts you, they will ask you to submit documents to help them determine whether you are eligible for income assistance and/or to apply for the PWD designation. These documents may include, but are not limited to:

- Identification documents
- Confirmation of your mailing address
- Confirmation of the rent you pay
- Verification of any income you may have received
- Bank statements for the past 60 days
- Vehicle registration, if you own a car
- Your most recent income tax assessment.

These documents can be taken in or faxed to your local MSDSI office. The worker will give you the contact information. The worker will also ask you about the information you have submitted on the SSAA online application. If there are documents that you are unable to get or questions you are unable to answer, it is important to explain this to the worker at this time. Delays in submitting requested documents can lead to delays in confirming your eligibility for assistance or getting the PWD application.

Once you have submitted the requested documents and clarified any eligibility concerns, MSDSI can take five days to tell you whether you qualify for benefits and/or give you a PWD application. Once again, if you do not hear back from MSDSI within this period, phone MSDSI to ask about your application.

Once MSDSI has confirmed your financial eligibility, you may be eligible for income assistance and a PWD application. If you receive a PWD application before you go on income assistance, MSDSI will allow you two months to complete and submit it. If you need more than two months, tell MSDSI so they do not close your file.



What if MSDSI says you are not eligible?

If MSDSI tells you that you are not eligible for income assistance and/or to apply for PWD, it is important that you understand the reasons. The MSDSI worker should give you this information, so you can decide what to do next. If you believe that MSDSI's reasons for denial are unreasonable, you can request a reconsideration of this decision. MSDSI regulations allow 20 business days, from the date you learned you were denied, to submit a reconsideration request. We urge you to seek the advice of an advocate, if MSDSI tells you that you are not eligible.

Special Situations

Sometimes low-income people cannot qualify for regular income assistance because of special circumstances that are beyond their control. For example, you may be waiting for other income or trying to sell property. In these situations, you could be eligible for Hardship Assistance. Sometimes, people who receive Hardship Assistance must pay it back later.

People who have income slightly above the rates set by MSDSI may be able to qualify for medical equipment and devices, medical supplies or medical transportation, if **all** the following requirements are met:

- you face a direct and imminent life-threatening health need
- you have no other resources to meet this need
- you are receiving premium assistance from MSP
- you meet all the requirements set out in the health supplement sections of the legislation (see Help Sheet #7).



Prepared by Advocacy Access
A program of BC Coalition of People with Disabilities

204-456 W. Broadway, Vancouver, BC V5Y 1R3 • tel: 604.872.1278 • fax 604.875.9227
tty 604.875.8835 • toll free 1.800.663.1278 • www.bccpd.bc.ca

This Help Sheet is funded by the Legal Services Society of BC, Human Resources and Skills Development Canada: Homelessness Partnering Strategy and the Health Sciences Association of British Columbia.



BC CENTRE FOR ELDER
ADVOCACY
AND SUPPORT



Elder Abuse and Neglect - How Do We Deal With It?

Your Presenter

Grace Balbutin - Director, Seniors Abuse and Information Line
BC Centre for Elder Advocacy and Support

BC Centre for Elder Advocacy and Support (BCCEAS)

- Charitable, non-profit, provincial society
- Supports and advocates for older adults vulnerable to abuse or neglect in B.C.
- **Programs:**
 - ❖ Seniors Abuse and Information Line
 - ❖ Victim Services
 - ❖ Legal Programs
 - ❖ Public Education and Outreach

Website: www.bcceas.ca

Email: info@bcceas.ca

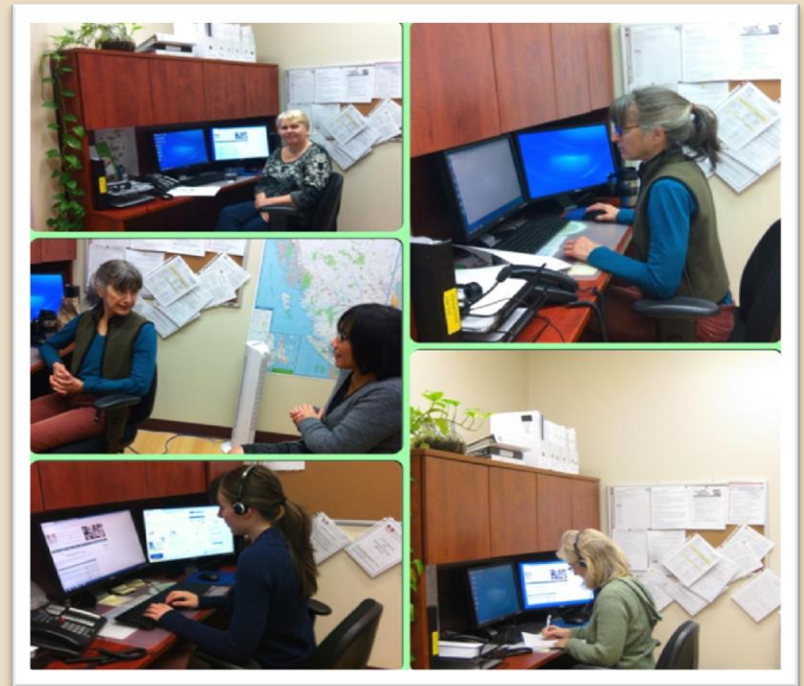


Seniors Abuse and Information Line (SAIL)

Funded by the Province of BC

A safe place for older adults, and those who care about them, to talk to someone about situations of abuse and mistreatment or to receive information on elder abuse prevention.

- Referrals to BCCEAS programs and other resources
- Callers remain anonymous - *Unless referred to other BCCEAS programs*
- TTY and Language Interpretation available



Victim Services

Funded by the Province of BC

Serves adults aged 50+ who have been victims of abuse, family and/or sexual violence

- ❖ Safety planning
- ❖ Liaison with justice system personnel
- ❖ Assistance with CVAP Applications and VIS
- ❖ Information and referrals



Legal Services : Elder Law Clinic and Legal Advocacy Program

Funded by the Law Foundation of BC

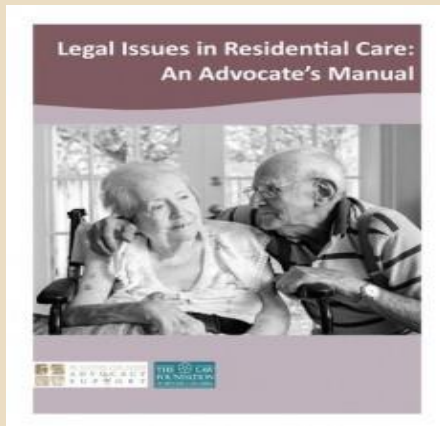
Assist eligible adults age 55+ with legal issues involving:

