



# Safely On Your Way

**Child Custody and Access Information  
for Women Leaving Abusive Relationships  
and Their Service Providers**



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for Women Leaving Abusive Relationships  
and Their Service Providers**

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## This guide provides legal information, not legal advice

This guide contains general legal information only and is not intended to replace professional legal or other advice. The general information and tips in this guide may not apply to or be suitable for your specific situation. You should not rely on this information without first consulting a lawyer to learn how the law applies to your situation. The Family Law Information Project for Abused Women (FLIPAW) is not responsible for any liability arising directly or indirectly from the use or application of any information contained in this guide. We have made every attempt to ensure that the information in this guide was accurate as of the publication date; however, laws and policies frequently change and different circumstances can lead to different legal outcomes.

## A note about woman abuse

Statistics show that it is women who most often experience abuse in family relationships. This guide is written from the perspective that the abuser is a man and that the person being abused is a woman who is the abuser's present or former partner or spouse.

We acknowledge that there are also situations where men are abused by women, and that abuse also occurs in same-sex relationships.

### A note about family court

Depending on your circumstances and where you live in Nova Scotia, your family law matter may be heard in the Family Court, the Supreme Court, or the Supreme Court (Family Division). However, in this province the term **family court** generally refers to any court where a family law matter, including child custody and access, is heard. Throughout this guide **Family Court** is capitalized where we refer to the specific

court, whereas **family court** without capitals is a general reference to the family court process, which could take place in the Family Court, the Supreme Court, or the Supreme Court (Family Division).

All legal terms in bold are defined in the **Legal Terms** chapter, page 230.

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The Family Law Information Project for Abused Women (FLIPAW) is the name of the project that created the *Safely On Your Way* guide. FLIPAW partners include: the Legal Information Society of Nova Scotia (LISNS), the Nova Scotia Advisory Council on the Status of Women (NSACSW), the Transition House Association of Nova Scotia (THANS), and the Women's Innovative Justice Initiative (WIJI).

## Why this guide?

Each year, thousands of women leave abusive relationships with their children and find themselves in what can be a long and painful process of working through ongoing custody and access issues.

Dealing with an abusive partner in family and criminal court, and perhaps even in child protection proceedings, can take its toll on women who just want to move on with their lives.

One of the greatest challenges faced by women in this situation is the fact that most family law information about custody and access does not address the unique concerns and dangers that women leaving abusers face.

As a result, women are often alarmed and confused by issues that arise, for example, when abusive partners with criminal records apply for child custody, or when family court orders require direct contact despite criminal no-contact orders. Women may have no idea how to handle illegal contact from ex-partners during access visits or how to obtain criminal court evidence relevant to their children's safety.

Time and again women dealing with abusive ex-partners must balance their responsibility to allow court-ordered access with the responsibility to keep themselves and their children as safe as possible.

In the past, it has taken women a long time, sometimes even years, to gather the information they need to navigate the

family law system. Yet there has been no way to share this knowledge among women in order to increase awareness.

The purpose of this guide is to help women by giving them access to relevant family law information: information that examines child custody and access issues from a domestic abuse perspective and addresses the risks and challenges faced by women and children during the post-separation period.

With the input, support and expertise of many organizations, legal and justice professionals, women's and children's advocates, and, most importantly, women themselves who have lived or are still living the experience, this guide has been created to help you "safely on your way."

Thank you for reading.

Rebecca Atkinson

Project Coordinator, Researcher and Writer

# Introduction

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When a couple separates, in most cases both parents continue to have legal rights and obligations to their children and property. Ongoing family court matters such as custody and access, divorce, and child support can keep the parents in contact with each other for years after separation.

This post-separation contact can be difficult and dangerous for abused women with children if it provides opportunities for the abuse to continue. For example, an abusive ex-partner may threaten or harass the victim during child handovers, may file excessive family court applications, may make false allegations to child protection authorities, may refuse to return the children after an access visit, or may even harm the children directly in an effort to maintain control.

If you are a woman with children who has left or who is thinking about leaving an abusive partner, this guide is for you. It contains important information about many of the custody and access issues that abused women with children face as they attempt to balance safety concerns with their family law obligations.

Use the guide as you need it, and don't worry about the parts that don't apply to your current situation. At the back of the guide there is a **Resources** chapter to help you find the professionals and support services you may need.



# Chapter 1

## Leaving an Abuser – 12 Tips for Women with Children

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How and when women leave abusive relationships will depend on their personal, emotional and financial circumstances. Here are 12 custody- and access-related tips to consider around the time of separation.

## TIP 1

## Safety planning

When a woman leaves her abusive partner he may see it as a direct challenge of his need for and sense of control. If the couple has children, the abuser's feeling that he is losing control may be even more intense. Abuse and violence (including sexual assault) may increase around separation and it is important to have a safety plan.

Planning for safety in advance can help you avoid danger, and will help you and your children know what to do if you are in danger.

You can make a safety plan for the home you share with your partner, for your new home, for your neighbourhood, for your workplace and for your children. Some things you may want to include in a safety plan are: escape routes, a list of things you want to take with you when you leave, addresses and telephone numbers of places you can go in an emergency, names and contact numbers of people you trust, emergency numbers, ways to secure your home, ways to block or record phone calls, ways you can change your usual routine (such as visits to the doctor or places you shop) to increase safety, making arrangements for your pets, arranging for people to go with you to your car, or anything else you think of to increase safety.

There is an Aboriginal Victim Services Officer who speaks the Mi'kmaq language. She provides services in person in Eskasoni and Membertou and is available by phone in other parts of the province. Contact information for the Aboriginal Victim Services Officer is in the **Resources** chapter at the back of the guide.

### Safety plans for children can include things like:

- teaching children what to do if they see you being abused
- showing them how to leave the house safely in an emergency
- picking a safe room or location to go
- identifying people (neighbours, family members, friends, teachers) they can trust
- explaining that the most important thing they can do is keep themselves safe
- teaching them how to contact someone for help
- rehearsing how to call 911
- ensuring they know their own names and address.

For help with making a safety plan contact your local Transition House. If your partner has been charged with a criminal offence you can contact Victims' Services. You can also create your own safety plan online by going to [www.shelternet.ca](http://www.shelternet.ca) under **Making A Safety Plan**. It shows you how to hide your internet activities so no-one can see that you've accessed this site.

#### TIP

Remember that your safety plan will need to change as your circumstances change. For example, if you move or change jobs.

## Safety planning for women with disabilities and deaf women

### Tips for women with mobility or agility disabilities:

- know how much your wheelchair weighs and whether it can be easily transported
- know different ways to leave a building
- check whether the Transition House or other safe location is wheelchair-accessible
- consider giving a copy of your safety plan to people in your support network.

### Tips for deaf women

For immediate medical, police, or fire assistance during an emergency, call 911 (voice and TTY for deaf or hard of hearing). If you are deaf or hard of hearing and use a TTY to communicate, you can call the RCMP at 1-866-297-7554, day or night.

Things to consider taking with you when you leave:

- a pad of paper with pens or pencils or a small erasable white board for writing notes
- a Blackberry, V box, or other text messenger and power cord
- extra batteries, portable TTYs, and hearing aids
- an alternative power source, such as an Eliminator, which can be plugged into a car battery to recharge TTYs and text messengers
- cleaning kits for hearing aids and cochlear implants
- a sheet with the American Sign Language alphabet to help with communication

- a communication binder with pictures or phrases to help you communicate, such as “I need a family doctor,” “Where is the bathroom?” or “Where will I sleep?”; it might also include a family contact name and phone number
- portable visual notification devices that let you know if someone is knocking at your door or calling you on the telephone.

### Tips for women who are blind or visually impaired

Practise your plan regularly so you will know what to do if you have to leave in an emergency.

Things to consider taking with you when you leave:

- extra batteries for tape recorders
- an extra pair of dark glasses, if needed
- a folding mobility cane
- a talking or Braille clock
- extra aids, such as electronic travel aid, monocular, binocular or magnifier.

### Tips for women with speech disabilities

Have your safety plan written out.

Things to consider taking with you when you leave:

- extra batteries or power sources for communication devices
- a communication binder with pictures of phrases to help you communicate (see above in tips for deaf women).

## Tips for women with developmental disabilities

Work with someone you know and trust to help you create a safety plan. Make your plan with pictures instead of words so you will be able to follow it better (for example, show the exit route from the building in pictures). Practise your plan.

Things to consider taking with you when you leave:

- a safety plan with pictures to help you remember what you are supposed to do
- an extra power source or extra batteries for communication devices
- an emergency communication book with pictures of essential items such as bathroom and medical needs
- pre-printed messages to show to those who may be helping you, such as Transition House workers or police (for example, “I may have difficulty understanding what you are telling me. Please speak slowly.”). Include the name, address, and telephone number of someone you trust, such as a friend, family member or advocate.

## Tips for women with mental health disabilities

Practise your safety plan and how to communicate your

needs. Think about the types of reactions you may have after an emergency, and plan strategies for dealing with them.

### TIP

Most Transition Houses are wheelchair-accessible, with access ramps and an accessible bedroom and shower. Some are also equipped with special equipment, such as flashing alarm lights and TDD telephones. To support women with disabilities, Transition House staff often work with outside agencies to develop personalized support plans and to address any barriers a woman may face.

Things to consider taking with you when you leave:

- instructions for your care and treatment in case you are hospitalized
- enough medications to last for at least three days (if you need medications).

## TIP 2

## Get legal advice and consider applying for custody as soon as possible

Many women leaving abusive relationships are shocked when ex-partners who have shown little interest in their children before separation ask for visitation or custody when the relationship ends. If you are preparing to leave or have recently left your relationship, **remember that if no custody order exists, you and your ex-partner have equal rights to your children. This means if he decides to keep them after a visit you may have to apply to the family court to get them back.** If a father has unsupervised access visits before a custody order is in place, he may refuse to return the children and is within his legal rights to do so. To ensure that your children stay with you it is important to get legal advice as soon as possible about how to apply for custody.

If you cannot afford a private lawyer and do not qualify for Legal Aid, contact the intake officer at your nearest Family Courthouse or Justice Centre, or your local Transition House outreach service, for information and help with court documents.

## TIP

Some women agree to interim custody and access arrangements, assuming that they will be able to change the agreement when they go back to court. However, unless there are serious problems the courts may not reduce access, because it is assumed that the arrangements made are agreeable and safe. It is important not to agree to an interim arrangement unless you can live with it in the long term.

New Canadian women may wonder if they will be deported if they leave their abusive partner.

- If you are a Canadian citizen or permanent resident you cannot be deported for leaving your partner.
- If you are considered a refugee or person in need of protection, you can apply for permanent resident status.
- If you are the dependent of a refugee or a person in need of protection who is in the process of applying for permanent residence for both of you, and he withdraws the application, you can apply for permanent residence on humanitarian or compassionate grounds. (You will probably need a lawyer for this.)
- If you have made a refugee protection claim that is joined with your abuser's claim, you can ask for your claim to be separated and you will have your own hearing.
- If you are sponsored by your partner, you would not be deported just because your sponsorship has broken down.

## TIP

In some urgent situations, your lawyer might suggest that you make an emergency application for interim custody. In less urgent situations, it may be possible to reach a legal written agreement through your lawyers for temporary custody and access before you go to family court or negotiate a court order. This temporary access arrangement is legally binding, which means that it would be illegal for your ex-partner not to return the children after a visit.

## Take what you need when you leave

If a woman leaves the family home it may not be possible or safe for her to return. This is why it is important to think about what items you and your children will take with you before you leave. These items may include: birth certificates, passports, health cards, children's comfort items (toys, blankets, photos, books), house and car keys, driver's license, bank or credit cards, financial information (mortgage, RRSP, savings, pensions), immigration papers, money, legal papers (divorce, custody, property, or business documents), address book, photos (including one to identify your ex-partner), sentimental items or heirlooms, and prescriptions.

An abusive ex-partner may withhold personal belongings as a way of maintaining control over you after separation. Because the law views the division of property as a civil (as opposed to criminal) matter, obtaining personal belongings after separation can be a time-consuming process. Even when a court decision is reached, a woman may have problems getting her things back because enforcing a court order can be difficult.

### New Canadian Women

It is very important that you and your lawyer or advocate know your immigration status. For example, whether you are a permanent or not permanent resident may determine what Canadian benefits and services you are entitled to receive. Be sure to keep your immigration papers with you at all times.

**TIP 4**

## Staying in the family home

When a woman separates from an abusive partner, she must decide whether to leave the family home. Sometimes there is little choice. For example, many women flee the home during an emergency. In situations where the abuser refuses to stay away from the family home, a woman may be told by child protection authorities that she must go to safe housing or have her children taken into care.

**TIP**

Safe housing is very important, especially during the first year after separation when the risk is often greatest. In most cases, women who choose to leave the family home can stay in a Transition House for up to six weeks. Some women go on to Second Stage Housing. Women may bypass shelters altogether and find a place of their own or stay with family or friends.

If you want to remain in the family home and believe it is safe, you can make a court application for Exclusive Possession of the Matrimonial Home under Nova Scotia's Matrimonial Property Act (if you are married or have registered as domestic partners). If you are not married, you can apply for Exclusive Possession or Occupation of the family residence under the Maintenance and Custody Act, which means that one partner is ordered to leave the home and the other is granted the legal right to remain. In some cases, the court may order the partner who has left to contribute to the costs of the home even though he is not living there.

**TIP**

It is very important for separating women to gather as much financial information as possible before they leave their relationship. Make copies of everything relating to matrimonial property, such as mortgage documents, RRSPs, pensions, bank accounts (including numbers), and income tax returns. Gather the information as close to the date you leave as possible. If possible, arrange for a valuation of your home by a certified real estate appraiser (not a realtor). Remember to gather this information safely.

The court will make a decision about Exclusive Possession or Occupation based on what alternative living arrangements are available to each partner and whether it is in the best interests of a child to make an order giving one parent Exclusive Possession or Occupation. You should speak with a lawyer, Transition House worker, or other knowledgeable support person about whether to seek a court order for Exclusive Possession of that home.

An application for Exclusive Possession or Occupation is often made at an early stage in the family law proceedings as an Interim Application.

### First Nations Women

First Nations women living on reserve do not have access to the same legal rights and remedies relating to the matrimonial home. Provincial and territorial courts do not have the authority to deal with the matrimonial home and land on reserve. The courts cannot order the spouse with a Certificate of Possession (usually the man) to leave the matrimonial home, even in an abusive situation. This means that an abused woman with custody of the children has no legal right to the family home on a reserve after separation, unless her name is on the Certificate of Possession. Because of housing shortages on reserve, women leaving abusive relationships may be forced to leave the reserve with their children. In some cases the chief and council may intervene to support a woman and her children.

**TIP 5**

## Find an advocate

Many women who have left an abusive partner know how important it is to have an advocate. An advocate is a person (for example, a Transition House or Women's Centre worker) who works on your behalf to help ensure that your needs are met and your rights are respected. An advocate is different from a friend or family member because she or he is a professional with experience dealing with the people and agencies you are

**TIP**

Remember that you do not have to stay in a Transition House to benefit from its services.

Transition Houses have outreach staff who work with women in the community. They can provide information, advice and support, help you with court documents, offer counselling to you and your children, help you get services in the community, go with you to appointments, and advocate on your behalf. They cannot provide legal advice.

involved with and is not emotionally connected to your case. Because court appearances and meetings with lawyers, child protection workers, and Community Services can be stressful, it is sometimes helpful to have somebody with you who remains calm and focused.

There are two Mi'kmaw Family Healing Centres in Nova Scotia, located at the We'koqma'q First Nation in Whycocomagh and at the Millbrook First Nation in Truro. Each Family Healing Centre has four family living units, counsellors, support staff and outreach workers. Family Healing Centres differ from Transition Houses because they offer programs and services that are culturally relevant to First Nations women, including spiritual and cultural support. They may also provide supervision for access visits between fathers or mothers and their children. Family Healing Centres belong to the Transition House Association of Nova Scotia. Contact details are in the **Resources** chapter at the back of the guide.

Some of the things an advocate can do are:

- provide information
- take notes
- ask questions and explain things during meetings
- remind you of issues you want to raise or questions you want to ask, and
- inform you and others of your rights and responsibilities.

Perhaps the most important thing an advocate does is provide moral support during difficult and emotional times.

## Decide whether to report to the police

There are lots of reasons why an abused woman might choose not to contact the police, such as a bad past experience, fear of her abuser, or simply a desire to move on and put the relationship behind her. However, many women regret this decision if they later need evidence to support their abuse claims. A police investigation can provide a record of abuse. Unless the police are contacted for help when offences occur (before, during or after separation), it can sometimes be

### TIP

**Document, document, document!** Whether or not the police are involved in your case, one of the first things your family lawyer will tell you is **record everything!** It is very important that you keep records of your involvement and your children's involvement with your ex-partner because you may need the information later. Write down times, dates, and details of things like assaults, threats or harassment, skipped visits, late pick-ups or drop-offs of children, missed child support payments, whether he appears to be under the influence of alcohol or drugs, what children say about visits, symptoms in children, or any other concerns.

### New Canadian Women

A new Canadian woman may wonder if her partner will be deported if he is found guilty of assault. If your partner is a Canadian citizen he cannot be deported, but if he is a permanent resident or refugee he could be deported if he is convicted of assault or another criminal offence. However, each case is dealt with on an individual basis and permanent residents are usually deported only for very serious crimes. The deportation process can take a long time.

difficult for a woman or her lawyer to document domestic abuse in a child protection or family court proceeding. Police records and physical evidence such as photos, witness testimony, and medical records can help to prove domestic abuse claims. However, each woman must decide for herself whether to contact the police.

**TIP 7**

## Get copies of any statements you make

Anything a woman says in a police statement, during an interview with child protection authorities, or in court becomes part of an official record that could later be used as evidence in criminal and/or family court matters. It is very important that you provide as much detailed information as possible to your lawyer, the crown attorney, child protection authorities, the judge, and the police so they can offer their assistance.

Remember that it can affect your credibility (that is, whether people believe you) if you change your story or introduce a lot of new information as time goes on. However, many women leaving abusive relationships may not feel safe or comfortable enough to disclose all the details of their experience immediately.

**TIP**

Always ask for a copy of your statement so that you and your lawyer have a record of what you said. If you cannot get a copy of your statement yourself, ask your lawyer or a Victims' Services or Transition House worker for help. Also ask for a copy of any notes taken by your advocate during meetings with Legal Aid, community services, child protection authorities, etc.

## Francophone and New Canadian Women

Women whose first language is not English can seek shelter and support from a Transition House. Many Transition Houses have French-speaking staff. In cases where a woman needs a translator, Transition Houses can look for a translator in the community or work with someone the woman trusts. Anybody who is involved with the Transition House in this way would be required to sign a confidentiality agreement.

### TIP 8

## Recognize post-separation abuse

Abuse does not always end with separation. According to research conducted by the Centre for Children and Families in the Justice System at the London Family Court Clinic in Ontario, most separated abused women report experiencing some form of abuse following separation.

The main forms of post-separation abuse often involve children:

- threats and intimidation, which may happen in front of children
- surveillance, such as repeated phone calls and stalking, which may involve children
- abuse through or of the children, such as making negative comments about the mother during access, criticizing and name-calling, or withholding treats or meals

- attempts to involve the children in the conflict between parents, for example by getting children to make requests of the mother on his behalf, trying to gain sympathy from children by distorting facts of the conflict, or telling children the mother will lose custody
- multiple family court applications, for example using court applications for custody to harass the mother
- financial abuse, such as withholding child support or repeatedly taking the mother to court
- false child-abuse allegations against the mother.

