

Search for



# Thinking of moving in together? Think about this...

On this page:

[Property](#)

[Debts](#)

[Responsibility for children](#)

[Benefits](#)

[Wills](#)

If you're planning to move in together, you might want to think about what legal rights and responsibilities you may be taking on when you do.

These usually depend on whether you're considered a **spouse** or **common-law partner** under the law. People become spouses when they get married. But even after just living with someone, you can be legally considered a spouse or common-law partner after a certain amount of time. For some laws, you must live together for at least two years, and for others, just one year or even less.



**Important:** Even when you become a spouse under a certain law, it doesn't mean you're married. To be married, you must have a legal marriage ceremony and get a marriage licence.

## Property

In BC, the same law about dividing property after separation applies to married couples and to couples who've become spouses by living together in a marriage-like relationship (http://wiki.clicklaw.bc.ca/index.php/Unmarried\_Spouses) for at least **two years**. If you split up:

- You get to keep what you had before the relationship.
- You're each entitled to half of the **property** that you got while you were together. It doesn't matter who actually owns the property. If one or both of you got it while you were living together, you now divide it equally.
- You each get an equal share in the increased value of any property that either of you had before the relationship.

Term not used in BC law. Often used to refer to a marriage-like relationship that's lasted a certain length of time, usually one or two years. Used in some federal laws to refer to a marriage-like relationship of a year or longer. x

## Example of sharing the increased value of family property

You owned the home when you and your spouse moved in together. The house is in your name alone. You've lived together for more than two years. The house increased in value by 20 percent in the time you lived together. You're now each entitled to half of the value of that increase.

The increased value is divided equally for all sorts of **family property**, including:

- land
- house
- furniture
- cars
- pensions
- bank accounts
- certain insurance policy payments
- an interest in a business

See [section 84 of the Family Law Act](#)

([http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/11025\\_05#section84](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/11025_05#section84)) for more about what counts as family property.

Certain types of property and assets aren't divided equally. This is called **excluded property** and includes gifts and inheritances received by one spouse. See [section 85 of the Family Law Act](#)

([http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/11025\\_05#section85](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/11025_05#section85)) for a full list of what's considered excluded property.

Note that even if you own something that's considered excluded property, you must each get an equal share of *any increase in its value* that happened while you were together.

## Debts

In BC, the same law about debts after separation applies to married couples and to couples who've become spouses by living together in a [marriage-like relationship](#) ([http://wiki.clicklaw.bc.ca/index.php/Unmarried\\_Spouses](http://wiki.clicklaw.bc.ca/index.php/Unmarried_Spouses)) for at least **two years**. If you split up:

- The law says that debts taken on by either spouse while you live together (called family debt) is shared equally when you separate, no matter whose name the debts are in.
- Debts that either of you take on after separation to take care of family property are also shared equally.
- Even though you share the responsibility for family debt equally, the people you owe money to (your creditors) can only collect the debt from the person who signed for the debt. If you both signed, the creditor can collect from either of you.

## What if we don't want to share property and debt if we split up?

You and your partner can write an agreement at any time during your relationship or after you separate that sets out how you want to divide your property and debts if you separate.

## What if one of us changes their mind about the agreement?

Courts don't like to overturn agreements about dividing property and debt. However, a judge might cancel or change this type of agreement in one of these situations:

- a spouse didn't share important information about property or debt,
- one spouse took advantage of the other,
- a spouse didn't understand what they were signing, or
- the agreement is "significantly unfair" (see the possible reasons listed in [section 95 of the Family Law Act](#) ([http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/11025\\_05#section95](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/11025_05#section95))).

## Responsibility for children

You're always responsible for contributing to the support of your own children, whether you live with them or not. For more information, see our fact sheet on [Child support \(child\\_support.php\)](#).

Once you move in with someone who has children, you may be legally required to pay **child support** when you separate if:

- you contributed to the child's support for at least one year during your relationship with the child's parent, and
- the parent applies to the court for support from you within one year of the last time you contributed to the child's support.

Even if both of those are true, your responsibility to pay child support is not as great as the child's parents' or guardians' responsibility.

A court would also consider the child's standard of living when they lived with you, and how long you lived with the parent.

## What if we want to make an agreement about support for children?

You can't make an agreement while you're living together about what you'll do about child support if you separate. The BC Family Law Act says that agreements about child support are only legal if they're made *after* you separate (or when you're about to separate).

Even if you make the agreement after you separate, the court can order you to pay child support according to the Child Support Guidelines instead. You can't make an agreement that gets you out of your legal duty to support children or stepchildren.

## Benefits

Once you qualify as a **spouse** or **common-law partner** under provincial or federal laws, you may be able to get some benefits, but you also might be at risk of losing some benefits.

### Seniors benefits

Spouses who were married or lived together for at least **one year** are entitled to federal benefits such as the Old Age Security (OAS) pension, the spouse's Allowance, and the Guaranteed Income Supplement (GIS).

The spouse's Allowance is for couples with low incomes. It's paid to spouses who are 60 to 64 years old if their spouse is 65 and receiving an OAS pension. If you're receiving the spouse's Allowance and you separate, your Allowance will stop three months after you separate.

GIS is based on the combined incomes of you and your spouse. If you separate and are living on a low income, you may be eligible for GIS as a single person.

### Canada Pension Plan credit splitting

If you split up after living together for **one year**, the contributions that you each made to the Canada Pension Plan while you were living together can be shared equally between you. This is called credit splitting. If you separate, this doesn't happen automatically. You must apply.

### MSP and medical and dental benefits

You can get coverage on the provincial Medical Services Plan for your partner no matter how long you've been living together. To get your partner covered, sign them up for the plan. You'll have to pay a higher family rate.

If you or your partner has medical or dental insurance through work, ask the plan administrator about coverage for your partner.

## Social assistance

For social assistance laws, you're considered spouses if you lived together for the last three months in a row, or for 9 of the last 12 months, in a marriage-like relationship where one or both of you depended on the other financially.

## Wills

For the law related to wills, you're considered spouses if you've lived together for at least **two years** in a marriage-like relationship immediately before one of you dies. (If the relationship ended before one of you dies, you're no longer spouses.)

The law makes it clear that you have both a legal and moral obligation to provide for your spouse and children in your will. If you don't, they can challenge the will after you die.

A will covers just those things that you own by yourself. Things that you own with your spouse (like a home or bank accounts) will automatically belong to your spouse after you die. Also, a will doesn't apply to assets where you've already named a beneficiary, such as life insurance, RRSPs, RRIFs, and TFSAs.

It's possible that more than one person could be your "spouse" and so have a share in your estate. For example, you were still married but had been living with someone else in a marriage-like relationship for more than two years.

If you die without a will, your spouse will automatically get part of your estate.

For more information, see the fact sheet [If your common-law partner dies \(if your common law partner dies.php\)](#) and the Canadian Bar Association Dial-A-Law scripts [Making a Will and Estate Planning \(Script 176\)](#) (<http://www.cbabc.org/For-the-Public/Dial-A-Law/Scripts/Wills-and-Estates/176>) and [What Happens When You Die Without a Will? \(Script 177\)](#) (<http://cbabc.org/For-the-Public/Dial-A-Law/Scripts/Wills-and-Estates/177>).

[← Previous](#)



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