- Housing
 - ❖ residential tenancy
 - ❖ assisted living
 - ❖ residential care
- Debt
 - ❖ Bills - credit card, utilities, MSP
 - ❖ Loans - banks, student and CRA,
 - ❖ Harassment by creditors and collection agency
- Guardianship/Incapacity
- Government Benefits
 - ❖ Federal: CPP, OAS/GIS
 - ❖ Provincial: SAFER
- Elder Abuse
 - ❖ Financial
 - ❖ Physical
 - ❖ Emotional
- Health Care Consent and End of life
- Wills Variation Claims – spouses and ex -spouses

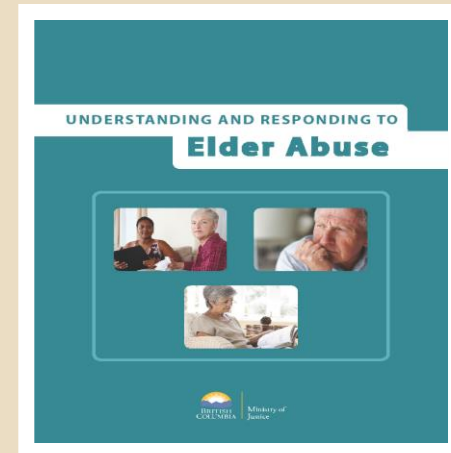
Public Education and Outreach

Funded by the Province of British Columbia

- Workshops
 - ❖ General Public
 - ❖ Community agencies
- Law Reform
- Media
- Publications



[http://wiki.clicklaw.bc.ca/index.php/Legal Issues in Residential Care: An Advocate%27s Manual](http://wiki.clicklaw.bc.ca/index.php/Legal_Issues_in_Residential_Care:_An_Advocate%27s_Manual)



http://www.pssg.gov.bc.ca/victim_services/shareddocs/ElderAbuse.pdf

Public Education and Outreach

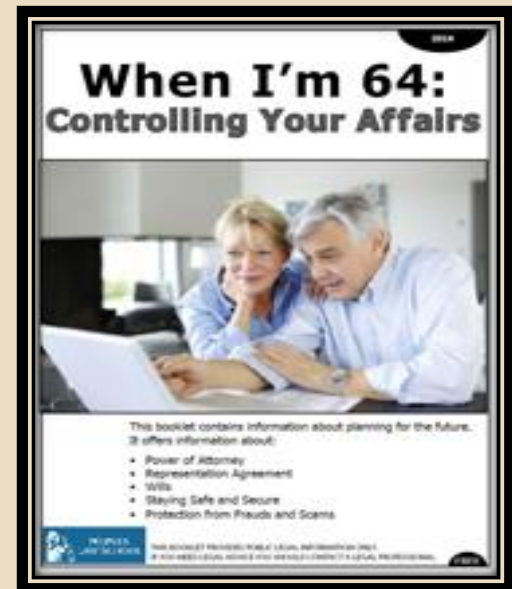
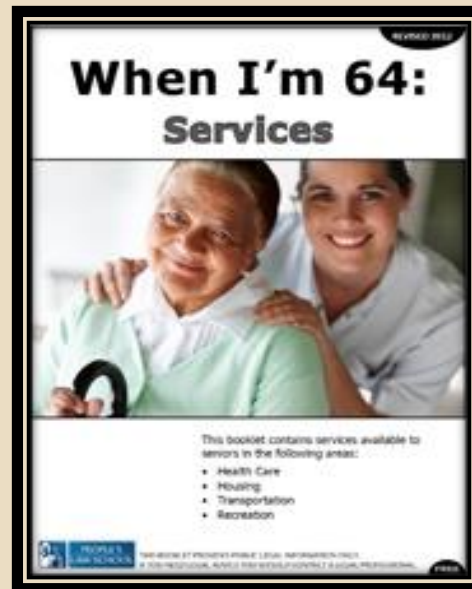
Funded by the Province of BC

To Order:

https://www.crownpub.bc.ca/Product/Listing/14285_Seniors#/?statesave=true

For more information:

<http://www.publiclegaled.bc.ca/category/citizen-focused/seniors/>



What is elder abuse and neglect?

Abuse of older adults means any action or inaction by any person that causes harm or risk of harm to an older person.

Neglect is the failure to provide the basic necessities of life.

Self-neglect is behaviour of an older adult that threatens his or her own health or safety. Self-neglect is present when an older adult refuses or fails to provide himself or herself with adequate food, water, clothing, shelter, personal hygiene, medicine, and safety precautions.

Consequences of abuse and neglect

- loss of dignity, confidence and self-esteem
- loss of strength and ability to assert themselves
- loss of control over resources and actions
- anxiety, confusion and depression that can be mistaken for loss of capability
- separation from people who could offer support/help

Many Types of Elder Abuse

- Physical
- Psychological /Emotional
- Sexual
- Chemical (medications)
- Spiritual
- Neglect
- Financial
- Forced Confinement

Elder Abuse Can Be Done by Anyone



- Family Member (Partner/Spouse, Adult Children, Grandchild, Niece, Nephew, Other Relative)
- Neighbour/Friend
- Caregiver
- Building Manager/Landlord
- Professional (Doctor, Lawyer, Accountant)
- Trustee
- Substitute Decision Maker/Power of Attorney
- Legal Guardian

Elder Abuse Happens...

- At home
- In a hospital
- In a care facility or nursing home
- In the community



What does the Law say about Elder Abuse?

- There is no crime called elder abuse or neglect
- Some abuse is illegal (fraud, assault, uttering threats, confinement, failure to provide the necessities of life, theft by a person with POA)
- Some abuse is not a crime although they can be harmful to the older person(s)



Risk Factors for Elder Abuse: Social Isolation

- The risk of abuse is greater when people are separated from others who can help. – **Being connected helps abuse to get noticed and prevented.**
- Abuse and neglect are less likely to happen in a caring and supportive environment. – **Being connected helps people affected by abuse to get support and assistance.**



Risk Factors for Elder Abuse: Dependency

Older people may be at risk of abuse from people with whom they live with or share a relationship of dependency when:

- they have physical impairments
- their health is declining
- the abusive person relies on the older adult
- some immigrant seniors may be sponsored

Risk Factors for Elder Abuse:

Medical/Psychological Conditions and Addictions

Abuse and/or neglect may occur when either party has:

- a period of mental illness
- a history of mental problems
- difficulty in controlling anger and/or frustration
- low self esteem or feelings of low self worth
- cognitive decline such as dementia or brain injury
- drug, alcohol or gambling issues