## TIP 9

## Apply for a protection order

### Emergency Protection Orders

An Emergency Protection Order (EPO) is an **immediate** form of temporary protection available to women in abusive situations; it is especially helpful for those with children. An EPO is a court order made by a Presiding Justice of the Peace to protect victims of family violence where the situation is **serious** and **urgent**.

Among other things, EPOs can:

- remove your partner (the respondent) from the home
- give you or another person temporary care and custody of your children
- give you temporary possession of personal property (such as a car, keys, bank cards)
- order your partner to stay away from you, your children, your home, or your place of work

- order your partner not to commit any further acts of violence against you.

You or a person acting your behalf (police officer or Transition House worker) can apply for an EPO between 9 am and 9 pm any day of the week by calling the Justice of the Peace Centre at 1-866-816-6555. Police and Transition Houses may also apply on your behalf throughout the night. EPOs last for up to 30 days and may be extended. You can apply for an extension by contacting the Supreme Court and filing a Notice of Hearing. Remember that your ex-partner may appeal the decision and can later request a copy of the transcript in which you described the risk he posed to you.

## Peace bonds

You can apply for a peace bond even if the police are not involved in your situation. A peace bond is a court order that requires your ex-partner to keep the peace and be of good behaviour. The peace bond may have other conditions, such as a requirement that he stay away from you, your home or your children's school, or not possess any firearms.

You have to go to court to get a peace bond. You will have to testify and it is possible that you will be cross-examined. You do not have to be assaulted to apply, nor do assault charges have to be laid. However, you do have to provide evidence to the judge that you have a reasonable fear that your ex-partner (the **defendant**) will harm you, your children, or your property. Your ex-partner will also be in court. Unless he agrees to sign

the peace bond, there will be a hearing at which time the judge will decide whether or not to order it.

In most cases you apply for a peace bond at Provincial Court. In some circumstances the Family Court or Supreme Court (Family Division) in Cape Breton and Halifax Regional Municipality may also deal with a peace bond application.

If you are already being represented by a Legal Aid lawyer in a family court matter, he or she may be able to represent you in your peace bond application. If you do not have a Legal Aid lawyer and cannot afford a private lawyer you will have to apply for the peace bond yourself. If this is the case, you may want to contact your local Transition House, Women's Centre or Family Resource Centre for assistance and support. For step-by-step information on how to apply for a peace bond, visit the Nova Scotia Department of Justice website ([www.courts.ns.ca/self\\_rep/provincial\\_peace\\_bond\\_06.pdf](http://www.courts.ns.ca/self_rep/provincial_peace_bond_06.pdf).) To find out the service fee for peace bond applications, contact the courthouse in your area.

**TIP 10**

## Take care of yourself

Dealing with an abusive ex-partner, responding to the demands of the legal system, and meeting the needs of children can be very challenging, especially when you're doing all three at once.

To handle these responsibilities effectively, it is important for you to find ways to look after yourself. How you choose to care for yourself is up to you.

Some examples of how women may choose to look after themselves include:

- finding a support person or advocate
- seeing a therapist
- joining a support group
- learning about the effects of abuse
- speaking to a Transition House outreach worker
- getting enough rest and exercise
- eating well
- taking time away from children or spending extra time with children
- seeing friends and family
- going back to school
- speaking with a spiritual leader
- getting or leaving a job
- participating in community events
- volunteering.

**TIP 11**

## Your children's needs

- Create a safety plan for you and your children.
- Begin an application for custody immediately (you can apply for interim custody or an EPO in an emergency).
- Carry court papers (custody, peace bond or EPO) with you at all times.
- Give the babysitter, daycare or school a copy of the court papers.

- Give the babysitter, daycare or school a photo of your ex-partner and clear instructions about who can and cannot pick up the children.
- When you are ready, talk to your local Transition House or Mental Health unit about counselling services for children of abused women.
- Learn about the affects of domestic abuse on children and how to help them.

#### Important messages to give children:

- It is not a child's responsibility to keep the mother safe.
- "I will do everything in my power to keep you safe."
- When adults fight, it is an adult problem and only adults need to fix it.
- The child is not the cause of the abuse.

**TIP**

It is considered child abuse if children witness domestic abuse. If you do not leave an abusive situation, or if you reconcile with an abusive partner, child protection authorities may apprehend your children on the grounds that you are failing to protect them.

**TIP**

The law says that anyone who suspects a child is at risk of abuse – including witnessing domestic abuse – must report to child protection authorities. This means that if you tell someone (for example, a counsellor, police officer or Transition House worker) that your ex-partner has harmed your children or that you fear that he might harm the children, they may have to report the information to child protection authorities. It is a good idea to have an advocate, such as a lawyer or a staff member from a women's organization (a Transition House or Women's Centre), when you are dealing with child protection authorities.

## Remember you are not alone

Sometimes women who are frustrated and confused by their family law experiences believe something has “gone wrong” in their case. For example, a woman might assume that because she is the mother and a victim of domestic abuse she will automatically get custody of her children, only to find herself in a custody battle. If something doesn’t make sense to you, it is important to talk with a Transition House worker or other knowledgeable advocate, or with your lawyer or social worker. By speaking with experienced professionals, you will begin to understand the systems you are dealing with and why things are happening the way they are. It may be helpful just to know that you are not the only woman dealing with certain issues or struggling to make sense of her experience.

For additional support and information on leaving an abusive partner, contact your local Transition House, Women’s Centre or Victims’ Services office in person or by phone.

# Chapter 2

## Domestic Abuse and the Family

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## What is domestic abuse?

2

The terms domestic abuse, family violence, and intimate partner abuse include any form of abuse by one partner (husband or wife, common-law or same-sex partner) against the other. Domestic abuse can occur in a marriage, common-law or other intimate relationship. This guide recognizes and addresses the fact that most victims of domestic abuse are women in heterosexual relationships.

Domestic abuse:

- occurs in all age, racial, cultural, socioeconomic, educational, occupational, and religious groups
- occurs within a current or past intimate relationship
- usually involves repetitive behaviour, including different types of abuse (physical assault, psychological, emotional and economic abuse, and use of children)
- can involve violence (such as beating, choking, burning) that result in serious injuries or even death and often involves sexual aggression (force or pressure to participate in sexual activity)
- is used to intimidate, humiliate, or frighten women as a systematic way of maintaining power and control over them
- is often learned behaviour (for example, the abuser may have witnessed or experienced abuse as a child or his behaviour has been rewarded, for example he gets what he wants through abuse)
- is caused by the abuser and not by the woman or the relationship
- is a criminal offence if there is actual or threatened physical or sexual force used

- may present increased risk to the woman and her children at the time of separation
- results in the victim focusing on survival (for example, a woman might minimize or deny the violence, blame herself, protect her abusive partner, abuse alcohol or drugs, use aggression as a way of surviving the abuse or in an attempt to stop further abuse, or she may remain in the abusive relationship).

Abuse may be:

- physical – slapping, choking or punching
- threats – to harm you, your children, other family members or friends, or your property
- mental or emotional – constant criticism, insulting you, telling you you're crazy
- sexual – forcing or coercing you to have sex or to participate in other sexual activities
- financial – refusing to give you money for groceries, not paying bills
- social – not letting you see your family or friends, embarrassing you in public.

## Woman abuse in First Nations communities

2

Although woman abuse occurs in all cultural, racial, and religious groups, women in First Nations communities face a number of additional difficulties when they want to get support or leave an abusive situation. Women who must leave their community often experience distress due to the loss of support systems, kinship and cultural roots. Stereotypes and myths about family violence say that abuse is part of traditional First Nations cultures. This belief is false. Violence is not part of traditional culture, and it is unacceptable.

### Some issues First Nations women may face:

- limited access to information (for example, legal issues and legal rights) and support services (for example, Transition Houses, crisis centres) for women in isolated and minority communities
- lack of transportation services
- loss of kinship ties, support networks, cultural community, and sense of identity
- isolation and distress
- fear of keeping alive stereotypes and negative images of First Nations people
- fear of being misunderstood by support staff
- lack of resources for treatment or support
- feeling that services are not suited to their culture
- misunderstanding and/or fear of the justice system and law enforcement officials
- lack of anonymity in seeking services on reserves
- reluctance to involve a justice system that is seen as racist.

## Woman abuse in African Nova Scotian communities

2

Women suffering abuse in African Nova Scotian communities also face additional challenges and barriers to leaving their home and getting help. They may face the prospect of leaving kinship, social support networks, and their own communities. This may be more difficult if they live in isolated communities and have limited transportation services.

### Some issues African Nova Scotian women may face:

- Historical oppression, discrimination, and unequal treatment have resulted in mistrust and fear of justice and social service systems and reluctance to turn to these agencies for help.
- The extended family is highly valued in African Canadian communities, so many women feel pressured to keep silent about abuse or downplay its severity because of kinship.
- Reporting abuse may be seen as betraying her partner and furthering stereotypes of African Canadian men.
- Concern that her partner may be subjected to racism makes it even more difficult for a woman to report her abuser.
- Fear of being shut out or blamed by the community may lead to silence about abuse.
- A women may not see herself reflected in community organizations.

## Abuse of women with disabilities

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Women with disabilities are often more vulnerable to abuse and face additional barriers and further abuse because of the limitations they may have due to their disabilities. Society's negative images and myths about women with disabilities increase the risk of abuse.

### Some issues women with disabilities may face include:

- the disability often gets used as the basis for the inequity in the relationship
- destruction of property can often be more dangerous if an assistive device or helping dog is harmed
- access to support services
- women who have difficulty walking, understanding, hearing, or speaking may be unable to flee, get help, or report their abuse or may not be believed when they do
- they are often not considered capable parents if parenting support is needed
- some women may not be aware they are experiencing abuse
- the abuser may have blamed them for their illness or disability or have told them they are making it up or seeking attention
- they have been made to feel worthless by the abuser.

## Woman abuse in immigrant and new Canadian communities

Family violence exists in all communities and across all ethnic, racial, class, economic, and religious groups. Women suffering abuse in new Canadian communities often face additional challenges and barriers in escaping violence.

### Some issues new Canadian women face may include:

- fear of losing immigrant status and fear of being deported
- culture shock
- lack of information about Canadian laws and their rights as women living in Canada
- fear of losing their children
- fear of being turned away from their community
- fear and distrust of the police
- fear of being without male protection
- experiences of prejudice, discrimination and racism
- lack of English language skills
- isolation
- fear of bringing shame to family
- lack of information about social services
- lack of services that meet their needs
- difficulties living within a shelter environment
- low income and job insecurity, in many cases
- coming from cultures that normalize some forms of family violence.

## How are women affected by domestic abuse?

The tactics of power and control used by abusive men may create a range of symptoms in victimized women, such as low self-esteem, chronic fear, physical injuries, health problems, feeling “crazy,” depression, suicidal thoughts and behaviour, drug or alcohol addiction, isolation, reduced parenting capacity.

## How can domestic abuse impact women as mothers?

### The woman may believe she is an inadequate parent

- The abuser may say she is an unfit mother and the cause of the children’s problems.
- She may fear having her children taken by child protection authorities.
- She may be prevented by the abuser from creating structure and consistency.
- Children may have symptoms which make her believe she is a bad parent.

### The woman may lose the respect of some or all of her children

- Children may see her as an acceptable target of abuse.
- Children may disregard her parental authority and not follow her rules.
- Children may not value her or may be ashamed of her.

### The woman may believe excuses the abuser provides for his behaviour

- She may believe the abuse is her fault and try to change her behaviour or feel guilty about its effect on children.

- She may believe that the abuse is caused by his use of alcohol or stress.
- She may believe that the abuse is culturally or religiously appropriate.
- She may believe that men and boys should have more privileges and power in the family.

### The woman may change her parenting style in response to the abuser's parenting style

- She may be very lenient to balance the abuser's strict parenting.
- She may be too strict to try and keep children from annoying the abuser.
- She may make age-inappropriate or unreasonable demands on children to calm the abuser.
- She may be afraid to use discipline because the children have been through so much.
- She may be left to do all the demanding parts of parenting while he does the fun parts.

### The woman may not be able to manage

- The woman may experience depression, anxiety or poor sleeping that stop her from caring for the children or providing for their daily needs.
- If the abuser stops her from using birth control, she may have too many children born too close together.
- She may be denied enough money to meet children's basic needs for food, etc.
- Her parenting may be reactive rather than pro-active so that she responds to crises rather than preventing problems.

### The woman may use survival strategies with negative effects

- She may use alcohol or drugs to excess.
- She may maltreat children physically or verbally.
- She may leave the children with inadequate caretakers to get a break.
- She may avoid being at home (for example, working double shifts).

### The woman's bond to children may be compromised

- Children may be angry and blame the mother for failing to protect them or leave the abuser.
- The mother may be prevented by the abuser from comforting a distressed child.
- One child may assume the care-taking role for the mother.
- Children may expect the mother to leave (or be deported) and may become anxious or emotionally closed-down to protect themselves from possible loss.

### The woman may be trapped in competition for children's loyalties

- The abuser may attempt to shape child's view of himself as good and mother as bad.
- The abuser may present himself as the fun parent who has no rules.
- After separation, the abuser may use promises of a great life at his house to get children to support his bid for custody.
- The abuser may have more money and offer more material goods and a nicer home.

**TIP**

Children are often stressed and anxious when they live in a home where their father hurts their mother. Often, when a mother leaves an abusive relationship her children are able to heal and feel safe and secure.

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*“I left my daughter’s father when she was one-and-a-half. She didn’t speak until she was more than two. She used to be really clingy and shy. I think it’s because she was affected by all the violence and because we lived in fear then. She’s six now and is totally different. She talks non-stop! She’s really outgoing and happy. I think it’s because we aren’t afraid anymore.”*

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## **How do abusive men parent?**

### **He may be controlling**

- The abuser may have high expectations and fixed rules for his children.
- He may not be understanding.
- He may have an angry style of verbal and physical punishment.
- His discipline may be a quick fix to an immediate problem, not a thoughtful strategy based on reasonable and age-appropriate expectations.
- He may swing between controlling and easygoing or neglectful parenting.

### **He may be neglectful or irresponsible**

- He may expect children to respect his authority but leave their daily care to the mother, especially routine or less pleasant duties such as changing diapers and helping with homework.
- He may be unaffectionate with children and find excuses to avoid coming home.
- He may be unwilling to sacrifice his needs to meet family responsibilities.

- He may refuse to change his lifestyle when a baby is born.
- He may not give the children praise or attention, so they over-value it.

### He may undermine the mother and be manipulative

- He may see himself as the better parent, and not listen to input from his partner.
- He may override the mother's decisions, criticize her in front of the children, and present himself as the only parent who should be listened to.
- His poor treatment of the mother may show children it is okay to insult and even physically abuse her.
- He may confuse the children and try to convince them that the mother is to blame for his violence and that he is the better parent.

### He may be self-centred

- He may expect the praise and good parts of being a father, without the sacrifices or responsibilities.
- He may be enraged by normal behaviour such as a baby crying.
- He may expect the children to meet his needs (such as listening to his troubles, providing affection, or keeping him company when he feels like it).

### He may be good at performing when he's being watched

- He may present himself as a loving and devoted father during professional evaluations or in social situations.
- The contrast between his public and private behaviour may be extreme and the children may feel most comfortable with him in public places.

## How can domestic abuse affect the family?

2

### The abuser may cause the children to disrespect their mother

- The effects of violence, verbal abuse, and victim blaming may cause children to see their mother as helpless, downtrodden, stupid and unworthy of respect.
- Some children may see her as an acceptable target of abuse.
- The abuser may try to interfere with the mother's parenting routines, contradict her rules, reward children's disrespectful behaviour towards her, or mock, criticize or portray her as incompetent in front of the children.
- After separation the abuser may vie for children's loyalty by making his home a fun place with no rules, permit activities disapproved of by the mother (such as junk food or violent videos), try to turn the children against their mother or seek custody as revenge.

### The abuser may interfere with the mother/child relationship

- The abuser may keep the mother from comforting a distressed child, stop her from using birth control (so she is overwhelmed by too many children), restrict her from leaving the house or having friends, or even stop the children from participating in extra-curricular activities to keep the mother socially isolated.
- The abuse may lead to depression, anxiety, poor sleeping, rage, loss of confidence so that the mother cannot focus on the needs of children. It may increase the likelihood of drug or alcohol abuse, neglectful parenting, or even abuse of the children.

- Boys and teenagers of either sex are more likely to resent the mother or feel ashamed to be associated with her.
- Children may assume the role of the abuser and be violent towards the mother, sometimes to win the approval of the absent father. This is more common in boys and most often after separation.

### Abusive men may use the child as a weapon against the mother

- During the relationship the abuser may mistreat, neglect or upset the children (for example, by destroying Christmas presents) to hurt the mother, ask a child to spy on the mother, leave the family without money, food or shelter, call child protection authorities to make false allegations against the mother, or even deliberately endanger, threaten to harm, kidnap, or kill a child.
- After separation the abuser may blame the mother for the separation, get a child to pressure the mother to get back together, use a child to communicate with or spy on the mother, or seek custody to hurt the mother.

### The abuser may create divisions within the family

- The abuser may cause family members to turn against each other or gang up on each other by favouring one child over others, lying, revealing secrets, causing conflict, or punishing all children for the misbehaviour of one.

**TIP**

Don't despair! Not all daughters of abused women grow up to be victims of domestic abuse and not all sons become abusers. By leaving your abusive partner and working on your own well-being and independence you are providing your children with a strong and positive role model.

- The abuser may scapegoat one child by blaming him or her for all problems in the family.
- Children may compete for the abuser's attention because his attention and affection are scarce. This may make unhealthy family relationships worse.
- A child may take on or be given a parental role in the family and the mother may be treated like a child (role reversal). Over time the children may believe it is their responsibility to try to protect the mother or predict or prevent violence by the abuser.

## How can domestic abuse affect children?

Watching, hearing, or knowing their mother is being abused may threaten children's sense of stability and security. For example:

- children may have emotional and behavioural difficulties
- children may have flashbacks, nightmares and constant or extreme worry about possible danger
- children living with domestic abuse are at higher risk of experiencing physical injury or physical and emotional abuse
- children may experience strong mixed feelings toward their violent parent so that affection exists along with feelings of resentment and disappointment.

Children may copy what they learn at home. They may:

- use violence and threats to get what they want
- learn that people do not get in trouble when they hurt others
- believe men are in charge and should control women's lives

- believe that women don't have the right to be treated with respect.

Children who are exposed to violence may be desensitized to aggressive behaviour. When this occurs young people see aggression as normal and are less concerned by it.

### What kinds of difficulties might children of abused mothers display?

- physical complaints (headaches, stomach aches, eczema, bed-wetting, tiredness)
- constant worry about possible danger or safety of family members (for example, checking on sisters or brothers, phoning home, locking doors)
- sadness or withdrawal from people and activities
- low self-esteem and lack of confidence, especially for trying new things
- difficulty paying attention in class, concentrating on work, and learning new information
- outbursts of anger directed toward self or others
- bullying or aggression directed toward others.

**TIP**

Children can be apprehended by child protection authorities if the mother remains with an abusive partner or continues to have contact with her abusive ex-partner after separation. This is often referred to as "failure to protect." The Nova Scotia Children and Family Services Act Section 22(2)(i) says that a child is in need of protective services where the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or a guardian who fails or refuses to obtain services or treatment to remedy or alleviate the violence.

Older children may display behaviours such as:

- school truancy or leaving home
- dating violence
- self-injury or mutilation
- suicidal thoughts and actions
- high-risk behaviour, such as criminal activities and alcohol and substance abuse.

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*“My daughter had been in two abusive relationships by the time she was 14 years old. We had to call the police because she was getting death threats on the phone.”*

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## What are the risks to children exposed to domestic abuse?

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Prenatal	Risk of injury to fetus; complications during pregnancy and delivery; low birth weight
Birth to 2 years	Attachment problems; failure to thrive; risk of being “caught in the crossfire” during attack on mother; predisposition to impulsive, reactive, and violent behaviour
Preschoolers	Imitation of violent behaviour; clinginess and anxious attachments to mother; negative moods; difficult to manage; nervousness
Ages 6-11	Symptoms similar to Attention Deficit Disorder (aggressive and/or withdrawn behaviour; difficulty concentrating); difficulties getting along with children their own age; low self-esteem; lack of energy; boys defiant with females, mimicking disrespect for women seen at home; emotional and behavioural problems
Adolescents	Truancy (caused by anxiety or wanting to stay home to protect the mother); alcohol and drug abuse; running away from home; criminal behaviour; lack of ability to focus on future plans; not dealing with problems; hanging out with the wrong people; abusive dating relationships; depression and suicide
Adult Effects	Depression; distrust; flashbacks and nightmares; continuing cycle of violence; lack of social skills

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*“The doctor says my son’s got ADHD and he wants me to put him on medication. But I know he’s the way he is because of what he’s seen – what his father put him through. He was traumatized.”*

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# Chapter 3

## Preparing for Family Court

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## Family law court proceeding time line

Adapted with permission from Susanne Litke, Dalhousie Legal Aid Service

3

Before and throughout the court proceeding: evidence is gathered; material is analyzed; issues are clarified, added or resolved; lawyer provides legal advice; client gives instructions; disclosure of information/ documents sought; assessments may be conducted; treatment and therapy may take place; positions are defined and redefined.

**Conciliation Phase Disclosure**

- Start proceeding with an Application or Petition for Divorce
- Can make Interim Applications
- Serve Petition/Application on Respondent
- Respondent can file Reply/Answer

**Investigation Disclosure Phase Evident gathered**

- Interlocutory Application(s)
- Hearing/Trial
- Deals with procedural (action) problems
- Examples: serving documents, time extensions, disclosure, withdrawal of lawyer from the case, etc

**Negotiation – Settlement Phase**

- Interim Application(s) Hearing/Trial
- Deals with substantive (legal) Issues
- Examples: Interim claims such as child custody/access, child/spousal support, division of property

**Trial Readiness Phase**

- Settlement Pre-trial Conference held with Judge
- Deals with substantive issues
- The goal is to narrow issues and see if any can be settled
- Consent Order if parties settle an issue
- Can be done via shuttle meetings

**Trial Preparation Phase**

- Organizational pre-trial Conference with trial Judge
- Deals with procedural issues
- Examples: setting the witness lists, filing deadlines, disclosure issues, pre-trial motions, confirming the parties are ready for the trial

**Trial Phase**

- Hearing/Trial
- Witnesses are called and evidence given
- The Judge may reach a decision or delay the decision to a later date
- The Judge grants Orders/Judgments

After the Hearing/Trial, the decision may be appealed; the matter may continue with reviews by the court or future variation applications if there are changes in the circumstances that existed at the time of hearing.

## How do I know which court to contact?

There are three different courts in Nova Scotia which deal with family law matters, and three different ways to apply for child custody and access.

3

If you do not live in Halifax Regional Municipality (HRM) or Cape Breton you will apply to either:

### Family Court

If you are not getting divorced right now (that is, if you have not been married or if you are separating from your husband but not divorcing), and do not live in Cape Breton or Halifax Regional Municipality, you will make your custody or access application in the Family Court under the provincial Maintenance & Custody Act. Under the Maintenance & Custody Act one or both parents or a third party (such as a grandparent) may apply for custody.

or:

### Supreme Court

If you are applying for a divorce, or applying to vary a

Corollary Relief Judgement, custody and access may be dealt with at the same time and you will apply under the federal Divorce Act. In Nova Scotia, the Family Court does not deal with divorce. For a divorce, you must apply to the Supreme Court or Supreme Court (Family Division), depending upon where you live. Under the Divorce Act, either or both parents may apply for custody.

TIP

There will be a delay between the time you separate and when you get a divorce. You should consider applying for custody as soon as possible and not wait until you want a divorce.

If you live in HRM or Cape Breton you will apply to:

### Supreme Court (Family Division)

If you live in Cape Breton or Halifax Regional Municipality and are applying for a divorce, divorce variation, custody and access, maintenance or any other family law matter, you will make your applications to the Supreme Court (Family Division). The Supreme Court (Family Division) deals with the Divorce Act and the Maintenance & Custody Act.

3

### What is Family Court?

The Family Court deals with family law matters in all areas of the province except Halifax Regional Municipality (HRM) and Cape Breton.

The Family Court deals with issues such as child custody and access, child support and spousal support, and child protection. The Family Court may also deal with a peace bond application if it is already dealing with other matters for the same family.

The Family Court does not deal with adoptions, divorce, or disputes concerning family property or estates. These disputes are heard in the Supreme Court or Supreme Court (Family Division).

Family Court services include:

- intake services to provide information about court procedures and court processes
- parent information sessions
- referrals to mediation services. (Remember: Mediation is not usually appropriate in abuse cases. For more information, please see page 53.)

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They may also provide information about Emergency Protection Orders, Peace Bond applications, Transition Houses, Victims' Services, etc.

## What is Supreme Court?

The Supreme Court deals with child custody and access as part of divorce proceedings. The Supreme Court handles a wide range of civil and serious criminal matters, grants divorces,

TIP

Self-Help Divorce and Variation Kits are not free of charge and must be purchased at the courthouse. Court staff can provide information but they cannot give legal advice. In some locations an intake worker (sometimes called a Deputy or Deputy Prothonotary) will meet with you to determine what legal issues need to be addressed and to go over forms and information contained in self-help kits.

and divides matrimonial property. The Supreme Court also hears appeals from the Family Court, Provincial Court, Small Claims Court and Residential Tenancies Board. The Supreme Court also handles extensions and appeals of Emergency Protection Orders.

## Deaf or Hard of Hearing Women

Sign language interpreters may be available free of charge through the Society of Deaf and Hard of Hearing Nova Scotians (SDHHNS) *if the referral is made through the organization ReachAbility*. If you contact SDHHNS directly, you will have to pay for the service. See the **Resources** chapter at the back of the guide for ReachAbility and SDHHNS contact details.

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Supreme Court services include Self-Help Divorce Kits for those seeking a divorce without a lawyer, and Self-Help Variation Kits for those seeking a change to the terms of a divorce, such as custody, access, or child support.

Court staff may provide information about Emergency Protection Orders, Peace Bond applications, Transition Houses, Victims' Services, etc., and some locations offer parent information programs.

### What is Supreme Court (Family Division)?

In the Halifax Regional Municipality and Cape Breton, the Supreme Court (Family Division) hears matters previously heard by the Family Court and Supreme Court, such as divorce and matrimonial property. Supreme Court (Family Division) offers additional services such as Family Law Information Centres, conciliation, mediation, supervised access and exchange, summary advice counsel, and parent information sessions, which aim to reduce the conflict arising from separation or divorce.

Supreme Court (Family Division) services include:

- an intake process to explain court procedures and legal processes
- conciliation services to provide parties an opportunity to resolve family law disputes without going to court (Joint conciliation, including by telephone, should not take place in abuse cases.)
- mediation services (Mediation is not usually appropriate in abuse cases.)
- summary Advice Counsellors to provide free legal advice sessions
- parent information program
- Family Law Information Centre
- supervised access and exchange
- referrals to crisis and post-separation counselling and healthcare professionals.

## TIP

You can find family law information on the online Family Law Information Centre website: [www.gov.ns.ca/just/flic/](http://www.gov.ns.ca/just/flic/).

### Francophone Women

Francophone women can ask the court for an interpreter for consecutive translation of court proceedings and translation of court documents. Although French translation must be provided for free in criminal matters (if requested), it is left to the direction of the court in family matters. However, in practice, the court normally provides that direction on the request of either party. Because translation is not available for court services such as intake and conciliation, you may wish to contact your local Transition House, Women's Centre, Family Resource Centre or L'Association des juristes d'expression française de la Nouvelle-Écosse (AJEFNE) for help finding a translator in your area. You may also need court forms and other documents translated.

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### New Canadian Women

Always consider asking for an interpreter when you are dealing with the police, the courts, your advocate, or other service providers if there is a chance you won't understand what is being said. Also, ask as many questions as you need to about the situation you are in and the systems you are dealing with. Don't assume Canadian systems are the same or even similar to those in your country of origin.

## What happens when I contact the court?

### Family Court

You can contact the Family Court by telephone or in person. Court staff will either mail you or give you the forms you need to fill out for your application. They will also make an appointment for you to meet with an intake officer. The intake officer provides information and recommends which programs and services of the court are appropriate for your situation. The intake officer cannot give you legal advice.

3

### Supreme Court

The Supreme Court may or may not have an intake process. In some locations, a Deputy or Deputy Prothonotary (clerk of the Supreme Court) may suggest you purchase the Divorce or Variation Self-Help Kit, which sets out the information you need to make a court application. They can also answer any questions you may have. In other locations, intake workers are available to assist you with the forms and throughout the application process. Court staff cannot give you legal advice.

### Supreme Court (Family Division)

When you contact the Family Division you will meet with an intake officer who will help identify what legal issues you

need to address and what programs and services you may need. If you do not have a lawyer and are seeking an alternative to court, conciliation is available. Whatever issues are not resolved through conciliation will be referred to court to be heard by a judge.

#### TIP

If you don't have a lawyer you can always contact the court yourself. Even if you don't have a lawyer it is recommended that you get legal advice.

## What is mediation?

In family law matters, mediation involves a professional and neutral (unbiased) third party who helps separating couples reach an agreement on issues such as custody, access, child support or property. The mediator will help the couple identify their needs, clarify issues, and, if possible, reach an agreement. If an agreement is reached, it can be put before a judge and serve as the basis of a consent order. If this happens, there may be no need for a court hearing before a judge.

## Why is mediation not usually appropriate in abuse cases?

Although mediation is seen as an alternative to court, it is not usually suitable for cases involving domestic abuse because of the imbalance of power in abusive relationships. Women negotiating with abusive partners are easily disadvantaged by fear and intimidation. Nova Scotia currently has a moratorium (ban) on court-connected mediation or joint conciliation in abuse cases. At the intake stage, both partners must complete a questionnaire covering 18 types of abuse. If either partner answers “yes” to any of these, the case should not be referred to court-connected mediation or joint conciliation, including by telephone.

However, some women report that they have been directed into joint mediation despite a history of domestic abuse. If this happens, you may want to contact a Transition House worker or other knowledgeable advocate for advice and support.

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*“One of my main concerns with mediation was having to be in the same room with my ex. We were separated by a table and the only other person in the room was the mediator who was in her late sixties. I didn’t feel safe (especially when the mediator stepped out of the room the very first session and left me alone with my ex). When she returned a few minutes later she said, “There, that wasn’t so bad, was it?” My ex started the session by stating he felt deep hatred for me, when asked how he was feeling. I wrote my concerns to my lawyer but I had to continue going to mediation. The end result was an agreement that was drawn up by the mediator that we both signed, mapping out access/visitation and expectations of each of us to co-parent our children. Was I happy with the agreement? NO, but at the time I think I was at the point that I would agree to anything.”*

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### **What about private mediation?**

Private mediators (not court-connected) may or may not screen for abuse and may proceed with mediation even when there is, or has been abuse. Some mediators may not understand abuse or related safety issues, and abused women can be pressured, for example into agreeing to joint custody or letting go of financial entitlements, in exchange for safe custody arrangements. In some cases, the mediation sessions themselves may provide opportunities for violence and present safety risks. This is why it is so important that you tell the court and your lawyer about any abuse.

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*“How can a system that supports ‘reasonable access and reasonable notice’ expect an abused woman will be able to ‘reasonably’ deal with a person who is anything except ‘reasonable’!”*

---

## What is conciliation?

Conciliation is a process that begins when either you or your ex-partner starts a proceeding in the Supreme Court (Family Division). A conciliator is a court officer who helps you sort out what to do about your situation and what the next steps might be.

The conciliator will help:

- identify the issues involved, including which issues are agreed upon and which issues have not been resolved
- ensure that proper information and documents are exchanged between the parties and given to the court
- clarify what the parties are asking for
- attempt to reduce conflict between the parties
- determine the next step(s) to resolve the issues.

The court officer or conciliator should not send you to joint conciliation if your ex-partner was abusive. Instead, the conciliator should meet with you and your ex-partner separately. If both you and your ex-partner have lawyers you may not be required to attend conciliation.

## What is negotiation?

3

Negotiation is when two parties have a discussion in order to resolve issues and reach an agreement. Negotiation can take place between a woman and her ex-partner, between the woman, her ex-partner and their lawyers, or between lawyers only. In cases involving a history of abuse, the woman may prefer to ask her lawyer to negotiate on her behalf so that she does not have contact with her abuser.

## Where is the court?

There is a list of Family Court, Supreme Court, and Supreme Court (Family Division) locations in the **Resources** chapter at the back of the guide.

### New Canadian Women

New Canadian women can contact the Metropolitan Immigrant Settlement Association (MISA) for information and support around issues such as court, domestic abuse, parenting, and any other challenges they face as newcomers to Canada. Contact details are in the **Resources** chapter at the back of the guide.

# What is a Family Law Information Centre (FLIC)?

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The Supreme Court (Family Division) offers Family Law Information Centres (FLIC) in Sydney and Halifax. They provide information, especially to those who are representing themselves in court, about court processes, legal topics, court programs and services.

FLIC provides:

- family law information and videos
- computer access for word processing
- general information sessions on topics such as Intake and Conciliation, the Child Support Guidelines and Court Readiness
- community referrals to agencies like Nova Scotia Legal Aid, the Legal Information Society's Lawyer Referral Service, and many other counselling and community support agencies.

FLIC locations are listed in the **Resources** chapter at the back of the guide.

TIP

For valuable Family Court information, visit the Nova Scotia Courts website at [www.courts.ns.ca/family/](http://www.courts.ns.ca/family/) or the online FLIC at [www.gov.ns.ca/just/flic/](http://www.gov.ns.ca/just/flic/).

## Do I need a lawyer to make a court application?

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No, but it is strongly recommended that you have a lawyer represent you in court. A lawyer will provide advice, explain your options, prepare the necessary documents, and present your case in court. Your lawyer will also deal with your ex-partner's lawyer or with your ex-partner if he does not have a lawyer. If you cannot afford a lawyer and do not qualify for Legal Aid you can get legal information from a number of places, such as the Legal Information Society of Nova Scotia, a court intake officer, or your local Transition House, Women's Centre or Family Resource Centre (see **Resources** chapter for contact details). If you are not a resident at a Transition House you can speak with an outreach worker or call the 24-hour crisis line. Even if you cannot afford a lawyer to represent you in court, you may be able to afford to get some legal advice along the way.

### Francophone Women

Francophone women looking for a French-speaking lawyer can contact L'Association des juristes d'expression française de la Nouvelle Écosse (AJEFNE) for a referral. AJEFNE provides legal information in French, as well as helpful links to Francophone organizations and resources. French language leaflets are available on a range of topics, including Legal Aid, Language Rights, Child Access, and Family Violence. AJEFNE contact details are in the **Resources** chapter at the back of the guide.

## Deaf Women and Women with Disabilities

Deaf women and women with disabilities can obtain a free one-hour consultation with a lawyer through ReachAbility's legal referral service. Interpreters are provided free of charge to deaf clients during this consultation. ReachAbility contact details are in the **Resources** chapter at the back of the guide.

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### What is a Summary Advice lawyer?

The Summary Advice program is available in Supreme Court (Family Division) only. The Summary Advice lawyer (also known as Summary Advice Counsel or Duty Counsel) is located at the court and can give you basic information about:

- legal terms
- how to start or respond to a court application
- the implications of agreeing or not agreeing to a court order
- court processes
- legal documentation
- how to apply to Legal Aid
- other aspects of family law.

The Summary Advice lawyer will not represent you in court. Court officers, judges and other professionals may refer you to this service, or you can refer yourself. The Summary Advice lawyer will see people by appointment and walk-in, where possible.

TIP

You can contact a Transition House for help even if you are not staying there. Transition Houses do not give legal advice. However, because Transition House workers often have a lot of experience accompanying women through the legal process, they can provide a wealth of legal information as well as support.

## Where can I get information about representing myself in court?

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Besides the information in this guide, you can get more information about representing yourself in family court on the Department of Justice website: [www.gov.ns.ca/just/repselfmain.htm](http://www.gov.ns.ca/just/repselfmain.htm)

For a list of websites designed to help people going to court without a lawyer: [www.courts.ns.ca/self\\_rep/websites\\_for\\_person\\_going\\_to\\_court\\_06.pdf](http://www.courts.ns.ca/self_rep/websites_for_person_going_to_court_06.pdf)

For more information about the courts of Nova Scotia: [www.courts.ns.ca](http://www.courts.ns.ca)

For online family law information: [www.gov.ns.ca/just/FLIC/](http://www.gov.ns.ca/just/FLIC/)

For a checklist to help you prepare for court: [www.courts.ns.ca/self\\_rep/fam\\_div\\_checklist\\_courtprep\\_06.pdf](http://www.courts.ns.ca/self_rep/fam_div_checklist_courtprep_06.pdf)

For general legal information regarding criminal, family and child protection issues (offered by the Legal Information Society of Nova Scotia): [www.legalinfo.org](http://www.legalinfo.org)

Transition House Association of Nova Scotia (THANS): [www.thans.ca](http://www.thans.ca)

It is also a good idea to talk with Transition House staff before you attend court since they are very experienced in supporting abused women throughout the court process. If you wish, a Transition House worker may be able to accompany you to court.

## Preparing for court if you do not have a lawyer

Consider meeting with a lawyer to get some legal advice

### Learn about the law that applies to your situation

- Refer to Legal Information Society publications and pamphlets at the court or visit [www.legalinfo.org](http://www.legalinfo.org).
- Refer to pamphlets at the court.
- Review information for self-represented parties available at [www.courts.ns.ca](http://www.courts.ns.ca). This information should not be viewed as a replacement for legal advice.
- A video is available at the Court entitled *Your Day in Court* which can help you to prepare for your court date. This video is designed to assist those who are not represented by a lawyer. None of the information should be viewed as a replacement for legal advice.

### Organize and write down your thoughts

- Why are you going to court?
- What are the issues?
- What is your position on each issue?
- What do you want the judge to order?

### Prepare a detailed outline of what you think the judge needs to know to make a decision

This is for your own use. You will not be able to give your notes to the judge, and you will not be able to simply read a statement to the judge. If you forget what you want to say, you may ask the judge if you can refer to your notes that you have prepared to help your memory. Remember that you will have to give all your evidence while under oath, so that the other side can ask you questions.

For each fact that you want the judge to know, think about how to get your information to the judge:

- you can give evidence
- a witness can give evidence, or
- you can bring documents or other important evidence to court to show the judge.

Example:

You want the judge to know you attended a parenting course.

You could:

- (a) tell the judge yourself
- (b) ask the instructor to come and tell the judge, or
- (c) bring a copy of the certificate that says you attended.

### Have everything you need to support your position

Keep in mind that you have to show evidence to support your case. For example, if you are telling the judge that you are going to be laid off in two weeks, have a letter from your employer to support that or have your employer come to court. The judge will not telephone anyone. If you want the evidence to be considered by the judge, you will have to bring it that day.