Risk Factors for Elder Abuse: Socio-economic and Cultural Factors

- the depiction of older people as frail, weak and dependent (ageism)
- erosion of the bonds between generations of a family
- restructuring of the basic support networks for older people
- abandonment of traditions such as caring for elderly
- when the older person has more or lesser financial resources /assets than the abuser



Risk Factors for Elder Abuse: Caregiver Stress

Factors that may contribute to an abusive relationship when the caregiver experiences:

- financial difficulties
- lack of respite care
- inadequate support to give high quality care
- physical or emotional costs of being a caregiver
- lack of recognition for the role of caregiver
- personal stress
- unfamiliarity with the caring role and responsibilities



Why Older Adults May be Unlikely to Ask for Help

Older adults are often reluctant to seek help or report abuse because of:

- expected recrimination from the abuser;
- concern about consequences to their adult child or family;
- fear of being placed in a care facility, or institution;
- fear of having daily support withdrawn, and being unable to manage;
- being unaware of other support services in the community that are

Why Older Adults May be Unlikely to Ask for Help

Older adults are often reluctant to seek help or report abuse because of:

- being unaware of other support services in the community that are available to them;
- expectation that they will not be allowed to see their friends or grandchildren;
- being too ashamed to tell anyone that a family member is abusing them; and
- expectation of not being believed, or of being blamed for the abuse.

Why Older Adults May be Unlikely to Ask for Help

Older immigrants who may be facing abuse, experience further barriers in asking for help or reporting abuse, due to:

- isolation from friends
- racism and discrimination;
- fear of being deported if sponsor withdraws support;
- inability to speak or understand English or French

Why Older Adults May be Unlikely to Ask for Help

Older immigrants who may be facing abuse, experience further barriers in asking for help or reporting abuse, due to:

- lack of knowledge of Canadian system;
- lack of knowledge of where to seek help;
- dependence on adult children and relatives for housing, financial, emotional and social support; and
- cultural belief that a family problem is a private matter.

Assisting older adults who are experiencing abuse and/or neglect

Consider these suggestions:

- Obtain the older person's permission to involve other people if needed.
- Familiarize yourself with the resources in your community.
- Remember that the problem and the solution both belong to the person you are helping, as he/she must live with the consequences of any action taken.



Assisting older adults who are experiencing abuse and/or neglect

Talk to the older person

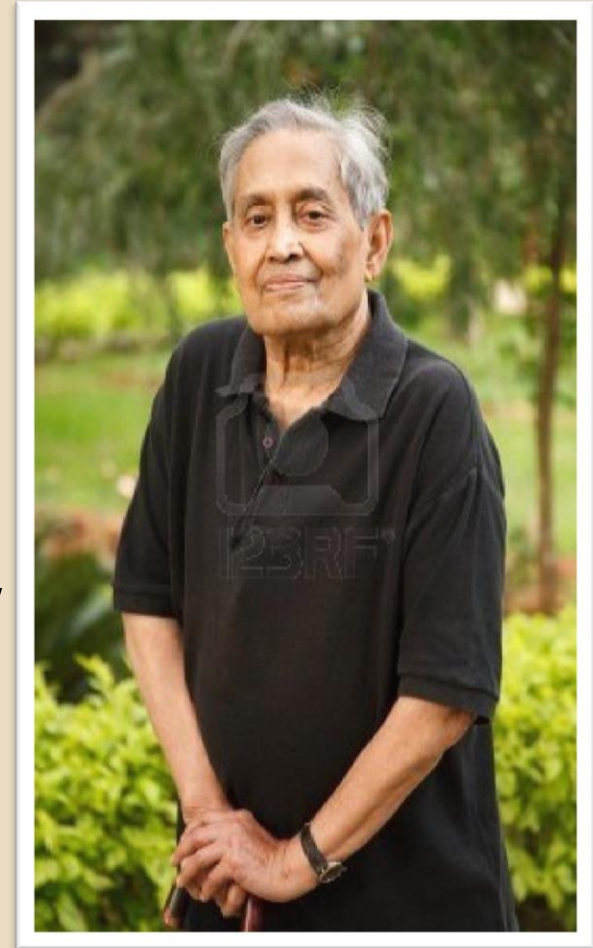
- The best source of information is usually the older people themselves.
- Ask them respectfully but directly, in plain language, if they are being mistreated or neglected.
- Get the older person's trust.
- Consider that the older person may not talk because it is not safe to do so.



Assisting older adults who are experiencing abuse and/or neglect

Be aware that the needs of older people may differ from those of other age groups.

- Older people may have different fears and values than younger people.
- Some older people have low literacy, and have difficulty understanding how to use technology.
- Older adults with disabilities are more vulnerable to abuse and neglect and face barriers to getting help.



Assisting older adults who are experiencing abused and/or neglect

Assist the older person to take action by:

- Taking a non-judgmental and respectful approach – empathize
- Helping them understand and sort through their options
- empower them
- Helping them come to a decision that is right for them – follow through on their choices or decisions
- Assisting them to rebuild healthy relationships and reconnect with their community

Resources



Designated Agencies

Designated Agencies are mandated to respond to reports of abuse and neglect of adults under the *Adult Guardianship Act* include:

- Regional Health Authorities
- Community Living BC



- Investigates allegations of financial abuse
- Makes financial decisions for mentally incapable adults
- Assists and provides resources to substitute decision-makers



Website: www.trustee.bc.ca
Phone: 250-712-7576
Interior North (Kelowna)

BC's Adult Guardianship Laws: Supporting Self Determination for Adults in British Columbia

<http://www.trustee.bc.ca/Documents/adult-guardianship/Protecting%20Adults%20from%20Abuse,%20Neglect%20and%20Self%20Neglect.pdf>

BC's Adult Guardianship Laws: Supporting Self Determination for Adults in British Columbia

PROTECTING ADULTS FROM ABUSE, NEGLECT AND SELF NEGLECT

When adults are abused or neglected, it can be difficult to know if or when to step in. We assume that adults can take care of themselves, but we know this is not always true. Sometimes adults cannot seek the help they need because of a physical restraint, a physical handicap, an illness, disease, injury or other condition that affects their ability to make decisions.

Part 3 of the Adult Guardianship Act (AGA): Support and Assistance for Abused and Neglected Adults addresses such situations. It:

- defines adult abuse, neglect and self neglect and lays down principles to guide our actions,
- promotes the provision of support and assistance,
- provides legal tools for more formal intervention, if needed, for people who are unable to seek help on their own,
- enables the development of coordinated community responses called Community Response Networks or CRNs.

What is abuse, neglect and self neglect under the AGA?

Abuse is deliberate mistreatment that causes physical, mental or emotional harm, or damage to or loss in respect of the adult's financial affairs. It includes:

- intimidation
- humiliation
- physical assault
- sexual assault
- overmedication
- withholding needed medication
- censoring mail
- invasion or denial of privacy, and
- denial of access to visitors.

Neglect is any failure to provide necessary care, assistance, guidance or attention if that failure causes, or is reasonably likely to cause, within a short period of time, serious physical, mental or emotional harm, or substantial damage or loss in respect of the adult's financial affairs.

Self Neglect is any failure of an adult to take care of him/herself that causes, or is reasonably likely to cause, within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult's financial affairs.

It includes:

- living in grossly unsanitary conditions,
- suffering from an untreated illness, disease or injury,
- suffering from malnutrition that is likely to severely impair a person's physical or mental health creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property, and
- suffering from an illness, disease or injury that results in the adult dealing with his/her financial affairs in a manner likely to cause substantial damage or loss.

The AGA applies to abuse, neglect and self neglect in a public place, the adult's home, a care facility or any other place except a correctional centre.



What are the principles guiding intervention under the AGA?

All adults are entitled to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are capable of making decisions about these matters.

All adults should receive the most effective but the least intrusive and restrictive form of support, assistance or protection when they are unable to care for themselves or their financial affairs.

The court should not be asked to appoint, and should not appoint guardians unless alternatives such as the provision of support and assistance have been tried or carefully considered.

Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about personal care, health care and financial affairs.

An adult's way of communicating with others is not grounds for deciding that he/she is incapable of making decisions.

Who will provide support and assistance and who can use the legal tools?

According to these principles, even if an adult seems to be in an abusive or neglectful situation, he/she has the right to decide whether to accept or refuse offers of help if he/she is capable of making such decisions.

There are many community agencies, including agencies designated under the AGA, that may hear about these kinds of situations and offer support or make referrals to enable the adult to get assistance if they want it.

If a designated agency receives a report about an adult, that agency has a legal responsibility to look into the situation and to talk directly with the adult,

involving him/her as much as possible in addressing his or her situation.

The designated agencies in BC are:

- The five Regional Health Authorities,
- Providence Health Care Society (some hospital settings in Vancouver), and
- Community Living BC (for adults who are eligible for these services).

Designated agencies work with the adult to give the kind of support that he/she wants and needs. This may include informal support from friends, family and advocates. It may also include other services such as home support, meal services or a day program. Many situations will be addressed in this way.

If the situation cannot be resolved informally, is urgent or dangerous, and the designated agency is concerned that the adult seems unable to get assistance on his/her own due to a physical restraint, physical handicap or an illness, disease, injury or other condition that affects his/her ability to make decisions, the AGA gives designated agencies legal tools to protect adults.

These tools include:

- legal authority to get in to see an adult when access has been denied,
- short and longer term restraining orders to keep alleged abusers away, and
- Support and Assistance court orders to get an adult the needed supports, if he/she has been assessed as being mentally incapable of refusing the help.

Designated agencies must also report criminal offences to the police.

To learn more about the designated agency in your health region and/or find a local phone number check the following:

Fraser Health:

1.877.REACT.08 (1.877.732.2808)
http://www.fraserhealth.ca/your_care/adult_abuse_and_neglect/getting_help

Interior Health:

For direct community numbers visit:
<https://www.interiorhealth.ca/>

Northern Health:

Prince George Adult Protection Line: 250.565.7414

Vancouver Coastal Health:

- Providence Health Care: 1.877.REACT.09 (1.877.732.2899)
- ReAct Response Resource: 1.877.REACT.09 (1.877.732.2899)
- For more direct community numbers visit:
www.vchreact.ca/report.htm

Vancouver Island Health Authority:

- South Island: 1.888.533.2273
- Central Island: 1.877.734.4101
- North Island: 1.866.928.4988

Community Living BC (CLBC):

CLBC is the designated agency for all individuals with a developmental disability who are eligible for CLBC services. For locations and contacts, visit:
www.communitylivingbc.ca

Designated agencies may also work closely with the Public Guardian and Trustee (PGT) in some situations.

How does the PGT work with designated agencies?

The PGT has powers under the Public Guardian and Trustee Act to investigate reports of abuse and neglect when an adult's assets are at risk and the adult is not capable of managing his/her financial affairs. As a result, the PGT may receive reports from designated

agencies when there is a concern about financial abuse, neglect or self neglect. The PGT has the authority to carry out an investigation and determine the options to be explored. If the adult requires someone to make financial and legal decisions, and there are no less intrusive options, the PGT may take steps to become committee of the estate in order to make financial decisions to protect the adult's assets.

Sometimes the PGT receives a report from a friend, neighbour or concerned person regarding alleged abuse, neglect or self neglect of a vulnerable adult. The PGT may be able to investigate the concerns. However, it will refer the situation to a designated agency if there are concerns about physical risk or harm. For more information on the role and services of the PGT, see the PGT website at: www.trustee.bc.ca

What is a Community Response Network or CRN?

Abuse and neglect are complex issues that require the experience and concern of many people and organizations to be effectively addressed. A

Community Response Network or CRN is a group of people and organizations in a community who work together to create a coordinated response to adult abuse, neglect and self neglect by:

- including everyone in the community who wants to be involved;
- raising community awareness and developing protocols among members about how organizations or agencies will respond when an adult needs help;
- keeping track of how the response is working; and
- working towards prevention.

Protecting Adults from Abuse, Neglect and Self Neglect

1.877.732.2808
1.877.732.2808
1.877.732.2808
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BC CENTRE FOR ELDER
ADVOCACY
AND SUPPORT

Seniors Abuse and Information Line (SAIL)

604-437-1940 ● 1-866-437-1940 (Toll free)

Available 8am to 8pm daily, excluding holidays

Language Interpretation

TTY: 1-855-306-1443 (toll free)

Available 9am to 4pm, Monday-Friday

Crisis Centre - Seniors Distress Line

Phone: 1-800-784-2433 (1-800-SUICIDE)

Website: <http://crisiscentre.bc.ca/olderadult/>



The screenshot displays the Crisis Centre website. At the top, there is a search bar and navigation links for Home, News, and Get Help. Below this, the Crisis Centre logo is centered, featuring a stylized sun and the tagline "Here to listen. Here to help." Navigation links for About, Programs & Services, Get Help, Volunteer, and Donate are also present. A large yellow banner with a black and white photo of a woman and a child is overlaid with the text "TOGETHER WE GIVE HOPE". Below the banner, the "OLDER ADULT PROGRAM" is highlighted in green. The text describes the program's goal to support older adults and lists specific services. A sidebar on the right lists "Programs & Services" including training, workshops, and crisis services.

Search...

Home News Get Help

About Programs & Services Get Help Volunteer Donate

Crisis Centre™
Here to listen. Here to help.