- Gather all other documents that you want the judge to see. Some examples are:
  - Pay stubs
  - Income tax returns for the past three years
  - Notices of Assessment for the past three years
  - Letters from employer
  - Letter from child's school, doctor, etc.
  - Certificates from parenting courses
- Make three copies (for you, the other side and the judge) of all documents you want the judge to see.

### Decide if you should have witnesses

Only bring those who can give relevant evidence that they know firsthand. If you are bringing a letter from someone, you may be required to bring that person to court.

- Prepare questions to ask your witnesses when in court.
- When preparing your questions, refer to your outline to make sure you have covered all the information you want each witness to tell the judge.

### Arrange to subpoena witnesses

Those who will not willingly come can be **subpoenaed** and made to come. Keep in mind that this should be arranged well in advance. If you are going to use subpoenas you will need to contact a court staff person.

### Think about what you expect the other side will say

- Prepare questions to ask the other side and their witnesses.
- Think about your responses to things the other side is going to say.

### Start to prepare your closing statement before you go to court

A closing statement does not give evidence or tell the judge anything new. Instead, it highlights and summarizes your case.

- Summarize your important evidence and how it supports your position.

## Gather all the Court documents to bring with you

These may include:

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- Parenting Statement
- Statement of Guidelines Income
- Statement of Expenses
- Statement of Special or Extraordinary Expenses
- Statement of Undue Hardship Circumstances
- Statement of Property
- Affidavits (sworn statements)
- Anything you have filed with the Court or the other side has filed with the Court

Organize your documents so that you know where they are when you are in court.

### TIP

If you refer to notes when you are on the stand giving evidence, your ex-partner's lawyer (or your ex-partner if he is self-represented) could ask the judge for a copy of them.

If your personal safety is a concern during the time you are in court, let court staff know ahead of time.

If possible, try to go to your local courthouse ahead of time so you know what to expect.

### TIP

Self-representation can be used by abusive men as a form of bullying. There is helpful information for women dealing with self-represented ex-partners on page 73-75 of the guide.

## Bring paper and a pen

- Be prepared to make notes about what the other side says, jot down questions as they occur to you, make notes to add to your closing statement, and write down the judge's decision, if given that day. Throughout the hearing, review your outline to confirm that everything you want the judge to know has come out.

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## How much does it cost to go to court?

If you qualify for Legal Aid you will not have to pay legal fees. See the **Lawyers and Legal Aid** chapter for information on how to apply for Legal Aid.

**TIP**  
If you decide to cancel your court application, it is important that you tell the court.

If you do not qualify for Legal Aid and you hire a private lawyer, the cost will likely be based on an hourly rate plus any additional expenses, such as travel, court costs, and fees for serving documents. There are also fees for starting court proceedings, although fees may be waived in some circumstances. Check with court staff about costs and whether your income makes you eligible for a fee waiver.

Family Court matters may last months or even years and can cost thousands of dollars. For more information on payment options, see **How can I pay for a private lawyer?** in the **Lawyers and Legal Aid** chapter.

## Are court forms available online?

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Many family court forms are available online at [www.courts.ca/family/forms\\_toc.htm](http://www.courts.ca/family/forms_toc.htm). However, court officers recommend that you go into the courthouse in person to ensure you have the correct forms and the right information about how to apply. Transition Houses (in-house or outreach) can help with court forms. Women's Centres and Family Resource Centres may also be able to offer assistance.

## How long will I have to wait for a court date?

In Family Court, once you have filed your application at the court you will normally get a **docket date** within four to six weeks of your application.

The docket date gives the judge a chance to:

- identify the issues to be heard
- find out if the parties have or intend to have lawyers represent them, and
- determine whether the parties are able to resolve the issue on their own.

You should attend court on the docket date. Usually the judge will set a hearing date, which will be two to six months from the docket date. However, in some cases the judge might make a decision at the first appearance, especially if he or she feels the situation is urgent. Therefore it is best to be prepared. In an emergency situation, you may get an early date to go to court.

In **Supreme Court**, once you have filed your documents you will usually get a **chambers hearing** within three to four weeks. This is similar to a docket date, except that the judge will likely be prepared to hear at least the initial stage of the matter or to make an interim order. You may wait a couple of weeks for another court date or a couple of months or more if the matter goes to trial.

In **Supreme Court (Family Division)**, you should get an appointment with a conciliator within a few weeks. Conciliation is a mandatory process that begins after one of the parties starts a proceeding in the Supreme Court (Family Division). A conciliator is a court officer who helps you sort out what to do about your situation and what the next steps might be.

### What if my situation is urgent?

If you need a court decision immediately, you can speak with your lawyer. If you do not have a lawyer, contact court staff to see if you can get an emergency court hearing. Court staff will consult with the judge. If the judge agrees that your situation is an emergency or should be heard on an urgent basis, court staff can help you make an emergency court application and a court date will be booked for as soon as possible. Examples of an emergency situation may include the possibility of your ex-partner taking your children or if you or your children are at risk.

#### TIP

Some women agree to interim custody and access arrangements assuming they will be able to make changes when they go back to court. However, unless there are serious problems with these arrangements, the courts rarely reduce access. You should not agree to an interim arrangement unless you think you can live with it in the long term.

You may also consider applying for an Emergency Protection Order in an emergency situation.

**TIP** Remember that without a court order (interim or final) both parents have the same legal rights to their children. If your ex-partner takes or keeps your children before you get a court order you may not be able to get them back until you get an order from family court.

### 3 **Should I tell the court staff about the abuse?**

Yes. Tell the court officer or intake worker that your case involves domestic abuse so that he or she can make appropriate recommendations regarding programs and court procedures. In addition, court intake forms in Nova Scotia are now designed to identify cases involving domestic abuse to ensure they do not go into mediation or joint conciliation. It is a good idea to bring an advocate with you to the intake meeting.

### **Can I apply for custody before I leave?**

Yes, you can see a lawyer, apply for Legal Aid and begin an application for child custody and access before you separate. Remember, if you are still living with your abuser you should tell your lawyer or Legal Aid staff and ensure you don't receive any documents at home. If you file a court application prior

to separation, your ex-partner will likely be served while you are living together which may increase the risk.

**TIP** In some circumstances a woman may be notified once her ex-partner has been served with court documents. Tell court staff if you want them to notify you.

## Does my ex have to know about the application?

It depends. Most of the time proceedings take place with both parties present. However, in situations involving extreme risk the matter can be heard without one partner present. This is called an **ex parte** application. Remember, although your ex-partner may not know about the application he will be notified about whatever decision the court makes. You can ask court staff to tell you when he has been notified so that you make arrangements for your safety.

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TIP

You should assume that your ex-partner will eventually see all documents you file with the court. This means he will have access to any information they contain, for example, your address, your financial records, your children's medical and school records.

# Chapter 4

## In the Courthouse

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## Who will be in court?

### Family Court

The people in the courtroom usually include:

- the judge
- a court clerk who records everything said in the courtroom
- a sheriff who takes care of security in the court
- you and your ex-partner
- your lawyers
- witnesses (both sides can have witnesses)
- a support person/advocate (for either of you), with the permission of the judge.

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In cases dealing with family matters the court is usually closed to the public and the media. However, anyone can ask the judge to be allowed to attend a hearing. It is up to the judge to decide whether to allow the person to be at the hearing.

### Supreme Court

The Supreme Court is more formal than the Family Court.

The people who will be in the courtroom usually include:

- the judge
- a court clerk who records everything said in the courtroom
- a sheriff who takes care of security in the court

**TIP**  
In the Family Court you should call the judge “Your Honour.” In the Supreme Court or the Supreme Court (Family Division) you should call a male judge “My Lord” and a female judge “My Lady.” When you are speaking to the judge, you should stand. You should dress in a neat and tidy manner to show respect for the court. There must be no hats, no perfume or other scented products, no gum/food/beverages, no smoking, no vulgar language, and no cell phones or beepers turned on in the courtroom.

- you, your ex-partner and your lawyers
- witnesses (both sides can have witnesses)
- anybody waiting for their case to be heard.

The Supreme Court is open to the public and the media.

## 4

### Supreme Court (Family Division)

The people in the Supreme Court (Family Division) usually include:

- the judge
- a court clerk who records everything said in the courtroom
- a sheriff who takes care of security in the court
- you, your ex-partner, and both your lawyers
- witnesses (both sides can have witnesses)
- anybody waiting to have their cases heard.

Most matters heard in the Family Division are open to the public and the media. You can ask a court staff member if this is the case in your situation.

### Can I bring someone with me to court for support?

In most cases, you can bring a friend, family member or advocate with you to court for support. Supreme Court and Supreme Court (Family Division) are open to the public. In Family Court it is up to the judge whether to allow a support person to remain in the courtroom during a proceeding.

It can be difficult and expensive for women in rural areas to get to the courthouse. If there is no public transport in your area, ask your local Transition House, Women's Centre or Family Resource Centre whether they can help with transportation or childcare so that you can attend legal appointments and court dates.

## Deaf Women and Women with Disabilities

Deaf and hard of hearing clients are provided sign language services for all criminal cases and as directed by the judge in family and other civil matters. Deaf and hard of hearing women should let court staff know they need sign language services as far in advance as possible, since interpreters may have to travel from Halifax to other areas of the province. The Nova Scotia Department of Justice has also started to install infrared hearing devices in court rooms.

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For other disabilities, women should contact their local courthouse, or the one they will be attending, to discuss their needs with the court staff. Each court has its own characteristics and, depending on when it was built, may be more or less accessible. As always, the more advance notice you can give court staff the better.

### What if my ex represents himself?

Your ex-partner may choose to represent himself in court. It can be very intimidating for a victim of domestic abuse to be questioned by her abuser. Nonetheless, if your ex-partner self-represents you must answer his questions as you would respond to a lawyer.

If the questions become inappropriate it is the responsibility of your lawyer or the judge to intervene. Although the judge will allow

**TIP**  
If you are being questioned by your ex-partner in court you can face the judge or your lawyer when you answer. Speaking to the judge or your lawyer rather than to your ex-partner will help you to avoid eye contact and may reduce stress.

him to ask a range of questions, they must be relevant to the matter before the court, and he should not ask you the same question over and over again.

## What if my ex and I are both self-representing?

### 4

If you and your ex-partner are representing yourselves, it will be important for you to keep yourself safe. Here are some tips you may wish to consider:

- To avoid being followed, do not travel directly to court or back home after court.
- Go to the courthouse ahead of time to see how things are laid out.
- Contact the sheriff ahead of time about safety issues.
- Ask the court staff for separate waiting rooms so there is no contact.
- If the sheriff isn't in the courtroom, ask the judge if he or she can be.
- Don't give your address when you take the stand. Explain to the judge that it's for safety reasons.
- Look at the judge when you answer questions asked by your ex-partner.
- If your ex-partner asks you a question that has nothing to do with the matter before the court, ask the judge whether you have to answer it.
- Make sure you have your story straight. Try to be aware of any holes or inconsistencies in your affidavit in case your ex-partner asks you about them.
- Remember that your ex-partner will be able to review all documents you file at court, so do not provide any

information that contains your contact details, such as credit card statements.

- Remember that your ex-partner may ask the judge to see any notes you use while you are giving evidence.
- If you send a fax, remember that fax numbers can sometimes be traced.
- Ask that your contact information not appear on your court application or intake form.
- Choose safe ways of communicating with your ex-partner, such as through a third party, by email, telephone or in writing. You may be able to use a post office box to get mail so that he doesn't have your address. If you must meet, make sure you have someone with you.
- Document everything! For example, missed visits, missed child support, threats or harassment, telephone, email or written messages.
- Look at the Information Kits for self-representation on the Nova Scotia Courts website: [www.courts.ns.ca/self\\_rep/self\\_rep\\_kits.htm](http://www.courts.ns.ca/self_rep/self_rep_kits.htm). Also, look at the **Prepare Yourself for Court** document: [www.courts.ns.ca/self\\_rep/fam\\_div\\_checklist\\_courtprep\\_06.pdf](http://www.courts.ns.ca/self_rep/fam_div_checklist_courtprep_06.pdf).
- Speak with a Transition House worker or other knowledgeable advocate about your situation.
- If you are representing yourself, you will be able to question your ex and his witnesses. Make sure you write down the questions you want to ask.

## Deaf Women and Women with Disabilities

Deaf women and women with disabilities may have special needs in the courtroom, such as a sign language interpreter or help with mobility. For help with special needs, you may want to contact ReachAbility's Legal Referral Service. Contact details for ReachAbility are in the **Resources** chapter at the back of the guide.

## 4

### What should I do when I am called to give evidence?

You will be asked to go to the front of the courtroom and sit in the witness box near the judge. The court clerk will ask you to promise to tell the truth. Most witnesses do this by placing their hand on the Bible or other religious book and swearing an oath to tell the truth. However, if you do not wish to swear in this way you can simply promise to tell the truth. This is called **affirming**. You can let your lawyer know beforehand how you wish to take the oath or if you wish to affirm.

You will be asked to give your name and address. If you are reluctant to give an address because you are afraid for your safety, you are allowed to give a general address such as "I live in Sydney" or no address at all.

You will likely be the main witness for your side. When you give evidence your lawyer will ask you to discuss the issues relevant to your case. Some questions may be upsetting, personal or embarrassing (for example, descriptions of physical, emotional, or sexual abuse), but the judge needs to know all relevant information to reach a decision.

## How will I be questioned?

Only the judge, your lawyer, and your ex-partner's lawyer can question witnesses. If your ex-partner is representing himself, he can question you and other witnesses (see below for discussion on self-representation as a bullying technique).

Your lawyer will ask you questions first. This is known as **direct examination**. When he or she has completed the direct examination, your ex-partner's lawyer can ask you questions. This is known as **cross-examination**. When the cross-examination is finished your lawyer may ask you questions about the points raised during the cross-examination. This is called **re-direct**.

While you are giving evidence the judge may also ask you questions. When you speak to the judge you may call him or her "Your Honour" (if you are in Family Court) or "My Lord" or "My Lady" (in Supreme Court (Family Division) and Supreme Court). "Sir" or "Ma'am", as the case may be, works just as well.

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It is important to listen carefully so that you do not appear to be agreeing with information or statements that aren't true. For example, the other lawyer might ask, "Isn't it true that you never wanted your child to have a relationship with her father and that you want to move away to make sure that she doesn't?"

TIP

## Will my ex be in the courtroom?

Your ex-partner will be in the courtroom at most court hearings. You may find it hard to talk (give evidence) when he is present. If this is the case, it may help if you look at your support person, your own lawyer, or the judge while you are answering questions.

4

## What if I am afraid to face my ex in court?

If you are subpoenaed or voluntarily attend court to give evidence, you must answer any questions asked by the judge, your lawyer, or your ex-partner's lawyer. It is understandable that you may be frightened to testify against your abuser.

For support throughout the court process you may want to contact your local Transition House, Women's Centre, or Family Resource Centre. If you have concerns about your safety you should tell your lawyer, court staff, or the sheriff as soon as possible. Remember that there are protections available in the courthouse.

TIP

If you or your children have been victims in a criminal case, you may be eligible for financial support through Victims' Services to see a mental health counsellor.

TIP

If you are afraid to face your ex-partner or believe you are at risk in or near the courthouse, speak to your lawyer, the court sheriff, or court staff ahead of time. The staff or sheriff may be able to provide a private waiting room for you and your lawyer. The sheriff can also ensure your ex-partner does not come near you during the proceeding (for example, by directing him to the opposite side of the room).

## What if someone tries to intimidate me, stop me giving evidence or make me change my position?

If your ex-partner or one of his supporters attempts to intimidate you (for example, by making threatening gestures in court or warning you beforehand not to ask for custody), you should tell your lawyer or court staff immediately. If it happens while you are giving evidence, you should tell the judge.

If you are concerned for your safety or the safety of your family, let your lawyer and police know. They can investigate whether a criminal offence has occurred and may provide you with appropriate protection. You may want to stay at a Transition House or alternative location during the court proceedings.

**TIP**  
It is illegal for anyone to harass or attempt to influence a witness. Anyone who does so could face a penalty of up to 10 years in jail.

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**TIP**  
If you have a lawyer, speak with him or her before court and plan what you will do if you are feeling intimidated.

## What should I know about giving evidence?

### Tell the truth

The most important thing to remember is to tell the truth. It is illegal to lie under oath. Also, if the judge learns later that you have lied he or she may be less likely to believe anything else you say and make an order favouring your ex-partner.

## Speak clearly

Try to remember to speak more loudly and clearly than you normally would. If there is a microphone in front of you it is to record the trial and will not amplify your voice.

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Try not to use phrases such as “I think” or “I guess.” If you are sure that something happened, say so. If you are not sure, say, “I am not sure” or “I do not remember.” A witness who appears frank and sincere is more believable (credible) than someone who appears biased or who hesitates or avoids answering questions.

## Listen carefully and answer the question

Listen to the question being asked. If your lawyer or your ex’s lawyer objects to the question, you should not answer until the judge says you can. If the judge tells you not to answer the question, then don’t.

You are usually required to answer every question you are asked by your lawyer and your ex-partner’s lawyer. If a question is embarrassing for you or you don’t want to answer it, you can ask the judge if you have to answer it. If the judge decides that the question is relevant, you must answer it.

Be sure that you understand each question before you answer. Do not be afraid to say if you don’t understand the question or a word that was used. You can also ask for a question to be repeated or rephrased. Never answer a question until you are certain you understand it.

Answer the question being asked and then stop. Do not give unnecessary information. Do not give opinions or draw conclusions unless you are asked to.

If you think that the evidence you are going to give may suggest that you are guilty of a criminal offence, you should talk to your lawyer beforehand.

If you make an honest mistake, tell your lawyer as soon as possible. Your lawyer can see that your error is corrected during the court proceeding. It is illegal to knowingly give false evidence.

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### Be polite and stay calm

Be polite. Try not to become upset or lose your temper or become flustered when you are giving evidence. Never argue or use sarcasm. If you do become upset, you may ask the judge for a short break. Your ex-partner's lawyer, particularly during cross-examination, may appear aggressive and even unreasonably picky. It is his or her job during cross-examination to expose any weaknesses and inconsistencies in your evidence. Just remember to continue to tell the truth. Try not to get upset by the questioning. Your lawyer or the judge should step in if the questioning becomes inappropriate.

### Will my children have to give evidence in court?

It is rare that children in Nova Scotia are required to give evidence in family court hearings. However, either lawyer can ask the judge to allow a child to give evidence. The judge may consider issues such as the age of the child, the importance of his or her evidence, and any concerns about the impact that testifying may have on the child.

## How long will I be in court?

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It is hard to say how long you will be in court. A single legal proceeding may take hours or days. The whole family court process, which sometimes includes several court applications, may take months or even years. You may have to go to court more than once. If your evidence is not completed you may have to come back on another day. If the case is adjourned, the judge will tell you the new date and time when the case will be heard.

## What if one of the parties does not show up for a court hearing?

If you or your ex-partner do not show up for a court hearing, the court date may be adjourned or dismissed, depending on the reason why the person is absent. However, in some cases the judge may grant an interim (temporary) order or even final order. The judge may also order the missing person to pay court costs.

## What happens at the end of the court hearing?

Once the judge has heard all the evidence, he or she may give the decision immediately or may need time to reach a decision. If the judge needs more time, he or she will give a decision at a later date, either in court or in writing.

## Will I get a copy of the judge's order?

Yes. Once a decision has been made, a court order is prepared setting out the judge's decision. The court will mail you a certified copy of the order. If you have not received the order within four weeks, you may wish to contact the court to request it.

Carry a copy of your court order with you at all times. If your ex-partner breaches the order (for example, by keeping the children), you may need it to show police or another service provider.