TOGETHER WE GIVE HOPE

OLDER ADULT PROGRAM

Older Adult Programming

Recognizing the particular vulnerability of older adults in our community, we strive to make our services senior-friendly, addressing unique issues that seniors may face. Our programming for older adults aims to reduce the stigma related to mental health and suicide, enhance older adults' mental and emotional wellness, and increase the community's capacity to respond to suicide and distress among older adults. Our specific senior services include:

» Increasing older adult's access of the Crisis Centre's distress services, including

Programs & Services

- » Training for Community and Service Providers
- » Wellness Workshops for Youth
- » Older Adult Program
- » Choices2: Reaching Out
- » 24/7 Distress Phone Services
- » Online Chat Services
- » Scholarship
- » Suicide Prevention Planning

Nidus Personal Planning Resource Centre and Registry

Website: <http://www.nidus.ca>

The screenshot shows the homepage of the Nidus website. At the top, the logo "Nidus" is in blue and green, followed by the text "Personal Planning Resource Centre and Registry". To the right of the logo is the tagline "Your choice. Your plan. Your future." and a search bar with a green arrow button. Below the logo is a blue navigation bar with links: Home, Information, Self-Help, News, and Registry. On the far right of the navigation bar are three small "A" icons for text size adjustment.

The main content area features a large, stylized heading "Are you Prepared?" in a dark red, cursive font. Below this heading is a dark red rectangular button with white text that reads "For end-of-life? For incapacity? For your future?". Underneath the button, there is a section titled "Register for a free webinar on Personal Planning & Representation Agreements" with a subtext "Learn how to protect your finances, give legal force to health care wishes and register your plans so they are available" and a link "Click here".

Below the webinar section, there is a prompt "Click on a heading below which best describes your situation" followed by three headings: "Helping a Relative with a Disability", "I'm Planning for the Future", and "Caring for an Older Adult". Each heading is accompanied by a small photograph: a woman and a young man, a woman in a black tank top, and an elderly couple.

On the right side of the page, there is a vertical sidebar with three sections: "NIDUS NEWS" with a "Subscribe to our news" link, "15 SEPTEMBER Appointments BOOK NOW", and "QA Ask Joanne". At the bottom of the sidebar is a "HIGHLIGHTS" section with links to "What's New?", "Getting Started", "Presentations", "Personal Stories", and "RA Forms".

PovNet



Website: www.povnet.org

[HOME](#) [ABOUT US](#) [HELP](#) [CONTACT US](#)

Sunday March 22nd 2015





Building an online anti-poverty community




Finding Help

Find An Advocate

Search our directory for an advocate near you.




Resources



Links and advocacy resources that aim to be directly helpful.

Applying For...




Hints and links about applying for welfare, housing, EI and more...

Job Postings




If your organization wants to list your job posting on PovNet, please fill in a [job posting form](#). If you are looking for a job, check out

Tweets



 povnet @povnet 20 Mar
Check out the video that @PovReductionBC has made for it's new poverty mythbusters campaign!

Search PovNet

 [Advanced search options](#) [Browse site map](#)

[Need to increase text size?](#)

Anti-Poverty News


Questions raised over Clark's refusal to implement \$15 minimum wage in B.C.

March 12, 2015

Christy Clark's statement last week that a \$15 minimum wage would hurt small businesses was the subject of scrutiny in a story released this week in the Globe and Mail. The article looks at the...

[\[... READ\]](#)


ARTICLE



Frozen: BC Welfare Rates Haven't Risen in Eight Years


March 5, 2015

Welfare rates in BC have not increased in eight years and



Canadian Centre for Elder Law/BC Law Institute

Website: <http://www.bcli.org/>



The screenshot shows the homepage of the Canadian Centre for Elder Law/BC Law Institute. The header features the organization's logo on the left, which includes a stylized green leaf and the text "CANADIAN CENTRE FOR ELDER LAW". To the right of the logo are two blue buttons: "BCLI British Columbia Law Institute" and "CCEL Canadian Centre for Elder Law". Below these buttons are social media icons for Twitter, Facebook, LinkedIn, and RSS. A green navigation bar contains the following links: "BCLI", "BCLI Projects", "Law Reform Resources", "CCEL", "CCEL Projects", and "Elder Law Resources". The main content area is divided into two columns. The left column is titled "Elder Law Resources" and contains several links and a paragraph of text. The right column is titled "In This Section" and contains a list of links. Below this is a "Control Text Size" section with links for "A", "A+", and "A++". Further down is a "Search this Site" section with a search box and a "Search" button. At the bottom of the right column is a "Recent CCEL Blog Posts" section with a link to "Strata Property Law Project Committee Meeting - April 2015".

Logo: CANADIAN CENTRE FOR ELDER LAW

Buttons: BCLI British Columbia Law Institute, CCEL Canadian Centre for Elder Law

Social Media: Twitter, Facebook, LinkedIn, RSS

Navigation: BCLI, BCLI Projects, Law Reform Resources, CCEL, CCEL Projects, Elder Law Resources

Elder Law Resources

[Elder Abuse and Neglect: What Volunteers Need to Know](#) (Resources Handout)

[Les mauvais traitements envers les aînés : Ce que tout bénévoles doit savoir](#) (Document Resources)

Elder Abuse and Neglect: What Volunteers Need to Know is an introductory elder abuse workshop. This workshop has been created for volunteers who work with older people and Boards of Directors of organizations that serve aging clients. For more, check out the [project page](#).

[Be A Savvy Senior: Fraud Protection Strategies for Seniors](#)

[Soyez un aîné avisé : Stratégies de protection contre la fraude pour les aînés](#)

Be a Savvy Senior is a series of educational tools to help seniors protect themselves against fraud. The tools identify some of the most common scams con artists use these days to target seniors. The focus of the tools is to empower seniors to help protect themselves by identifying basic strategies people can use to respond to suspected fraud. The tools include:

1. A bilingual fraud prevention calendar for the year 2014—available at select seniors centres across Canada;
2. A series of fact sheets (English and French versions); and
3. English and French languages videos.

[Financial Literacy 102 – A knowledge based approach to preventing financial abuse of older adults: a guide for professionals](#)

In This Section

- Legal Advice & Information
- Elder Law & Advocacy Organizations
- Non-CCELS Elder Law Publications & Resources
- Elder Law Social Media

Control Text Size

A A+ A++

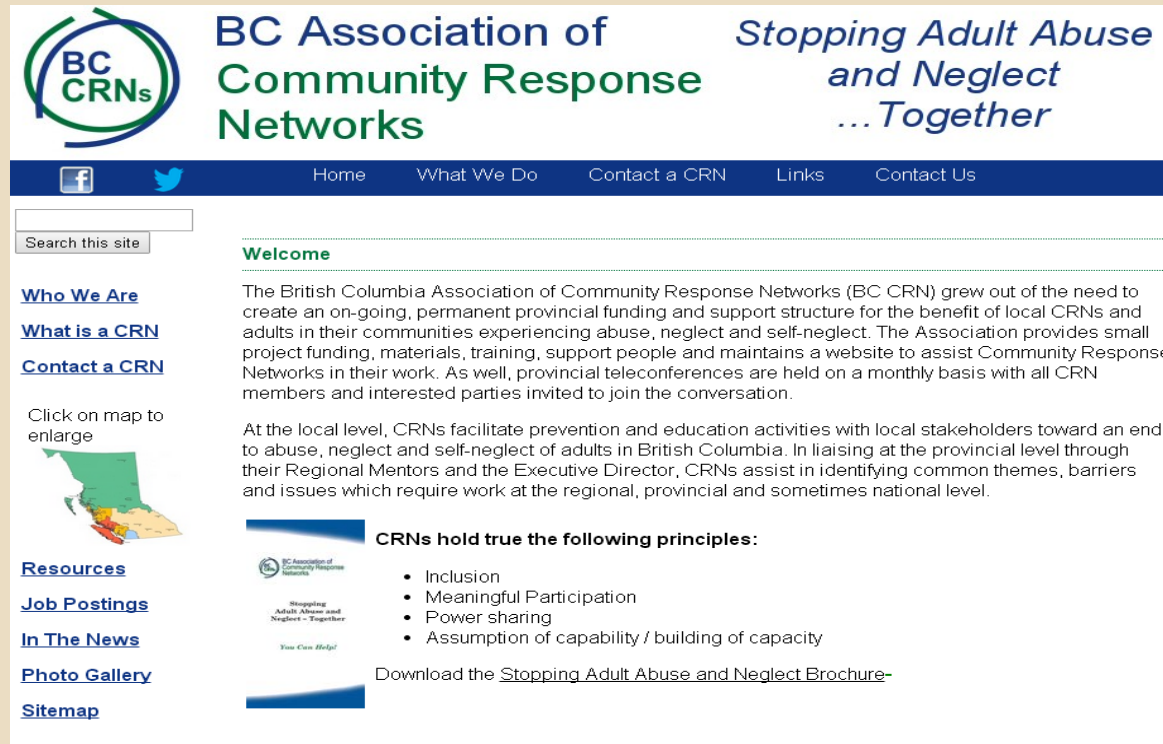
Search this Site

Recent CCEL Blog Posts

[Strata Property Law Project Committee Meeting - April 2015](#)

BC Association of Community Response Networks

Website: <http://www.bccrns.ca/generated/homepage.php>



The screenshot shows the homepage of the BC Association of Community Response Networks. The header features the BC CRNs logo on the left, the organization's name in the center, and the slogan "Stopping Adult Abuse and Neglect ... Together" on the right. Below the header is a navigation bar with links to Home, What We Do, Contact a CRN, Links, and Contact Us. A search bar is located on the left side of the page. The main content area is divided into two columns. The left column contains links for "Who We Are", "What is a CRN", "Contact a CRN", "Resources", "Job Postings", "In The News", "Photo Gallery", and "Sitemap". The right column features a "Welcome" section with a paragraph about the organization's mission, followed by a section titled "CRNs hold true the following principles:" which lists four principles: Inclusion, Meaningful Participation, Power sharing, and Assumption of capability / building of capacity. Below this list is a link to download the "Stopping Adult Abuse and Neglect Brochure-".

BC Association of Community Response Networks *Stopping Adult Abuse and Neglect ... Together*

Home What We Do Contact a CRN Links Contact Us

Search this site

[Who We Are](#)
[What is a CRN](#)
[Contact a CRN](#)

Click on map to enlarge

[Resources](#)
[Job Postings](#)
[In The News](#)
[Photo Gallery](#)
[Sitemap](#)

Welcome

The British Columbia Association of Community Response Networks (BC CRN) grew out of the need to create an on-going, permanent provincial funding and support structure for the benefit of local CRNs and adults in their communities experiencing abuse, neglect and self-neglect. The Association provides small project funding, materials, training, support people and maintains a website to assist Community Response Networks in their work. As well, provincial teleconferences are held on a monthly basis with all CRN members and interested parties invited to join the conversation.

At the local level, CRNs facilitate prevention and education activities with local stakeholders toward an end to abuse, neglect and self-neglect of adults in British Columbia. In liaising at the provincial level through their Regional Mentors and the Executive Director, CRNs assist in identifying common themes, barriers and issues which require work at the regional, provincial and sometimes national level.

CRNs hold true the following principles:

- Inclusion
- Meaningful Participation
- Power sharing
- Assumption of capability / building of capacity

Download the [Stopping Adult Abuse and Neglect Brochure-](#)

Suggested Readings

Fact Sheet on Elder Abuse and Other Resources for Settlement Workers
– Justice Education Society

<http://www.justiceeducation.ca/sites/default/files/pdfs/english/Elder-Abuse.pdf>

Recommended Practices for Wills Practitioners Relating to Potential
Undue Influence: A Guide – BC Law Institute

<http://www.lawsociety.bc.ca/docs/practice/resources/guide-wills.pdf>

Information for Seniors – Government of Canada

<http://www.seniors.gc.ca/eng/index.shtml>

The Journey Begins Together, We Can Do Better – BC Seniors
Advocate's Report

<http://www.bccare.ca/file/SeniorsAdvocateReport-JourneyBegins2014.pdf>

HealthLink BC

[Abuse and Neglect of Older Adults: Information for Family Caregivers \(#93b\)PDF](#)

[Abuse and Neglect of Older Adults: Understanding Gender Differences \(#93c\)PDF](#)

[Financial Abuse of Older Adults \(#93d\)PDF](#)

[Preventing Abuse and Neglect of Older Adults \(#93a\)PDF](#)

Available in English, French, Punjabi, Chinese, Spanish and Vietnamese

HealthLink BC

[Abuse and Neglect of Older Adults: Information for Family Caregivers \(#93b\)PDF](#)

[Abuse and Neglect of Older Adults: Understanding Gender Differences \(#93c\)PDF](#)

[Financial Abuse of Older Adults \(#93d\)PDF](#)

[Preventing Abuse and Neglect of Older Adults \(#93a\)PDF](#)

Available in English, French, Punjabi, Chinese, Spanish and Vietnamese

Elder Abuse Assessment and Intervention Reference Guide

REFERENCE GUIDE FOR SERVICE PROVIDERS ASSISTING OLDER ADULTS

Abuse and Neglect of an Older Adult: any act that harms or threatens to harm the health or well-being of an older adult.