## Can I appeal a family court decision?

Yes. If you disagree with the judge's decision, you may appeal to the Nova Scotia Court of Appeal. You must have a good reason (an error of law or of fact) to appeal. You should talk to a lawyer if you want to appeal. The lawyer can advise you whether you have grounds for appeal and tell you how to appeal. You have 30 days from the time of the court decision to start an appeal.

## What happens if the court order is not obeyed?

If your family court order is not being obeyed you can apply to the court to have it enforced or changed (varied). You or your lawyer will have to show that your ex-partner has not followed the order. If you are registered with the Maintenance Enforcement Program, the Director of Maintenance Enforcement can take action to make your ex-partner (the payor) pay support without your going back to court. For more information on enforcement of family court orders, see the **Custody** and **Access** chapters in this guide.

## When should I consider going back to court?

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Either parent can apply to have a written agreement or court order for custody or access changed (“varied”). The parent making the application must show that there has been a change in circumstances affecting one or both parents or the child, significant enough to justify a change in the order or agreement. For example, you may wish to return to court if your ex-partner stops paying child support, if he has assaulted you or harmed your children, if he has been charged or convicted of a criminal offence, or if the current access arrangement interferes with your work schedule or your child’s school schedule.

# Chapter 5

## Custody

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## **If you have child custody or access issues to resolve**

If you have custody and access issues, here are some things you can do.

- Contact a lawyer (private or Legal Aid) for legal advice. You can do this before or after you leave the relationship.
- Contact your local Transition House, Women's Centre or other knowledgeable organization for information and support.
- Find out about different kinds of custody arrangements: sole, joint, shared or split. Consider what type of custody you want. Discuss this with your lawyer and support person.
- Find out about different kinds of access arrangements: supervised or unsupervised, specified or unspecified. Consider what type of access you want. Discuss this with your lawyer and support person.
- Consider the best way to resolve your custody or access issues: family court, negotiation, conciliation, or doing nothing for the time being. Discuss your options with your lawyer and support person.
- Take action. With help from your lawyer and support person, begin taking steps to resolve your custody or access issues: make a family court application, make arrangements for negotiation or conciliation, or wait and take no action for the time being.

## What is custody?

When parents separate, in most cases both the mother and the father continue to have legal rights and obligations to their children. This is true even when the father was abusive towards the mother during the marital or common-law or dating relationship.

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Custody refers to an arrangement for the care and control of a child by his or her parents. This includes the right to direct the child's activities and make decisions regarding the child's upbringing. When parents separate or divorce, they may agree on the arrangements for custody of the children. They may set out the arrangements informally (verbally), in a separation agreement, or in Minutes of Settlement as part of their divorce. Such agreements may not be enforceable unless each parent has had the opportunity to obtain separate legal advice before signing the agreement. You should talk with a lawyer before you sign a custody or access agreement. If parents cannot agree, either may apply to court to have a judge decide on custody and access.

TIP

If you are preparing to leave or have recently left your relationship, remember that if no custody order or agreement exists, you and your ex-partner have equal rights to your children. This means if he decides to keep them, you may have to apply to family court to get them back. Remember too that if no family court order or agreement exists, you can take your children back (for example, by picking them up from school). If you decide to do this you may want to seek legal advice and discuss safety planning with a Transition House worker or other knowledgeable advocate, as the negative impact on children of much moving may be considered by a judge in deciding who eventually has the rights of custody.

.....

*“When I finally kicked my ex out of my house, he moved in across the street. Then when I agreed to let our two-year-old visit him – because I thought it was the right thing to do – he wouldn’t give her back. I could see her little face at his window and there was nothing I could do and nothing the police could do because there was no family court order. She’d never been away from me in her life and it took me days to get to family court and get her back.”*

.....

## What is sole custody?

Sole custody means that one parent is responsible for the care of the child and decisions affecting the child, and the child lives with that parent. The other parent will usually have access to the child and may ask to be consulted before a major decision affecting the child is made. Where both parents maintain their relationship with the child, the courts encourage consultation and may order it.

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TIP

If parents have shared or joint custody, the mother may need the father’s permission to put the child in counselling. Talk with your lawyer if you wish to avoid this situation.

## What is joint custody?

Joint custody is an arrangement where both parents continue to share in major decisions that affect the child. Usually, the child lives with one parent for the majority of the time (especially during the school year) and that parent makes day-to-day decisions for the child. The other parent will usually have access, that is, a right to visit with the child and to share in major decisions that affect the child. However, joint custody may also refer to a joint physical custody arrangement where the children live with each parent on a regular basis.

## What are shared and split custody?

**Shared custody** and **split custody** are terms used in the Federal Child Support Guidelines and the Provincial Child Maintenance Guidelines. Custody arrangements make a difference in how the Guidelines' tables are used. Briefly, under the Guidelines:

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- Shared Custody means the children live at least 40% of the time with each parent during the course of the year. This type of arrangement may affect the amount of child support/maintenance ordered.
- Split Custody means each parent has custody of at least one of the children. This type of arrangement may also affect the amount of child support/maintenance ordered.

## Who can have custody?

### Parents

In Nova Scotia, regardless of whether they are married, the parents of a child have equal rights to custody and access of the child unless a court orders otherwise. If they separate, the parents can sign a written agreement about custody or ask a court to make an order.

### Other relatives

While it is most often parents who seek custody, others may also apply for custody (examples are grandparents, other relatives, a step-parent, or a common-law, or same-sex partner who has

cared for the child but who is not the child's biological parent). However, they must first get leave (permission) from the court to make the application for custody.

### Child protection

Child protection authorities such as the Children's Aid Society or Family and Children's Services may take a child into care (**apprehend**) if the child is in need of protective services. Within five days of taking the child into care they must either return the child to the parent or apply to a court for custody of the child. A judge may order that the child be returned to the parents or that the child remain in the care of the agency until the judge makes a final decision on who should look after the child.

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For more information on child protection issues see the **Child Protection** chapter of this guide, visit the Legal Information Society of Nova Scotia (LISNS) website at [www.legalinfo.org](http://www.legalinfo.org), or call LISNS Dial-a-Law (pre-recorded information) at (902) 420-1888.

### Who decides which parent gets custody?

The parents can have a verbal or written agreement setting out who will have custody and the arrangements for access. To avoid future disputes it is best to have a written agreement. The parents can apply to the court to register an agreement. The effect of registering an agreement with the court makes it a court order, which then becomes enforceable. Before signing the agreement each parent should get advice from a lawyer. They should not use the same lawyer.

**TIP**

Anything you post or others post about you on any other public online site, such as Facebook, could be used against you in court if it is introduced as evidence (for example, digital photos taken at a party or descriptions of your social life).

If the parents cannot come to an agreement, either one can apply to court for a judge to decide on custody.

## How does the judge make a decision about who gets custody?

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Whenever a judge is making, changing, or enforcing a custody order or agreement he or she must be guided by what the law says is in “the best interests of the child.” All parties will have an opportunity to provide information on what they feel is in the child’s best interests.

In deciding what is in the best interests of the child, the judge will consider the living arrangement that is the least disruptive and most supportive and protective for the child.

The judge may also consider:

- the physical environment where the child will be raised
- the parents’ views on discipline
- the wishes of the child (there is no set age and depends on the maturity of the child)
- the religious and spiritual guidance for the child
- the time and availability of the parent for the child
- the cultural development of the child
- the financial contribution to the welfare of the child
- the support of extended family
- the willingness of a parent to facilitate contact with the other parent
- the interim and long-range plan for the welfare of the child.

Not all custody and access assessors have expertise in domestic abuse. If a judge orders the assessment, you may not have a choice about the assessor. However, if you hire the assessor privately, or if the court gives you a choice, you may want to talk with a Transition House or other knowledgeable advocate to find out which assessors understand domestic abuse and how it affects women and children, particularly after the relationship ends.

In some cases where the parties cannot agree on custody and access, a judge may order a Custody/Access Assessment. A trained professional (usually a psychologist or a social worker) prepares an assessment of the parenting plan or a parenting assessment of the individuals and makes a recommendation to the court. Parents will be expected to contribute to the cost of the assessment, based on their income and number of dependents. However, if your income is below a certain level you may not have to pay anything. The parties may also hire someone privately to conduct an assessment.

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## What is interim custody?

**Interim** means a temporary order or agreement. Parents may reach an interim agreement regarding custody and access, or the court may make an interim order for custody and access. The interim order stays in place until there is further written agreement between the parents or a new order from the court. An interim order is usually made until a final hearing on custody and access can be held. For example, when you

Unless there are significant problems with the interim arrangement, it is unlikely that the courts will reduce access. It is best not to agree to an interim arrangement unless you believe you can live with it in the long term.

**TIP**

If the interim order is reached by agreement between you and your ex-partner, make sure it is in writing. It is best not to sign it without first talking with a lawyer.

first leave your partner you will probably apply to Family Court, or Supreme Court (Family Division) if you live in Halifax Regional

Municipality or Cape Breton, for an interim order that sets out the times and days of his access visits. The interim order, which generally requires only one or two court dates, will remain in place until your lawyers negotiate a permanent agreement or the final custody order is made by the court.

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### **Can children choose which parent they live with?**

No. Where a child lives is a decision made by either the parents or the court. However, the child's preference may be taken into consideration. The older the child, the more weight may be given to his or her wishes. In Nova Scotia, the courts do not usually consider the wishes of children younger than 12.

### **Do I need a lawyer to apply for custody or access?**

You don't have to have a lawyer but it is best if you do, especially if your ex-partner hurt you or scares you. A lawyer will represent your rights and concerns and deal with your ex-partner's lawyer (or with your ex-partner directly, if he doesn't have a lawyer).

If you have a Legal Aid lawyer, don't assume that you would be better represented by a private lawyer. In most cases, Legal Aid lawyers have a lot of experience dealing with family law matters.

For more information about lawyers, see the **You and Your Lawyer** chapter, **Legal Aid** section.

## Can I see a lawyer and start a custody application before I separate?

Yes. If you are planning to leave your abusive partner you can apply for Legal Aid, consult with a lawyer, and complete the paperwork for your custody application before separation. If you leave during an emergency, see a lawyer or begin your Legal Aid application as soon as possible. You may be able to get help finding a lawyer or applying for Legal Aid from your local Transition House, Women's Centre or Family Resource Centre.

## Do I have to go to court to get custody?

If you and your ex-partner cannot agree on a custody arrangement (either directly or through your lawyers), you will have to go to court.

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TIP

If you begin your application before separation, make sure your lawyer and the court staff know not to send any paperwork to your home or to your ex-partner until you've separated. If your ex-partner finds out about your plan to separate or your court application before you leave, the risk to your safety may increase.

## Where do I go to get a court order for custody?

If you live in Halifax Regional Municipality or Cape Breton you go to the Supreme Court (Family Division). In other areas of the province, you take custody and access issues either to the Family Court, if you are not getting a divorce right now or haven't been married, or to the Nova Scotia Supreme Court, if you are getting a divorce now.

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## Can a court order for custody be changed?

Yes. Either parent can apply to have a written agreement or court order for custody or access changed (varied). The parent making the application must show that there has been a change in circumstances affecting one or both parents or the child, significant enough to justify a change in the order or agreement. The parent must also show that the change is in the “best interests of the child.”

## Why should I apply for a custody order?

Until you get a custody order you and your ex-partner have equal rights to have the child with you. You should get legal advice and consider applying for custody as soon as possible. Until you have a custody order, your ex-partner may use your children and issues related to custody and access to scare you.

### TIP

A custody order can set out many of the things your ex-partner can and cannot do.

For example, he may:

- tell you he is going for sole custody, or actually apply for sole custody
- tell you he will take the children if you ask for child support
- tell you he will take the kids away, or actually take them
- tell the police that you took the kids from him
- threaten to tell or actually tell child protection authorities that you have harmed the children, even when you haven't
- tell you he can visit and contact the kids (and you) any time he wants.

## What things should I consider asking for in a custody and access order?

It is important to think about what might work or not work, considering your circumstances and your ex-partner's past behaviour. The following is a basic checklist of custody and access issues you may wish to consider when applying for custody or access. Remember, of course, that the judge may not give you everything you ask for.

### Custody or access

Do you want custody of your children and your ex-partner to have access, or do you want your ex-partner to have custody and you have access visits?

### Type of custody

Do you want sole or joint custody or a shared parenting arrangement? Do you think your ex-partner will cooperate with you? Will he work with you safely and responsibly to make joint decisions on behalf of your children? If not, consider asking for sole custody.

### Type of access

Do you want your ex-partner to arrange access when it is convenient, or do you want to arrange access on specific times and days? Remember that flexible access arrangements may not work well in cases involving domestic abuse because they can be used by abusive men to gain easy and frequent access to their former partners.

### Decision-making

Even if the judge orders joint or shared custody, you can ask to be the **primary decision-maker**. This means that you will be responsible for making day-to-day decisions about your children without input from their father.

### Information sharing

Do you want your ex-partner to have access to your children's personal information? Is there any reason you would not want him to access school, medical, or other records? Do you want him to access their information directly, or do you want to give it to him?

### Police enforceability

Please see page 131–132 for information on police enforceability of family court orders.

### Notice provision

If the visit schedule is flexible, do you want your ex-partner to give you notice before picking up the children? For example, you could ask for two-day notice, which means that he must give you two days' notice before any visit.

Remember that while your case is ongoing, with your lawyer's permission you may be able to use his or her office as your contact for non-emergencies. However, this would not apply once your case has been settled.

### Emergency contact information

Do you want current contact information for your ex-partner so that you can reach him in an emergency? What safe contact information will you give him? Examples may include a friend's number, a cell phone, or e-mail address.

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### Communication

How will you communicate safely with your ex-partner about child issues? Some suggestions may include an e-mail address that you use only for that purpose, a written communication book that is passed back and forth, only by telephone, or only in the presence of a third party.

### Program records

You may want to ask that access be based on whether your ex-partner is attending any programs he has been ordered or volunteered to do. For example, if he is being drug tested, if he is on probation, or if he is attending counselling or other programs, you can ask for a court order that requires your ex-partner to provide you with his program records or that requires him to provide the records to the court. (You may also be able to get these through a court order.)

### Anyone not to be near children

Is there anyone you do not want to be around your children during access visits? For example, your ex-partner may have an abusive family member, or associate with known criminals or drug abusers.

### Who will supervise access/exchanges

Do you want to use a supervised access and exchange centre or service if one exists in your area? Do you want a friend or relative to supervise the access or exchange? Do you want to be present during a supervised exchange?

### Access location(s)

Where do you think access should occur? Are you flexible? Is there anywhere it shouldn't occur (for example, at the home of a particular friend or family member)?

### Scheduling access

What scheduling issues are there? Are there any times or dates when access wouldn't work for you or your child? Is the schedule likely to change due to holidays, school breaks (March break or summer vacation), or appointments?

### Denying access

In what circumstances are you permitted to refuse access? (For example, if your child is sick or if your ex-partner arrives under the influence of drugs or alcohol.)

### Holidays and special occasions

Will you have an informal child sharing arrangement, or do you need to set out times and dates?

## Travel

If your ex-partner lives out of the province or out of the country, what access arrangements do you want and what safeguards do you think you will need? Is it safe if your ex-partner leaves the town/province/country with the children? Who will hold their passports? Will you want to take them anywhere?

## Moving

Do you want to be able to move away with the children in the future?

## Long-term

What should access look like in the long term? What life changes do you expect? For example, is your preschooler starting school next year? Will your 13-year-old want access every weekend by next year? Do you want to go back to school? How will these things affect access?

## How does domestic abuse affect child custody?

Nova Scotia family law does not require judges to consider domestic abuse in relation to custody and access unless it is shown to affect the child's best interests. According to the law (see below), a parent's past behaviour, including a history of domestic abuse, is not relevant to custody and access unless the judge believes it affects the best interests of the child.

Therefore the court is more likely to consider a history of domestic abuse if your ex-partner abused the child directly, or abused you in front of the child, involved the child in your abuse, or is still abusing you or his new partner.

**TIP**

If possible and appropriate, the court wants the child to stay in contact with both parents. Even if your ex-partner was abusive to you, your lawyer may recommend that you will allow access visits. To ensure access is arranged as safely as possible, see the **Access** chapter of this guide.

If your ex-partner abused your child directly, the judge may deny access or order supervised access, depending on the circumstances and the risk of further abuse.

If your ex-partner abused

you but not the children, the judge may try to make an access order that is safe for you. For example, the judge might order that your ex-partner have no contact with you, or that a third person (for example, a friend or relative) supervises while your children prepare to leave with him, or that he remains in the car at the curb while you send the children out.

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## What does the law say about child custody and domestic abuse?

### Canadian Custody and Access Law and Domestic Abuse

#### The Divorce Act and the Maintenance and Custody Act

Child Custody and Access legislation (laws) exist at two levels. Federal legislation applies across Canada and provincial legislation applies only in Nova Scotia.

The Divorce Act is the federal legislation that governs divorces. It applies to all married couples who choose to divorce when their relationship ends. It deals with issues

such as child custody, child and spousal support and property division.

In Nova Scotia, the Maintenance and Custody Act is the provincial legislation that applies to couples who are not married, couples who have never lived together, and married couples who are separating but who are not seeking a divorce at the time of their separation. It addresses child custody and access, and child and spousal support.

### Best Interests of the Child

According to both federal and provincial legislation, judges must make custody and access decisions based on the “best interests of the child.”

In section 16(8) the Divorce Act says: “In making an order under this section, the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the conditions, means, needs and other circumstances of the child.” While the legislation provides little guidance regarding how the “best interests” are to be determined, there is considerable “case law” (cases that have already been decided by the courts) on the subject.

Neither the Divorce Act nor the Maintenance and Custody Act name domestic abuse as a factor that judges must consider when determining the “best interests of the child.” This means that it is left to individual lawyers and judges whether to consider a history of domestic abuse. If the lawyer does not introduce the information in court, the

judge will not have an opportunity to consider it. If the lawyer does introduce evidence about domestic abuse, the judge must decide whether it is relevant to an abusive partner's ability to parent or to the issue of custody and access.

### The maximum contact and friendly parent rules

In 1985 the Divorce Act was changed to include a new idea in family law. In section 16(10) the "maximum contact rule" says that the child should continue to have contact with both parents after divorce if it is consistent with his or her best interests. This was accompanied by the "friendly parent rule," which directs judges to take into account the willingness of the parent who is asking for custody to facilitate contact between the child and the other parent.

Sometimes this puts mothers who seek to protect themselves or their children from abusive or controlling fathers in the position of seeming unfriendly. Women who appear to be "uncooperative" by "frustrating access" may weaken their own family court position and/or even open the door for their ex-partner to apply for custody.

The maximum contact rule may be used by abusive men to harass their ex-partners by taking them back to court for "denying access."

## Past conduct

Section 16(9) of the Divorce Act states that “... the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.” According to Peter Jaffe, one of Canada’s foremost experts in the area of domestic abuse and child custody and access, this is “... probably the most problematic provision in national legislation in terms of domestic violence and custody or access ...” Jaffe says that because the law isn’t clear about what is in the child’s best interests and because a parent’s past behaviour should not be considered, judges must decide individually whether domestic abuse is relevant to custody and access.

Section 18 of Nova Scotia’s Maintenance and Custody Act refers to child custody and access.

## What if I leave and take my child with me?

You and your ex-partner have an equal right to custody of your child. If you leave to escape abuse and you take your child with you, you should consult with a lawyer or contact Legal Aid immediately. You may also want to contact your local Transition House for information about what to do in this situation. You should consider applying for custody as soon as possible.

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### If there is no immediate danger

If you have left and taken your child and you don't believe either of you is in immediate danger, your lawyer will probably advise you to tell your ex-partner where the child is and allow him to have access with the child, if this is safe. If you are waiting for a court date, your lawyer may draft a legal agreement that is signed by both you and your ex-partner to ensure he doesn't keep the children following an access visit.

### If you or your children are in danger

If it is not safe for you to contact your ex-partner, you should speak to your lawyer about whether to arrange access visits. If

TIP

You should consider taking your child with you when you leave your partner because it can be difficult to get your child back later. It is important to get legal advice, if possible, before leaving.

you believe you or your children are in danger or that your ex-partner may keep your child or leave the area with your child, your lawyer may advise you to deny access or arrange safe supervised access until you go to court. He or she may also recommend that you make an emergency court application to settle interim (temporary) custody and access issues.

## What if I leave without my child?

If you leave the relationship or the family home and don't take your child with you, it can be difficult to get the child back. If you need to flee for your safety, or if you leave your child behind for some other reason, you should keep in frequent contact with the child and begin custody proceedings as soon as possible. If it is unsafe to contact your ex-partner, speak to a lawyer about getting access to the child. Always think about your own safety, and consider contacting your local Transition House for support and advocacy.

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## Can I move away if my ex is a danger to me?

Yes, you can move away. However, your ex-partner can apply to the family court to stop you from taking the children with you. Custody and Access laws see the relationship between the child and the non-custodial parent as very important. It is important to get legal advice if you want to move away from your ex-partner.

Usually the signatures of both parents are needed to get a passport for a child. However, it may be possible to have a provision included in your family court order which allows you to apply for a passport for your child without your ex-partner's signature or consent. If you would like to have this provision included in your order, it is very important to find out the exact wording required by the passport office.

TIP

**TIP**

It is a good idea to seek legal advice before taking your child out of the province or out of the country. If you fear your ex-partner may try to take your child out of the country, tell your lawyer immediately.

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custodial parent. It is best to get the permission in writing. A parent with custody who wants to permanently take the child to live somewhere else will likely need to get the consent of the other parent or of the court, depending on the agreement or court order.

One of the reasons a custodial parent may seek a change in custody is if she is planning to move away – far enough away that the move will significantly affect the other parent’s access. Often the parent with custody wants to move to take up a new job, to be with a new spouse, or to be closer to extended family living elsewhere.

**TIP**

You should bring all paperwork with you any time you leave the province or the country with your child. You may need your legal agreement or court order to prove to authorities that you have permission to travel with your child. New Canadian women should carry immigration paperwork with them at all times.

## Can I take my child out of the province?

If you have custody you may take the child out of province temporarily unless your order says otherwise (for example, on vacation within Canada). You may need a letter of permission from the other parent or the permission of the court for international travel. If you have access, you may need the permission of the

If you want to move away and your ex-partner does not agree with the move, he can apply to the court to prevent the children from moving. Parents

Police, lawyers, judges, and child protection workers all work within specific areas or jurisdictions. In some cases, there may be confusion about whose jurisdiction you are in. Generally speaking, family court matters and child protection matters are heard in the jurisdiction where the child lives, and criminal court matters are dealt with where the offence occurs.

may move wherever and whenever they want, but the court can order that the children remain where they are. The court can do this either by changing custody to the other parent or by ordering that custody will change only if the custodial parent chooses to move.

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A parent who does not have custody may ask for a condition in the initial custody agreement or order that prevents the other parent from moving or requires that notice be given before a move. In this way, the non-custodial parent will have time to apply to the court to prevent the move if he does not agree with it.

### **Can my ex use it against me if I have mental health issues?**

In some cases a woman's ex-partner may raise her physical, mental, or emotional health in court as an issue affecting her parenting. Whether the judge agrees will depend on the evidence. It is important to know that, if this occurs, there may be a subpoena or court order to produce the records of your doctor, therapist, or any other professional providing you with treatment. It is best to seek legal advice if these issues arise.

## **What family court issues do women with disabilities face?**

Even before becoming involved with the family court, women with disabilities who are mothers may already be facing extra scrutiny because of their disability.

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Lack of information about, and misconceptions toward, women with disabilities and deaf women and their ability to parent effectively can pose particular challenges in family court. For example, abusive men or their lawyers may try to bring up a woman's disability, or stereotypes about deaf persons and persons with disabilities, to suggest she is a poor parent.

## **Does the “best interests” test say anything specific about parents with disabilities?**

No. There is no official protocol for assessing the best interests of the child of a disabled parent. However, the child's father may present himself as the competent, non-disabled parent, or stress the difficulties the mother may experience as a disabled parent. It is very important that women with disabilities are represented by lawyers who understand disability issues.

## What should I tell the courts about my disability?

It is important for women with disabilities and deaf women to be prepared to deal with the issue of their disability or deafness directly in a child custody and access proceeding.

- Be prepared to have medical or other records introduced as evidence for the other side.
- Be prepared to enter your own medical or other records where helpful. For example, documentation showing that a degenerative illness is currently in its early stages, along with a parenting plan to accommodate ongoing changes to your health, could be helpful.
- Gather as much detailed evidence of your parenting abilities as you can. If you have been the primary caregiver in the past, produce detailed descriptions of this.
- Present third-party evidence from people who can support your case, especially those who can describe your parenting skills and ability.
- Present expert witnesses (for example, a doctor or skilled community advocate who can confirm that your disability is not negatively affecting your parenting skills).

## What is the role of a lawyer representing a woman with a disability?

You should have legal representation in family court. Women with disabilities and deaf women may need their lawyer to perform specific tasks, such as:

- communicate disability-related issues to the court accurately and without bias
- find expert evidence
- find and prepare expert witnesses
- ensure that the woman understands exactly what is going on in her case
- prepare the woman to be the best possible witness in her case.

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For suggestions on how to find a lawyer with experience representing clients who are either deaf or disabled, try contacting your local women's organization, such as a Transition House, Women's Centre, or Family Resource Centre. For more resources and contact details of organizations servicing women with disabilities and deaf women, see the **Resources** chapter at the back of the guide.

# Chapter 6

## Access

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## What is child access?

Access, also called “visitation,” is the right of children to visit and have contact with the non-custodial parent after a separation or divorce. A child who is living most of the time with one parent will usually have access to the other parent.

Parents can reach a verbal or written agreement regarding access, or can ask a court to make an access order. If you are leaving an abusive relationship, it is best not to rely on verbal agreements with your ex-partner.

Because custody and access laws assume that children benefit from a relationship with both parents, access is rarely denied, but may be in some cases. If the judge believes there is a risk to the child, he or she may order supervised access.

There are different types of access:

### Reasonable access

This is when the parents agree on convenient, reasonable and appropriate times for the access parent to visit with the child. It allows the parents to make their own flexible arrangements. This is usually not appropriate in abuse cases.

**TIP**

For tips on what things to consider asking for in a custody and access order, see page 97 of the **Custody** chapter.

### Specified access

This type of access allows regular set times that an access parent may have the child. It may be set out in a court order, separation agreement or other written agreement between the parents. For example, the arrangement might be that the parent picks up the child on the first and third Saturday of each month at 12 noon and returns the child by 5 pm the next day.

### Supervised access

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This type of access says that time spent by the access parent with the child must be in the presence of another adult. It may be set out in a court order, separation agreement or other written agreement between the parents. Usually, the adult will be named in the order or agreement. This type of arrangement is made if the parents agree (usually through negotiation between lawyers) or the court believes it is necessary to ensure the safety of the child. Some areas of the province offer a supervised access service. Contact your local Transition House, court office, Women's Centre or Family Resource Centre for more information. See the Supervised Access section below.

**TIP**

Although **reasonable access with reasonable notice** is common, it works best when the parents have a positive relationship and can work out matters for the child together. It may not work well in cases involving domestic abuse. For example, an abusive man may use "reasonable access with reasonable notice" to harass and control a former partner by calling and dropping by her home at all hours to arrange or demand access. Because they do not contain specific terms, it can be difficult for the police or the court to address problems that arise from **reasonable access** orders.

## No access

In rare cases, a judge may order that your ex-partner have no access to the children. This usually happens only in cases of child abuse.

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*“I was staying in Transition House when I went to family court. The judge gave me interim custody and my ex ‘reasonable access,’ knowing about the history of attacks. He told my ex he could pick the baby up at my residence. When I said I was staying in Transition House, the judge said we should work it out between us. The thing is, I was still dealing with child protection then (because of the history of domestic abuse) and if I’d let him come near me for exchanges the baby probably would’ve been apprehended! In the end, one of his relatives picked up the baby from Transition House.”*

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## Who applies for access?

Most often it is the non-custodial parent who applies for access, but others who have a relationship with the child may also apply. Examples include grandparents, other relatives, a step-parent, or a common-law or same-sex partner who has cared for the child but who is not the child’s biological parent. Individuals other than the child’s parents must first get leave (permission) from the court to make the application. All parents have the same rights to apply for custody and access, whether they were married, lived with the other parent, or never lived together.

**TIP**

Sometimes parents or other family members of an abuser will support his custody or access application. For example, they may submit a supportive **affidavit** (written statement) to the court or even testify against the mother. In some cases, the abuser's parents may agree to supervise his access but then allow him to be alone with the child. Not all parents of abusers behave in this way, but some do.

Children often benefit from having contact with grandparents and other members of the extended family. When parents separate or divorce, the family court encourages the custodial parent to allow the children to continue contact with both sides of the family. Even when a child is not in contact with the father, his relatives may want to stay in touch.

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People who are not parents sometimes apply for custody or access if they believe the children are not being properly cared for, they are unhappy that they no longer see the children, or they do not see them as often as they would like. Judges are reluctant to grant custody or access rights to non-parents as long as one of the child's parents is capable of caring for the child and is not unreasonably keeping the children from their extended family members.

### **How does the judge decide who gets access?**

When a judge makes, changes, or enforces an agreement or order for access, he or she must be guided by what the law says is in the "best interests of the child." All parties will have an opportunity to provide information on what they feel would be best for the child.

In some cases, if the parties cannot agree, a judge may order a Custody/Access Assessment. A trained professional (usually a psychologist or a social worker) prepares an assessment of the parenting plan or a parenting assessment of the individuals and makes a recommendation to the court.

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*“I’ve learned that it’s really important not to give your ex or the court mixed messages around access. I mean, it can be so hard when your ex is being nice and you believe it’s in your kids’ best interests to allow access just to lessen the tension, but it can really hurt you in court because you get people saying, “Well, you weren’t scared of him last week” or whatever. Women should know they have to stick to the terms of their family court orders and not allow access that’s not in the order, otherwise they weaken their position. I learned this the hard way.”*

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## **What is interim access?**

An interim access order is a temporary order or agreement. It lasts until a judge makes a final decision on access or the parents make a permanent agreement.

## **Where do I get a court order for access?**

If you are in Halifax Regional Municipality or Cape Breton, custody and access matters are dealt with by the Supreme Court (Family Division). In other areas of the province, you go to either the Family Court, or, if you are dealing with a divorce, the Supreme Court.

## Can an access order or agreement be changed?

Although there is no guarantee the judge will agree, either parent can apply to have a written agreement or court order for custody or access “varied” (changed).

Unless both parents agree with the change, the parent making the application must show that there has been a change in circumstances for the child or one of the parents that is significant enough to justify a change in the order or agreement. The applicant parent must also show that the changes are in the best interests of the child.

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As the child grows older, parents may need to review the arrangements for access. Children outgrow access arrangements as their lives change. An arrangement that works for a toddler may not work for the same child in elementary school. Access that worked well for a child in junior high may not suit an older teenager.

Generally speaking, younger children need shorter, more frequent periods of access, while older children and teens may do well with longer access periods and more time between access periods. Younger children tend to need more routine (for example, to know they spend Wednesdays and every other weekend with the other parent), while older children may prefer more flexibility. Teenagers may want to decide for themselves how often they see each parent.

## What is a child handover?

A child handover, also called an exchange, refers to the transfer of a child from one parent to the other before or after an access visit. In an ideal situation the parents would simply meet up and exchange the child without difficulty. But in situations involving domestic abuse this is not always possible, because abusers can use the handover as an opportunity to further harm or harass their former partner (for example by threatening or even assaulting her).

If a judge orders you to meet face to face with your abuser to exchange your child, there are a few things you can do. First, make sure the judge knows about the history of abuse and whether there is a no-contact order in effect. Second, if you do have to meet face-to-face, make sure you have a friend or other support person with you. Third, you can develop a safety plan.

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*“I had child protection telling me not to have any contact with him and a criminal court order saying he was so dangerous he couldn’t be within 100 metres of me, and then a custody and access assessor recommending that we meet up in Tim Horton’s for exchanges. It doesn’t make sense how someone can be considered such a threat in criminal court but the assessor thinks it’s fine for you to meet up for coffee – and if you don’t you’re being ‘uncooperative’ or not working in ‘the best interests of the child.’”*

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## How do I hand over my child for access?

There are different kinds of exchanges:

### Direct

The parents exchange the child directly. They either meet up in an agreed-upon location or one parent picks up or drops off the child at the home of the other parent.

### Third Party

The parents agree to have, or the court orders, a third party takes part in the exchange. This means that a friend, relative, or support person picks the child up from one parent and drops the child off with the other parent.

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### Supervised

The parents go to a supervised access centre or other location and a professional person makes the exchange so that the parties have no direct or indirect contact. In some cases, it may even be possible for the parties to use different entrances.

### School or other neutral location

The access parent picks up and drops off the child at school (or another agreed-upon location) without any contact with the other parent. It is important to tell the school in writing when your ex-partner will be picking up your child to avoid confusion or the possibility of him picking the child up at other times.

TIP

If your ex-partner isn't allowed to pick up your children, you may want to tell the school in writing and give the school administration office and your children's teachers a copy of your court order and a photo of your ex-partner.

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*“Early on in my separation, because my ex took the family car from me (even after I was given possession of it in my Emergency Protection Order), when he had access he was allowed to come to the house to pick up the kids. My kids were small and I would always make sure they got to the car safely. My ex would use this time to let me know how he felt about the situation, and mostly about me. He would call me bitch, whore, and slut, even if the kids were standing there listening. I wasn’t enrolled in Maintenance Enforcement at the time and he would use Fridays, his pay day, as his opportunity to vent. He would hold my child support cheque just out of reach of my hand and tell me what a fat, disgusting whore I was and taunt me that I wasn’t going to see my kids all weekend (he knew that would bother me more than name-calling). Meanwhile, I would be telling the kids to get in the car so they wouldn’t have to hear it.”*

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### **Will my ex have access rights if he was abusive to me?**

Judges must decide on a case-by-case basis whether domestic abuse is relevant to a child’s best interests. For more information on how domestic abuse affects child custody and access decision-making, see the **Custody** chapter of this guide.

## Why is supervision sometimes important in cases involving domestic abuse?

### TIP

If the family court judge agrees that access or exchanges should be supervised, you may want to ask for it to be written into the court order that you have to agree to the supervisor, or at least that you and your ex-partner must both agree. If it is left up to your ex-partner to decide, he may choose somebody you don't trust to put your child's interests first.

In cases involving domestic abuse, supervision may be used to protect a woman or her children. For example, the court may order supervised exchanges if there is a risk that the woman will be abused during the transfer of the children to their father. Supervised exchanges

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protect the woman from direct abuse and her children from witnessing the abuse of their mother. If the court or child protection authorities believe the children are at direct risk, the entire access visit may be supervised.

## Are there any ways to ensure no-contact without using a supervisor?

An alternative to supervised exchanges is to have a third party pick the children up and drop them off, to ensure that the parents do not have any direct contact. You might also

### TIP

If the court ordered supervised access, you should not be the one supervising the access.

consider a curbside pickup and drop-off, where one parent remains in his or her vehicle and the other at the front door. This option should only be used in low-risk situations where the abusive partner is likely to respect the rules.

## How do I find someone to do the supervision?

The judge can appoint anybody to supervise access. He or she may order access or exchange to be supervised at a particular location, such as a supervised access centre or another organization that provides supervision services, such as a Family Resource Centre. However, there are very few professional supervision services in Nova Scotia and it is common for judges to order visits to be supervised by a third party such as a friend or relative. The judge may say that you and your ex-partner have to agree on the person who will be supervising. In Cape Breton Regional Municipality and Halifax Regional Municipality, the Supreme Court (Family Division) offers a Supervised Access and Exchange Program, which orders that access and/or exchanges be supervised at a community organization.

Most Transition Houses, Women's Centres and second-stage housing organizations do not provide supervision services for fathers. These organizations may provide supervision services if it is the mother who is having supervised access with her children.

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## Where do supervised access visits take place?

You can ask for supervised access to take place at the location you feel is safest for you and your children. Supervised access visits may take place anywhere (for example, a supervised access centre, a community organization, the father's home, a park, a

Try contacting your local Transition House, Women's Centre, Family Resource Centre, or child protection office to see if they know of an individual or organization that provides supervision services. There are private access supervisors in many communities who provide their services for an hourly rate.

restaurant, or at a relative's home). The important thing is that supervision occurs in a controlled environment to ensure the safety of the children.

## Will I know how the visits go or if there are any problems?

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If supervision is court-ordered, the agency providing the service will normally give the court a detailed report about the access visits. The agency also provides the court with notes from each visit. In most cases, you will receive a copy of the notes and the report if you or your lawyer asks for them. The information provided by the agency supervisor also forms part of the court record, so you and your ex-partner or your lawyers can access it at the courthouse.

If the court orders supervision to be done by a friend or relative rather than an agency, there may not be a report and the person may not even be required to report to the court.

If the supervision is not court-ordered, for example if you and your ex-partner have agreed (usually through negotiation

TIP

You may have concerns about the people your ex-partner suggests as access or exchange supervisors. For example, you should tell your lawyer or the judge as soon as possible if the person being suggested has a criminal history, or if you have reason to believe he or she will not ensure the safety of you or your children. You may want to come to court with the names of a few people you believe would be good supervisors.

between your lawyers) that access visits will be supervised, you will need to discuss what information you will be allowed to have with the supervision staff.

## How long does supervision last?

The court normally decides how long the supervision should last. For example, if it is to re-establish the relationship between a child and an absent parent, the time frame for supervision may be shorter than if the case involves child abuse or a risk of abuse. In most cases, supervision is viewed by the court as a short-term, rather than a long-term, solution to access issues.

## What if child protection orders the supervision?

If child protection authorities decide that access visits between your child and his or her father should be supervised, they will provide the location and supervisors. For more information on dealing with child protection authorities, see the **Child Protection** chapter in this guide.

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## How can I try to stop the family court from ordering direct contact?

To minimize the possibility that you will be required by the family court to have direct contact with your ex-partner:

- You or your lawyer should ensure that the family court knows about any no-contact order and the history of abuse.
- Ask for a family court order that does not require you to have direct contact with your ex-partner (for example, supervised or third party exchanges).

- Consider asking for specified access rather than “reasonable access with reasonable notice” (for example, regular times and days as opposed to whenever he wants to try to arrange it).
- Ask for safe and specified communication (for example, by e-mail or through a third party rather than in person or by phone).
- Consider asking for sole custody rather than joint or shared parenting arrangements.
- If your family court order allows for direct contact (in person or by phone), “reasonable access with reasonable notice,” or joint or shared parenting arrangements, then you may need to take extra steps to protect yourself. Speak with Transition House or Women’s Centre staff about safety issues. Also see [Supervised Access/Exchanges](#), [Incident/Access Forms](#).