WHAT TO DO	
Acknowledge Barriers Urgency Screen Empower Refer	Suspicion of abuse may develop over time. Accumulate/document evidence. Fear of retaliation, withdrawal of caregiver support and breach of confidentiality. Assess immediate needs and potential risk of physical harm. Assess person's physical, emotional and mental capacity to help themselves. Inform person of their rights, resources and assist with establishing a safety plan. Offer support or consultation from other resources.

CHECK FOR

PHYSICAL ABUSE
Any act of violence causing injury or physical discomfort, including sexual assault.

Indicators:

- Unexplained injuries in areas normally covered (bruises, burns or bites).
- Untreated medical problems.
- History of "accidents".
- Signs of over or under medication.
- Dehydration.

PSYCHOLOGICAL ABUSE
Any action or comment causing emotional anguish, fear or diminished self-esteem or dignity (e.g. threats to do harm, unwanted institutionalization, harassment, abandonment, imposed isolation, removal of decisions making choices).

Indicators:

- Fear, anxiety, depression, withdrawal, cowering.
- Reluctance to talk openly.
- Fearful interaction with caregiver, caregiver speaking on behalf of person and not allowing privacy.

FINANCIAL ABUSE
Theft or exploitation of a person's money, property or assets (e.g. fraud, forgery, misuse of Power of Attorney).

Indicators:

- Standard of living not in keeping with income or assets.
- Theft of property.
- Unusual or inappropriate activity in bank accounts, forged signatures on cheques.
- Forcing a person to sign over property or execute a will.
- Overcharging for services or products, overdue bills.

NEGLECT
Inability to provide basic or personal care needs (e.g. food, water, required medications, shelter, hygiene, clothing, physical aids, hearing aids, eye glasses, dentures, exercise and social interaction, lack of attention, abandonment, undue confinement, inadequate safety precautions, withholding medical services or treatment).

- **ACTIVE NEGLECT:** intentional failure of a caregiver to fulfill their care-giving responsibilities.
- **PASSIVE NEGLECT:** unintentional failure of a caregiver to fulfill their care-giving responsibilities.
- **SELF NEGLECT:** Although not a form of elder abuse, it is the person's inability to provide for their own essential needs.

Indicators:

- Unkempt appearance, inappropriate or dirty clothing, signs of infrequent bathing.
- Living conditions unhealthy, dangerous and/or in disrepair.
- Lack of social contact.
- No regular medical appointments.

INSTITUTIONAL ABUSE
Any physical, sexual, psychological, financial abuse or neglect occurring within a facility involving active victimization, withholding or denial of individual care needs, failure to respect individual's rights, overmedication, misuse of chemical or physical restraints and/or failure to carry out reasonable requests.

DOMESTIC ABUSE
Actual or threatened physical, sexual, financial or psychological abuse of a person by someone with whom they have an intimate relationship which aims to instill fear and/or to coercively control an individual.

Adapted by the Elder Law Clinic of the BC Center for Elder Advocacy and Support, from prior versions by the Advocacy Centre for the Elderly, and the Hamilton Council Against Abuse of Older Person, both in Ontario

REFERENCE GUIDE FOR SERVICE PROVIDERS ASSISTING OLDER ADULTS

INTERVIEW STRATEGY

1. **Develop trust and be sensitive to person's culture, religion, comfort level and timing in obtaining disclosure:** interview alone, listen, be patient, non-threatening and non-judgmental, validate feelings and offer emotional support, avoid premature assumptions and suggestions.
2. **Note suspicious histories:** Explanation is vague, bizarre or incongruent with type or degree of injury, denial of obvious injury, long delay between injury and treatment.
3. **Be alert to person's wishes and assess ability to understand.** Try to assess whether the person "understands" and "appreciates" what is happening and what their needs are.
4. **Identify what information is missing:** Frequency, duration, urgency, need for physical examination.
5. **Be aware of interdependent relationships/power differences:** Be cautious of involvement of third party who may be the abuser, note conflicting histories. Where appropriate, interview family members but remember it is key to **TALK TO THE OLDER ADULT** even if family is available.

POSSIBLE INTERVENTIONS

- Consider impact on the person, their wishes, and their ability to recognize that they may be a victim of abuse.
- Note their understanding and appreciation of the consequences of their decisions.
- Understand that often before a person will seek or agree to accept help, they need to be able to trust you and know that you will follow through with the help you offer to give.
- Your role could be singular or part of a team of service providers that could support the person to be healthy and safe. Be aware of appropriate resources or know how to link with the broader community.
- Follow your professional standards in obtaining client consent.
- If client does not consent, maintain contact to initiate: A. Education and/or a B. Safety Plan (see below).

A. EDUCATION

- Provide information and support according to the interests expressed by the person.
- Be aware of services outside the health care system which are specific to the needs of any older adult or specific to the needs of the older persons who are being victimized or are at risk, including social services, legal services, financial assistance, housing options and the faith community.

B. SAFETY PLAN

The plan may include a change to an element of their environment or their relationship which could result in the elimination of the role of the abuser or context of the abuse.

Consider:

- Home visits, telephone contact, contact with other family and friends, regular appointments
- Secure assets (e.g. hide emergency money somewhere outside home.)
- Give copies of important documents and keys to trusted friends or family members
- Plan escape by packing a bag of extra clothing, medicine and personal aids (glasses, hearing aids)
- Keep phone numbers of friends, relatives, shelters or other trusted individuals handy.

C. RESOURCE S and HELP NUMBERS

Seniors Abuse and Information Line (SAIL).....604-437-1940, 1-866-437-1940 Hours: 8am-8pm, daily except holidays
Language Interpretation Available, 9am-4pm, Monday- Friday except holidays
TTY: 9am-4pm, Monday-Friday except holidays

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VictimLink.....1-800-563-0808
Public Guardian and Trustee.....1-800-663-7867
Crisis Intervention and Suicide Prevention Centre.....1-866-784-2433
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BC CENTRE FOR ELDER
ADVOCACY
AND SUPPORT



Thank You!



Source

Understanding and Responding to Elder Abuse E-Book:
Ministry of Justice

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BC's Adult Guardianship Laws: Supporting Self Determination for Adults in British Columbia

PROTECTING ADULTS FROM ABUSE, NEGLECT AND SELF NEGLECT

When adults are abused or neglected, it can be difficult to know if or when to step in. We assume that adults can take care of themselves, but we know this is not always true. Sometimes adults cannot seek the help they need because of a physical restraint, a physical handicap, an illness, disease, injury or other condition that affects their ability to make decisions.