## Can my ex use his access to contact me if there’s a no-contact order in place?

It is common in abuse situations for the father to use child access to contact or harass his former partner, even when there is a criminal court order prohibiting contact. For example, he may call her repeatedly and claim he is phoning about the children, or turn up unannounced to demand access. In some cases, an abusive ex-partner may call the mother during access so she will

### TIP

If your ex-partner calls you when a no-contact order is in place, you can hang up and immediately press \*57, then hang up again. This is called Call Trace. When you press \*57 the phone company records the number of the last caller and the police can use a warrant to access phone company records to help prove illegal contact from your ex-partner. If the call is a breach of a no-contact order, you should also contact police.

hear the children crying, or involve them in the abuse by making them spy on their mother or provide information about her.

Abusive men can do this because criminal no-contact orders sometimes state that they cannot have contact with their victim except according to the terms of a family court order. While the criminal court prioritizes the safety of the victim, the family court focuses on the best interests of the child, which in most cases includes as much contact as possible with his or her access parent. In cases where the mother has been victimized by the father, it is important that the family court have as much relevant information as possible so that the judge can make an order that is appropriate for both the child and the mother.

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## Should I report my ex for contacting me if there's a no-contact order?

If your family court order and the no-contact order allow for contact between you and your ex-partner, it is legal as long as your contact keeps to the terms of the orders.

However, in some cases your contact may be illegal. For example, if your family court order says you can have contact only if it relates to the children and your ex-partner contacts you about things that have nothing to do with them, or if the order says you can communicate in writing but your ex-partner keeps calling you, then the contact is a breach of the court orders and should be reported.

TIP

If your ex-partner breaches his no-contact order, you may want to record his phone calls and answering machine messages, and save e-mails or other written notes. If you suspect he will contact you in person at a particular time or place, try to have a witness with you.

Because of the **maximum contact** clause, any evidence that the mother is **frustrating** the father's access may be used against her in family court, unless it can be shown that refusing access was in the best interests of the child. Even when a woman reports her ex-partner's breaches of probation or illegal contact, the abuser may try to use it against her, especially if it results in an interruption of access or is seen as an attempt to "get him in trouble." Therefore, it is very important to tell your lawyer about any criminal court orders or proceedings so that he or she can raise them in family court.

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Let your lawyer know about any breaches of any court order. You can report breaches of a criminal order to the police or your ex-partner's probation officer. Remember that if you don't report the breaches near the time they occur and then decide to report them later, it may affect your credibility (whether people believe you).

*"My ex had bi-weekly weekend access with our toddler and preschooler. Our family court order allowed for phone contact between me and the kids during the access visits because they were struggling with the separation from me. My ex is on probation, which includes a no-contact order between the two of us. Whenever the kids used their own cell phone to contact me, or when I called them during access, their father got in the middle and used the opportunity to talk to me.*

*Despite my efforts to stop the contact – including reminding him that it was illegal to have contact, hanging up when I was finished talking with the kids (even when he was asking them to pass the phone back to him so he could speak to me), and having my lawyer write to his lawyer to request that the contact stop – it continued and increased.*

*My family lawyer warned me that reporting the breaches to the police could be used against me in family court to show how I try to get my ex in trouble in order to “frustrate his access.” I was frightened for myself and about the impact on my children, but also of the consequences of reporting. I didn’t know what to do.*

Always keep a copy of your family court order or legal agreement to show police if your ex-partner refuses to return your child.

*When I decided to report the breaches to my ex’s probation officer, he told me that I could be charged with “obstruction” for not reporting earlier, and then directed me to contact the police. After I tried to explain the whole dilemma to the investigating officer, he told me that accepting the phone calls was “like giving 24 beers to an alcoholic.” The crown attorney handling the file told me that my credibility as a witness had been severely compromised because I didn’t report straight away. I was relieved that my ex pled guilty and I didn’t have to go to court.”*

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## **What happens if my ex refuses to return my children after a visit?**

If your ex-partner fails or refuses to return your children after an access visit there are two things you can do to get them back: contact the police and/or ask for an emergency family court hearing.

**TIP**

Even if police do not help with the return of your child, their presence may convince your ex-partner to hand your child back. Also, if you call the police there will be a record and evidence that your ex-partner refused to give your child back. If it happens repeatedly, you will have a record and evidence of the pattern and this may help if you return to court.

If you have a family court order which shows that your child is supposed to be with you (for example, if your child lives with you but has specific access visits or no access with your ex-partner), you can contact the local police to ask for their

assistance in enforcing the family court order by returning your child. It is very important to tell the police if you believe your child may be at risk or if you think your ex-partner may try to leave the province or the country.

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If the police are unable or unwilling to help and your ex-partner doesn't return the child, you can make an emergency application to the family court to have the custody order enforced and your child returned. If you believe your child may be at risk, you can also contact child protection authorities. You may also contact police victim services, if there is a unit at one of your local police stations.

**TIP**

Whether or not the police help you with the return of your child may depend on where you live, and may even depend on which officer you deal with. For example, some women report positive experiences with helpful and supportive police officers who understand the dynamics of domestic abuse and are willing to assist in the return of their children. However, other women describe police officers, or even entire police units, who are unable or unwilling to provide assistance and simply direct women back to family court.

## Why should I try not to deny access?

The law says that it is usually good for children to have a relationship with both parents. If you do anything that interferes with your children's relationship with their father, you need to have good reason or this can be used against you in making future custody decisions. You must balance this with your responsibility as the custodial parent to ensure that your children are safe.

**TIP**

Unless there is a safety risk or your ex-partner's access request is not allowed under the terms of your court order, you may want to make an application to the family court to ask for a variation (change) to your court order rather than refuse access.

If you believe your ex-partner poses a risk to your children, these two things – ensuring that your children have a relationship with their father and protecting them from harm – may put you “between a rock and a hard place.” You may want to talk with your lawyer, local Transition House, or another support person to help you decide on the right course of action.

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**TIP**

It is important to get legal advice if you are considering denying access. If you have a written agreement or court order that provides access to the father and you deny access, the father could take you to court and ask that access be enforced or that you be found in contempt of court, or even ask for a change in custody. Even if you do not have a written agreement or court order in place, if the court feels that you have unreasonably denied access, this can be held against you and a change in custody or access may be considered.

## Why do women sometimes want to deny access?

For a variety of reasons, women will sometimes want to deny their ex-partners access to their children.

Some examples:

- The children may repeatedly return from access visits extremely upset, angry, scared of their father, or abusive or clingy with their mother.
- They may return appearing neglected or abused, or report neglect or abuse.
- The father may frequently fail to communicate access plans or simply not show up for access time, disappointing the children and disrupting the family's schedule.
- The father may not have accessed the children for many months or even years, but suddenly turn up demanding his visitation rights.
- The mother may believe the father is a bad influence on the children.
- The mother may have concerns about his living arrangements or his new partner, including domestic abuse.
- The children may not want to visit the father.
- The father may not be paying child support.

These are very difficult situations to manage. However, remember that just because you want to deny access does not mean you have the legal right to. If you are the custodial parent, the law requires you to support

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TIP

Even if you think a visit should be cancelled, the judge may not agree. A custodial parent may even lose custody rights if she consistently refuses access. Always try to get legal advice before refusing access.

and encourage access by the non-custodial parent even if it is inconvenient, the children don't want to go, or you are unhappy with what happens during the visits. If you continue to be concerned about the visits, talk to your lawyer about returning to court to have the access order varied (changed).

## How do I know whether I should refuse access?

It is often difficult for a mother to accept the fact that her ex-partner may do things with the children differently than she would, or that she would not agree with, but this doesn't necessarily mean she can refuse access.

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For example, a mother may think the children need to be bathed every night and her ex-partner may not. Even if the children return from a visit dirty, this is not an issue of safety or well-being that would allow the next visit to be refused. On the other hand, if the father arrives to pick the children up and he is drunk and planning to drive with them, you should refuse to let them go.

Examples of when it may be possible for a mother to refuse access:

- if the father appears to be under the influence of alcohol or drugs
- if the father arrives without giving notice as required by the court order
- if the children are sick (try to get a doctor's note)
- if you believe the children are at risk of harm.

**TIP**

If your child has been sexually abused, you may wish to call the Avalon Sexual Assault Centre for information and support. Avalon also provides counselling for non-offending parents of children who have been sexually abused. See the **Resources** chapter for contact details.

## What if I believe my children will be harmed during a visit?

If you believe your children will be harmed, especially physically or sexually, during a visit with their father, the law does allow you to refuse the visit. Emotional harm is much more difficult to document so it is more difficult to deny access on the basis of concern about emotional harm. For support or advice about how to handle this situation and whether you should contact child protection authorities,

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6 speak with your lawyer or your local Transition House (you can call the crisis line any time) or Women's Centre. If the situation is urgent, you should call the police or child protection authorities.

If a Transition House worker or other service provider learns that a child is at risk because of ongoing exposure to domestic violence, the law says that she or he must report this to child protection authorities.

If you don't have a lawyer you will need to tell your ex-partner that you are denying access using your regular system of communication, for example, e-mail, phone, or through a third party. You may want to contact your local Transition

**TIP**

Any time you deny access you should let your lawyer know immediately so he or she can be prepared for any contact from your ex-partner or his lawyer. Your lawyer can advise you whether you should contact child protection authorities for their assistance.

House or Women's Centre to discuss child protection issues. Make sure you write down why access was refused and the date and time you notified your ex-partner.

## What can I do if my children do not want to visit with their father?

This can be a very difficult situation for a mother to deal with. Although it might seem that it would be better parenting to follow the child's wishes, especially if you experienced abuse at the hands of your ex-partner and/or have fears about your child's safety. However, by law you must follow the access agreement/court order unless you have strong reasons related to the safety of your child, in which case you should contact your lawyer immediately.

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If your children are consistently very upset about spending time with their father, you may want to consider having them speak with a mental health counsellor or therapist. There may be underlying issues they need to share with a safe adult. If the

Any time there are difficulties with access visits, it is very important that you document them. For example, if the children cry and scream when their father picks them up, try to have a neighbour, teacher, or daycare worker witness this behaviour. If it isn't possible to have a witness, keep a written record of the time, date, location, and exactly what happened. If their father repeatedly comes late for visits or calls at the last minute to cancel the visit, record this information in case you return to court to vary (change) the access order. You should also keep a record of any time you refused access, why you did so, and who you told about it. See the chart provided on page 145 for guidance.

TIP

therapist identifies a safety issue, he or she is qualified to provide evidence in support of a court application to limit the access.

If, on the other hand, the children's difficulty is not due to safety issues (perhaps they feel disloyal to you by visiting their father, or they may feel uncomfortable with his new girlfriend), a skilled therapist or counsellor may be able to help them work through these issues and they may begin to enjoy spending time with their father.

### What can I do if my ex doesn't show up for visits?

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Parents cannot be forced to visit with their children. It is not uncommon for a non-custodial parent to demand access but not show up. When a father repeatedly fails to turn up for visits with the children, especially if they are planned, it can be very disturbing for the entire family. The children will likely be upset or hurt. It will also disrupt any plans or scheduling needs of the mother. It may mean further expense for her, such as daycare or babysitting, or the cancellation of travel or work.

#### TIP

Sometimes abusive men who fail to **exercise access** (don't show up for visits) will later claim that the mother denied access. It is very important to keep a record of access requests and visits so that you have evidence that you did not deny the father access. Because you may not remember the details later, you should record information at the time of the incident. There is a chart included on page 145 of the guide to help you know what information to record.

Once again, document the cancelled visits, late pickups or irregular drop-offs, and any other details that indicate the father is not committed to spending regular time with his children. For example, if the children tell you several visits in a row that they spend all their time with a babysitter, their father's family or his girlfriend (without him), make a note of this. Don't cross-examine them about their time with their father; simply take note of what they say in casual conversation.

If your ex-partner tells you he is stopping his access for a specific period of time (either short- or long-term), confirm this with him formally. Send him a registered letter stating that you are confirming that he will not be exercising access at the following specific times at his request and that you will not have the children available for him at those times. Say that you understand he will be restarting his access on a particular date and that the children will be ready and waiting for him at that time. Ask him to let you know in writing if there are changes to these dates.

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### **Can I deny access if my ex isn't paying child support?**

No, you cannot deny access because he is not paying child or spousal support. Access and child support are separate issues.

Some women believe they can “trade” child support for custody. In other words, the father says he will not ask for custody of the children if the mother promises not to ask for

child support. However, family law says that child support and child custody are separate issues and one cannot be used to bargain for the other. Even if you agree to such an arrangement, there is nothing to stop your ex-partner from applying for custody or access any time he wants. As well, the child support guidelines set out how much child support must be paid and parents cannot agree not to ask for child support.

## Criminal Court evidence

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### Can I get a copy of my ex's criminal record?

No. A criminal record is a police document that is protected under privacy legislation.

However, if your ex-partner's criminal history is relevant to your family court matter, there are several ways you can get a copy of his criminal record and other important evidence, such as police files containing details of charges and criminal activity.

Your lawyer, or you if you are self-representing can:

- ask your ex-partner's lawyer (the "other side") to provide the information
- ask your ex-partner to sign a consent form so that the information can be provided to you
- ask the court to direct the other side to **disclose** (provide) the information to you
- make a formal application for an order for production requiring the police to provide information to you.

## **Is my ex's criminal history important in family court?**

Your ex-partner's criminal history may be important to your family court proceeding, for example if it relates to the safety of your child, to your safety, to your ex-partner's credibility, or it shows whether your ex-partner's complies with court orders.

## **What if my ex has convictions from another province?**

Using the methods above, your lawyer can find out whether your ex-partner has a criminal record anywhere in Canada through the Canadian Police Information Centre (CPIC) system. However, the family court has only provincial jurisdiction. This means that a police force from another province may or may not comply with an order for production from Nova Scotia family court.

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## **What if I don't know where the convictions occurred, or if there are any convictions?**

Using the methods above, your lawyer can request a copy of your ex-partner's criminal record, which will tell you where convictions occurred.

If you suspect your ex-partner has a criminal history that is relevant to your family court matter, your lawyer can use the methods above to request his criminal record. If there are no

criminal convictions, the record will be clear. For example, if your ex-partner was charged several times but not convicted, nothing would appear on his record.

## **Is there any way to get hold of police files if we're not before the family court?**

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Your ex-partner's police records are considered his private information, which means they are protected by legislation called the Freedom of Information and Protection of Privacy Act (FOIPOP). However, if you are included in his records (for example, as a victim), you may be able to make a request for them through a FOIPOP officer. Information about third parties, including your ex-partner, will be blocked out.

## **How do I make a Freedom of Information (FOIPOP) request?**

The FOIPOP application process may vary depending on the organization. For example, the RCMP, regional police and child protection authorities all have their own FOIPOP application procedures. It is best to ask the organization you are requesting information from for details on how to make a FOIPOP request. You can call them without giving your name or ask for help from a Transition House or Women's Centre worker. In most cases, you will simply be given an address and asked to put your request for information in writing. (See the **Resources** chapter at the back of the guide for FOIPOP details.)

## How will I know if the court ordered my ex to do any programs?

Using the methods above, your lawyer can ask for your ex-partner's sentence orders, as well as disclosure of his probation files. This information would tell you if the court ordered him to do any programs, such as drug testing, a partner abuse program, or anger management counselling.

## How will I know if he's completed the programs?

Your lawyer can use the methods above to ask for disclosure from the programs your ex-partner has been referred to. You may also want to talk with your lawyer about asking for a clause in your family court order that requires your ex-partner to complete certain program and to disclose his program records to you or to the family court.

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## What about his driving record?

Your ex-partner's driving record may be relevant to your children's safety if he drives them anywhere during access. If he has been convicted of driving offences such as driving under the influence of alcohol or driving without insurance, these convictions would be part of his court record. The Registry of Motor Vehicles maintains these records. Your lawyer can ask for this information using the methods above.

## Recording information

By completing the forms below after each access visit or when an incident occurs you can create an important record for the future. You may need the information in family or criminal court proceedings, to create affidavits, or as you prepare to testify in court. Always seek legal advice before giving your notes to the court, since your lawyer may advise you not to hand them over.

You may wish to photocopy the forms and store them together in a binder.

## Access reporting form

Date			
	Yes	No	Comments
Was the pick-up on time?			
Was the drop-off on time?			
Do you suspect he was using drugs or alcohol?			
Did he make any negative remarks to you or the children?			
Did he mistreat you or the children?			
Did the children report any mistreatment?			
Was anybody else present during the exchanges?			
Any other comments or concerns?			

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## Incident reporting form

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Date/Time	
Location	
	Comments
Weather/Road Conditions	
Who was there?	
Who was with you?	
Who was with him?	
Witnesses	
Names, contact information	
What happened?	
Did he call? Come to the house? Did he do or say something?	
Children	
Were they involved? How were they affected?	
Evidence	
Tire marks, damage to home or vehicle, injuries?	
Reporting	
Were the police involved? Did you report the incident?	
Any other comments or concerns?	

.....

*“One of the first things mentioned to me by the Transition House outreach program was that I should document everything that is said and done concerning my ex-partner. At the time I didn’t understand the importance but I soon found out! Keeping track of dates, times, things said, things done, witnesses, the effect on the children (their expressions, what they say to you afterwards, things they do afterwards) is so important when you are telling your side in court, to your lawyer, to agencies like Children’s Aid or to the police. Because there is so much going on in your life you will forget things, but if you have them documented all you have to do is read it back. (Don’t write down things that aren’t true, it will hurt your credibility later.) It may seem unimportant at the time but when it is repeatedly happening or leads to something bigger it can make a big difference!”*

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# Chapter 7

## You and Your Lawyer

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## Do I need a lawyer?

While it is possible to represent yourself in family court, it is not advisable in most cases. When dealing with serious issues such as child custody and access it is important to work with someone who has a professional understanding of the law and court systems.

It is particularly important to have a lawyer represent you in court if:

- your ex-partner has a lawyer
- your ex-partner is representing himself
- you are uncomfortable about going to court
- you find it hard to speak publicly
- you do not understand the court system, procedures, or legislation
- you do not read, speak, or understand English well
- your partner has hurt, abused, or intimidated you.

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## What happens in a lawyer–client relationship?

The lawyer–client relationship is a professional relationship based on trust. If there is a breakdown in trust there is a breakdown in the lawyer–client relationship. This relationship operates in stages:

### Stage 1: The client gives the lawyer information

During this intake stage the client gives the lawyer as much relevant information and documentation as possible.

### Stage 2: Legal analysis

Based on information provided by the client, along with his or her legal training and experience, and any other information gathered through research and other sources, the lawyer studies the case.

### Stage 3: The lawyer gives legal advice

Based on his or her analysis of the case, the lawyer gives the client legal advice. For example, the lawyer might advise the client to make an application for sole custody.

### Stage 4: The client instructs the lawyer

After considering the lawyer's advice as well as her own position, the client gives the lawyer instructions on how to proceed. For example, if the client agrees with the lawyer's advice she will instruct the lawyer to begin a court application for sole custody. If she does not agree she must reach an agreement with her lawyer about how to proceed.

### Stage 5: The lawyer takes action

Based on the client's instruction, as well as rules of the court, ethical standards, the law and other factors, the lawyer takes action. For example, the lawyer files an application with the court for sole custody, drafts an affidavit and prepares for a court hearing. The client is not involved in this stage, except when the lawyer requires it. For example, the lawyer may ask the client to sign documents or check the information on an affidavit.

The lawyer and client may make new decisions during the life of the file. For example, if there is new information the lawyer's analysis of the case may change and he or she may give the client new advice. For example, if a child is abused during access the lawyer might advise the client to make an application to suspend access or for supervised access.