Part 3 of the *Adult Guardianship Act (AGA)*: Support and Assistance for Abused and Neglected Adults addresses such situations. It:

- defines adult abuse, neglect and self neglect and lays down principles to guide our actions,
- promotes the provision of support and assistance,
- provides legal tools for more formal intervention, if needed, for people who are unable to seek help on their own,
- enables the development of coordinated community responses called Community Response Networks or CRNs.

What is abuse, neglect and self neglect under the AGA?

Abuse is deliberate mistreatment that causes physical, mental or emotional harm, or damage to or loss in respect of the adult's financial affairs. It includes:

- intimidation
- humiliation
- physical assault
- sexual assault
- overmedication
- withholding needed medication
- censoring mail
- invasion or denial of privacy, and
- denial of access to visitors.

Neglect is any failure to provide necessary care, assistance, guidance or attention if that failure causes, or is reasonably likely to cause, within a short period of time, serious physical, mental or emotional harm, or substantial damage or loss in respect of the adult's financial affairs.

Self Neglect is any failure of an adult to take care of him/herself that causes, or is reasonably likely to cause, within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult's financial affairs.

It includes:

- living in grossly unsanitary conditions,
- suffering from an untreated illness, disease or injury,
- suffering from malnutrition that is likely to severely impair a person's physical or mental health creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property, and
- suffering from an illness, disease or injury that results in the adult dealing with his/her financial affairs in a manner likely to cause substantial damage or loss.

The AGA applies to abuse, neglect and self neglect in a public place, the adult's home, a care facility or any other place except a correctional centre.

What are the principles guiding intervention under the AGA?

- All adults are entitled to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are capable of making decisions about these matters.
- All adults should receive the most effective but the least intrusive and restrictive form of support, assistance or protection when they are unable to care for themselves or their financial affairs.
- The court should not be asked to appoint, and should not appoint guardians unless alternatives such as the provision of support and assistance have been tried or carefully considered.
- Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about personal care, health care and financial affairs.
- An adult's way of communicating with others is not grounds for deciding that he/she is incapable of making decisions.

Who will provide support and assistance and who can use the legal tools?

According to these principles, even if an adult seems to be in an abusive or neglectful situation, he/she has the right to decide whether to accept or refuse offers of help if he/she is capable of making such decisions.

There are many community agencies, including agencies designated under the AGA, that may hear about these kinds of situations and offer support or make referrals to enable the adult to get assistance if they want it.

If a **designated agency** receives a report about an adult, that agency has a legal responsibility to look into the situation and to talk directly with the adult,

involving him/her as much as possible in addressing his or her situation.

The **designated agencies** in BC are:

- The five Regional Health Authorities,
- Providence Health Care Society (some hospital settings in Vancouver), and
- Community Living BC (for adults who are eligible for these services).

Designated agencies work with the adult to give the kind of support that he/she wants and needs. This may include informal support from friends, family and advocates. It may also include other services such as home support, meal services or a day program. Many situations will be addressed in this way.

If the situation cannot be resolved informally, is urgent or dangerous, and the designated agency is concerned that the adult seems unable to get assistance on his/her own due to a physical restraint, physical handicap or an illness, disease, injury or other condition that affects his/her ability to make decisions, the AGA gives designated agencies legal tools to protect adults.

These tools include:

- legal authority to get in to see an adult when access has been denied,
- short and longer term restraining orders to keep alleged abusers away, and
- Support and Assistance court orders to get an adult the needed supports, if he/she has been assessed as being mentally incapable of refusing the help.

Designated agencies must also report criminal offences to the police.

To learn more about the designated agency in your health region and/or find a local phone number check the following:

Fraser Health:

1.877.REACT.08 (1.877.732.2808)

http://www.fraserhealth.ca/your_care/adult_abuse_and_neglect/getting-help

Interior Health:

For direct community numbers visit:

<https://www.interiorhealth.ca/>

Northern Health:

Prince George Adult Protection Line: 250.565.7414

Vancouver Coastal Health:

- Providence Health Care: 1.877.REACT.99 (1.877.732.2899)
- Re:Act Response Resource : 1.877.REACT.99 (1.877.732.2899)
- For more direct community numbers visit: www.vchreact.ca/report.htm

Vancouver Island Health Authority:

- South Island: 1.888.533.2273
- Central Island: 1.877.734.4101
- North Island: 1.866.928.4988

Community Living BC (CLBC):

CLBC is the designated agency for all individuals with a developmental disability who are eligible for CLBC services. For locations and contacts, visit: www.communitylivingbc.ca

Designated agencies may also work closely with the Public Guardian and Trustee (PGT) in some situations.

How does the PGT work with designated agencies?

The PGT has powers under the *Public Guardian and Trustee Act* to investigate reports of abuse and neglect when an adult's assets are at risk and the adult is not capable of managing his/her financial affairs. As a result, the PGT may receive reports from designated

agencies when there is a concern about financial abuse, neglect or self neglect. The PGT has the authority to carry out an investigation and determine the options to be explored. If the adult requires someone to make financial and legal decisions, and there are no less intrusive options, the PGT may take steps to become committee of the estate in order to make financial decisions to protect the adult's assets.

Sometimes the PGT receives a report from a friend, neighbour or concerned person regarding alleged abuse, neglect or self neglect of a vulnerable adult. The PGT may be able to investigate the concerns. However, it will refer the situation to a designated agency if there are concerns about physical risk or harm. For more information on the role and services of the PGT, see the PGT website at: www.trustee.bc.ca

What is a Community Response Network or CRN?

Abuse and neglect are complex issues that require the experience and concern of many people and organizations to be effectively addressed. A **Community Response Network or CRN** is a group of people and organizations in a community who work together to create a coordinated response to adult abuse, neglect and self neglect by:


- including everyone in the community who wants to be involved;
- raising community awareness and developing protocols among members about how organizations or agencies will respond when an adult needs help;
- keeping track of how the response is working; and
- working towards prevention.

CRN members can be anyone in the community concerned about adult abuse and neglect including designated agencies, police, community organizations serving specific groups, faith communities, financial institutions, advocacy organizations and concerned citizens.

There is community response network activity in all regions of the province. To learn more about CRNs see the website at www.bccrns.ca. To locate a contact person in a community with CRN activity, go to the CRN website and click on "Contact".

Contact the Public Guardian and Trustee

Assessment and Investigation Services (AIS)

 Toll free	1.877.511.4111
 Local	604.660.4507
 Toll free	1.855.660.9479
 Local	604.660.9479
 Email	AIS-HCD@trustee.bc.ca

 PGT Hours of operation Monday to Friday 8:30 am to 4:30 pm

Toll free calling

Toll free calling is available through Service BC.
After dialing the appropriate number for your area (see below)
request to be transferred to the Public Guardian and Trustee.

 Vancouver	604.660.2421
 Victoria	250.387.6121
 Other Areas in BC	1.800.663.7867