## What things should I look for in a lawyer?

These are some qualities to consider when you are looking for a lawyer:

- experience dealing with abused clients
- skill in the area of law you need (for example, family law)
- willingness to really listen to what you are saying
- willingness to explain legal procedures and the legal process
- willingness to explain things carefully so you understand exactly what is going on
- willingness to answer your questions
- willingness to take your instructions and allow you to make decisions
- willingness to let you bring a support person or interpreter with you
- open to discussing different ways to resolve your problem, rather than assuming he or she is the only one who knows what you should do
- willingness to give you the time you need to make decisions
- willingness to respond to your phone calls promptly and act in a timely manner
- an open and complete billing arrangement, so you know what you are being billed for, when you are being billed, and when you need to pay.

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### TIP

Make sure that you feel comfortable with your lawyer and always remember that the lawyer gives advice, but you make the decisions.

## Why is it important for abused women to find lawyers who understand abuse?

It is only by recognizing the dynamics of abuse and how they are likely to play out in the short and long-term that lawyers can work towards achieving family court orders that keep their clients and their children safe. A lawyer who does not understand abuse may encourage an abused woman to agree to custody and access arrangements without recognizing potential dangers. A lawyer who does not understand abuse may not even ask women about abuse or raise it in family court.

Don't be afraid to ask questions! Unless you have a law degree chances are you will have a lot of questions and will need many legal issues explained to you.

## How do I find a lawyer who understands domestic abuse issues?

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The best way to find a lawyer who is sensitive to domestic abuse is to contact your local Transition House, Women's Centre, Family Resource Centre or Victims' Services office. The staff may be able to give you the names of lawyers recommended by other women. Alternatively, you may want to ask other women directly, for example, during a support group meeting or parenting class. As with many things, the best way to find a family lawyer who understands abuse issues is often through word of mouth.

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*“My lawyer tried to pressure me to agree to unsupervised access because he thought that is what the judge wanted to hear, but I wouldn’t do it. When we finally went to court the judge agreed with me and ordered supervised access. I’m so glad I didn’t do what my lawyer recommended.”*

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## **How else can I find a lawyer?**

Lawyers are listed in the yellow pages of the phone book in alphabetical order and under areas of practice. As well, you can use the Legal Information Society of Nova Scotia’s Lawyer Referral Service. Through this service you can get a referral to a lawyer in your area who will provide a consultation up to 30 minutes for \$20 plus tax. Call 1-800-665-9779 (toll-free in Nova Scotia) or 455-3135 in the Halifax Regional Municipality.

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**Pro Bono** means for the public good. This is when lawyers volunteer their time without charging in order to protect the rights of disadvantaged clients. Not all lawyers or law firms do pro bono work, although it is considered an important part of practising law. To find out more, try asking your local Transition House, Women’s Centre or Family Resource Centre.

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*“My lawyer was awesome! She really listened and I felt like she was really fighting for me.”*

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## Francophone Women

Francophone women looking for a French-speaking lawyer can contact L'Association des juristes d'expression française de la Nouvelle Écosse (AJEFNE) for a referral. The AJFNE provides legal information in the French language, as well as helpful links to Francophone organizations and resources. French language leaflets are available on a range of topics, including Legal Aid, Language Rights, Child Access, and Family Violence. Contact details are in the **Resources** chapter at the back of the guide.

## Deaf and Hard of Hearing Women

Deaf Women and Women with Disabilities looking for a lawyer with knowledge of disability issues can contact ReachAbility, an organization working to ensure equality for Nova Scotians with disabilities. ReachAbility has a legal referral service that provides clients a free one hour consultation with a lawyer specializing in the area relevant to the client's needs, for example, family law. Interpreters for this consultation are provided free of charge to deaf clients. See the **Resources** chapter of this guide for contact details.

## How can I pay for a private lawyer?

Many people cannot afford to hire a private lawyer because of the cost. While this is true in many cases, there are different ways to pay for a lawyer.

Some lawyers charge for their services on an hourly basis. Your bill will depend on the amount of time the lawyer spends working on your case, as well as the cost of any related expenses.

Other lawyers charge a flat rate, which means they charge a set fee for a certain type of work, regardless of the amount of time they spend working on your case.

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Some lawyers have a sliding scale for billing. This means that you will pay less money if you have a low income.

In some instances a lawyer may allow you to pay in monthly instalments. And some lawyers will even take on a case pro bono, which means they agree to provide legal services free of charge because they are working for the “public good.” Remember that even if your lawyer is working pro bono, he or she may still charge you for expenses such as court fees.

Most lawyers will ask for a retainer, which is a deposit of money needed to start the case. This money goes toward your final bill.

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*“When I first left my kids’ father I didn’t have a lawyer. Someone from the Transition House contacted a private lawyer on my behalf and he ended up taking my case on pro bono. He said he’d never done a pro bono case before but when he heard all the details he said he felt he had to help. He represented me for two years and never asked for a penny!”*

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## **What is Legal Aid?**

Legal Aid refers to legal services provided free to clients and paid for by the government. See the **Legal Aid** section in this chapter for more information.

## **What are my responsibilities when I deal with my lawyer?**

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When dealing with your lawyer, it is important for you to:

- be prepared and organized for your meetings
- think about questions for the lawyer in advance
- arrive for your appointments on time
- ask questions
- take notes during your meetings
- bring a support person with you if you want one
- read any documents your lawyer sends to you
- keep all the documents together
- have reasonable expectations and be prepared for delays and disappointments

- be completely honest and open with your lawyer and provide information about any abuse in your relationship
- tell your lawyer about any past or current criminal court proceedings, including whether you've had a peace bond, emergency protection order or other no-contact order
- tell your lawyer if you are afraid for yourself or your children.

Trust your instincts. If you do not feel comfortable with your lawyer, you may want to find a new one. If you are dealing with Legal Aid, you can ask your local Transition House or Women's Centre to advocate for a different lawyer.

## What should I find out during my first meeting or phone call with a lawyer?

### 7

Here are some things to consider:

- Ask about the lawyer's area of expertise.
- Ask about the lawyer's fees and billing arrangements.
- Ask about the office hours, location, and accessibility.
- Decide whether the office is located in a safe area.
- Decide whether the lawyer and his or her staff treat you with respect.

You may wish to ask some of the following questions:

- How does the law affect my situation?
- What choices do I have?
- How long will my case take?
- What will you do next?
- When will I hear from you next?
- How will you keep in touch with me?
- What should I do next?

- Is there anything I should not do?
- Is what I want realistic?
- What is your hourly rate?
- How much will your services cost?
- Will I have to pay for anything else?
- Could anything make the cost increase?
- How much is your retainer?
- Can I pay with a credit card?
- Can I pay on a monthly basis?
- How can I keep costs down?
- Can someone else in your office give me information about my case?

## What will my lawyer need to know?

## 7

Your family lawyer will ask you a lot of questions as he or she begins to prepare for your custody and access application.

Your lawyer will need to know things like:

- the history of your relationship with your ex-partner
- details about your children
- who cared for the children during the relationship
- what sort of relationship your children have with their father and other family members
- your current and past employment
- whether you or your ex-partner are in new relationships and when they started
- what your income is
- whether your children have any special needs

- what kind of custody and access arrangement you want and why
- whether you or your ex-partner have any criminal convictions, a history of drug or alcohol abuse, or a history of mental health issues
- whether there was any abuse in your relationship, including criminal convictions.

If there was abuse in your relationship, your lawyer should also know whether:

- your ex-partner has ever hurt your children
- your ex-partner has access to weapons and whether he has threatened to use them
- he has threatened or killed a family pet or damaged property
- he has stalked or harassed you
- you or your ex-partner have been involved with child protection authorities
- you would like your address and other information kept out of court documents.

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## **What should I bring to my first appointment with my lawyer?**

It would be very helpful to your lawyer if you bring the following items to your appointment:

- written notes on your situation, including dates of marriage, separation, children's birth dates, your current and former addresses, details of abuse
- any records you have kept of incidents of abuse or access visits (see page 144–146 for reporting forms)

- names and addresses of witnesses to any abuse of you or your children
- copies of statements you've made to the police, Information forms (from police), your ex-partner's undertakings, recognizances and probation orders, a list of your ex-partner's criminal charges and convictions, any reports or documentation from child protection authorities if you have them
- court documents and any existing agreements or court orders, including peace bonds or emergency protection orders.

**TIP**

If for any reason you are unable to request copies of police statements, or your ex-partner's court record or criminal undertakings, you can contact your local Victims' Services office to request these for you.

## What is solicitor–client privilege?

**7**

Solicitor–client privilege or “lawyer–client privilege” means that nothing you communicate to your lawyer (in person or in writing) can be shared with anybody else without your permission. This means that you can, and should, tell your lawyer everything he or she needs to know about your case without fear that it will be repeated. Ask your lawyer about any exceptions to this rule.

**TIP**

There are exceptions to lawyer–client privilege. If you tell your lawyer directly that you are going to hurt or kill someone (for example, your children or ex-partner), he or she may report this to the police or child protection authorities.

## What is conflict of interest?

This means that a lawyer or law firm cannot represent any client whose interests are opposed to a current or past client in the same or a related matter. Any prior contact might raise the issue of conflict of interest. For example, a lawyer or law

TIP

It is important to contact a lawyer as soon as possible. If your ex-partner has already contacted a law firm, that firm may have a “conflict of interest” and will not be able to take you on as a client.

firm that represented your ex-partner in the past in a family court matter cannot represent you now in the same or a related matter.

## What if my lawyer recommends that I agree to something I don't want?

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It is important to recognize that lawyers must often tell clients things they don't want to hear. For example, an experienced lawyer might believe the client's wishes are unrealistic, or even that they are not in the children's best interests. If you have discussed your situation with your lawyer and do not believe that what he or she is recommending is in your or your child's best interests, you do not have to agree.

That said, many women report feeling pressured by their lawyers to agree to conditions they are uncomfortable with.

Examples are:

- more access, including overnight access
- unsupervised rather than supervised access
- supervision by members of the ex-partner's family rather than a professional or neutral person

- mediation or joint conciliation instead of court
- shared or joint parenting arrangements rather than sole custody.

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*“My lawyer wanted me to agree to unsupervised access, but I’d taken Grade 12 Law and I knew my rights; I knew the lawyer had to take my instructions. When we went to court I asked for supervised access and the judge ordered it.”*

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## **Why do lawyers often suggest cooperative and shared parenting arrangements?**

Family lawyers understand that child custody and access laws encourage “maximum contact” between non-custodial parents and children and that it is the custodial parent’s responsibility to help ensure that this happens. Courts often prefer to see shared and joint parenting arrangements over sole custody. To show the court that the mother will ensure “maximum contact,” lawyers may encourage women to agree to liberal access arrangements and/or shared or joint custody.

7

## **What other problems do women sometimes have with their lawyers?**

Many women have positive experiences with their lawyers. However, some do experience one or more of the following problems.

In some cases, the lawyer may:

- not return phone calls or refuse meeting requests
- not understand domestic abuse and related safety issues
- dismiss a woman's fears and concerns
- not prepare properly for meetings or court
- refuse to take a woman's instructions
- remind a woman of her abusive ex-partner (for example, by yelling or belittling).

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*“I tried to contact my lawyer several times before our hearing but she didn't return my calls. She was Legal Aid and I know she was really busy, but I knew she didn't have all the information about my case and the hearing was Monday. Because I got the times mixed up – I was dealing with so many appointments at that time, my youngest son had a serious health condition – and I went to court for 10 instead of 9. The lawyer met me coming out of court and said, “Where were you? You've lost your kids.” In my absence, the judge had temporarily transferred my kids to my ex, despite concerns from child protection. It took me weeks to sort it out and get them back.”*

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*“Many of the authority figures that abused women come in contact with are men (for example police officers, lawyers, and judges in the court systems). It is easy for abused women to be intimidated and fearful of these authority figures and this can lead to them being bullied or intimidated into agreeing to things that they don’t feel comfortable with. For example, in my experience, I was bullied by the police into letting my ex come into my home to see the kids after he called them because I told him one of my sons had a 104° temperature and couldn’t go for the evening visit. Then, when my ex was left alone with the kids he was able to say hurtful things about me which were upsetting to the kids, while a police officer gave me a lecture about getting along for the kids’ sake.”*

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## **What if I have a problem with my lawyer?**

**7**

Talk to your lawyer about any problems and bring someone else to the meeting if you think it would be helpful. If the issue is not dealt with, you may wish to get a second opinion from another lawyer.

If the problem is serious, you may complain to the Nova Scotia Barristers’ Society (NSBS).

Visit the NSBS website to learn how to make a complaint: [www.nsbs.org](http://www.nsbs.org) (go to **Information for the Public**, then **Filing a Complaint**), or call: (902) 422-1491.

If you are using Legal Aid, apply to change lawyers. If you are not using Legal Aid, you can change lawyers at any time. Remember that you will normally have to pay your former lawyer's bill before he or she will release the file to your new lawyer.

## What is the Nova Scotia Barristers' Society?

The Nova Scotia Barristers' Society (NSBS) sets and enforces standards of professional responsibility and ethics for lawyers. It also provides education and guidance for lawyers through programs, courses, and information. If you wish to make a complaint against a lawyer, you should contact the Nova Scotia Barristers' Society (see above).

7

## Getting Legal Aid

### What is Legal Aid?

TIP

If you and your ex-partner both qualify for Legal Aid, the first one to apply will get a Legal Aid lawyer and the other person will be given a certificate to hire a private lawyer.

Legal Aid refers to legal services provided free to clients and paid for by the government. Most Legal Aid clients have little or no income or they are on income assistance. In Nova Scotia, there are Legal Aid offices with staff lawyers around the province.

You may be able to get Legal Aid if:

- you have little or no money left after you pay for food and housing, and
- your legal problem is one that Legal Aid covers. In Nova Scotia, Legal Aid deals with some family matters, including child protection, and serious criminal matters.

## What is a Legal Aid Certificate?

In some instances, a Legal Aid office will provide a client with a Legal Aid Certificate, which can be given to a private lawyer in exchange for legal services. This means the lawyer will be paid by the government for part or all of the time that he or she works for you. It is sometimes difficult to find a lawyer to take a certificate, so be prepared to contact several lawyers or ask a Transition House or Women's Centre for guidance.

In some cases, Nova Scotia Legal Aid may help a client find a lawyer willing to work on certificate.

7

TIP

If you are eligible for income support, you should apply as soon as possible. Once you are on assistance it is likely you will then qualify for Legal Aid.

TIP

If you cannot find a local lawyer who will accept a Legal Aid certificate, Legal Aid must cover the extra cost so that you can hire a lawyer further away, for example by reimbursing your travel costs to get to appointments with the lawyer or the lawyer's travel costs to get to court appearances.

## What happens if my Legal Aid Certificate runs out before my case is finished?

Legal Aid certificates generally pay for a maximum of 12 hours to resolve custody and access issues. Since custody and access cases involving domestic abuse usually require much more time, you may have to return to your local Legal Aid office and request another certificate from the managing lawyer. Many private lawyers are prepared to accept Legal Aid certificates knowing they will not be paid for all the work they do.

## How do I apply for Legal Aid?

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You can call your local Legal Aid office and ask for an application form. Usually you will wait anywhere from two weeks to a month for a first appointment. The application process may differ slightly according to which office you are applying to. Some offices ask people to fill out an intake form and provide proof (verification) of income (for example, pay stubs or income assistance receipts) before they will give you an appointment. In other offices the intake form is completed during the first appointment and clients are asked to bring financial information with them. For more information, call or visit your local Legal Aid office. They are listed in the White Pages of the phone book under Nova Scotia Legal Aid.

It is very important that you attend court when you are supposed to, even if you have not met with a lawyer. If you don't attend court on a day when your matter is scheduled to be heard the judge could make a decision in your absence. It is even possible that custody of your children could be transferred to their father if he is present and you are not. If you are waiting for an appointment with Legal Aid, tell the judge and ask for an adjournment.

## What happens if I have to go to court before I've met with my lawyer?

If possible, the Legal Aid office will try to fit you in before your court date. If this is not possible, you will need to go to court and ask the judge for an adjournment. An adjournment is when court is re-scheduled for some reason. Explain to the judge that you have applied to Legal Aid, or that you intend to apply, but that you haven't yet met with a lawyer. If possible, give the judge some idea when this is likely to happen.

7

## How do I qualify for Legal Aid?

To qualify for Legal Aid a person must be on social assistance or have an income below a level defined by Legal Aid. The cut-off income levels vary according to family size and include the income of the applicant's current spouse or current common law partner. In some circumstances, a woman may qualify for Legal Aid even though her income is above the cut-off. If you do not qualify for Legal Aid, you may want to contact Dalhousie Legal Aid Service for help with an appeal.

## What if I am denied Legal Aid because I am entitled to matrimonial property but I'm not divorced yet?

Some separated married women are denied Legal Aid because they are legally entitled to half the matrimonial property. For example, a woman might leave her husband and although she is receiving no support her income according to Legal Aid is based on her right to half the house and any other property or savings.

There are a few options in this situation:

- You may qualify for social assistance, if you have left your husband and have little or no income. Once you are receiving social assistance you may qualify for Legal Aid.
- You can appeal the Legal Aid decision (see below for more information).

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### New Canadian Women

If you are a permanent resident or citizen you can apply for income assistance. If you are a sponsored immigrant your first source of funding should be your sponsor, but if your sponsorship has broken down you may still be able to get social or other financial assistance. If you are currently receiving financial assistance as a Government-Assisted Refugee or a Privately Sponsored Refugee, your assistance will not be cancelled if you leave your partner. If you are not sure what financial assistance you are entitled to, you can contact your local income assistance office. You may want to bring an advocate with you for support.

- You can approach a private lawyer and ask if he or she will take your case on the understanding that you will pay once your divorce is settled.

## How long can I have a Legal Aid lawyer?

As long as your income remains below the cut-off level there is no limit to how long you can have a Legal Aid lawyer or continue on certificate. However, you must inform Legal Aid if your income changes. Unless you no longer qualify, Legal Aid will represent you until the matter is resolved.

TIP

Legal Aid lawyers working on certificates are paid for 12 hours of preparation time in a child custody matter. They are also paid by the hour every time they appear in court. Lawyers working on certificates can apply to Nova Scotia Legal Aid for more hours.

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## What if my Legal Aid application is rejected?

If you are denied Legal Aid for any reason, you can appeal to the Nova Scotia Legal Aid Commission. You must write a letter explaining your legal problem, your circumstances, and why you believe you need Legal Aid services. Write to: Appeal Committee, Nova Scotia Legal Aid Commission, 102–137 Chain Lake Drive, Halifax, B3S 1B3 or phone toll-free at 1-877-420-6578. Ask for the decision in writing.

TIP

If you decide to appeal a rejected Legal Aid application, you may want to contact Dalhousie Legal Aid Service in Halifax for help with the appeal process or to ask for a copy of their **Legal Aid Appeals** pamphlet. Dalhousie Legal Aid provides assistance with Legal Aid appeals both within and outside Halifax Regional Municipality. You may also want to contact your local Transition House, Women's Centre or Family Resource Centre for help with your appeal.

**TIP**

If you have been given a Legal Aid certificate but can't find a lawyer in your community willing to take it, Legal Aid is responsible for ensuring you are legally represented. For example, if you find a lawyer from another community who is willing to take your case, Legal Aid must cover the lawyer's additional travel expenses.

If your appeal is not successful you must decide whether to represent yourself in court. You may be able to afford some help from a private lawyer to help you prepare.

### **Can I switch lawyers if I don't like mine?**

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According to Nova Scotia Legal Aid policy you must accept whichever lawyer you are assigned when you apply. However, if there is a serious problem between you and your lawyer (“break-down in solicitor-client communication”) you can appeal to the Legal Aid Commission to change lawyers or to obtain a certificate for a private lawyer. Again, if you are making an application to change lawyers you may want to seek the support of your local Transition House, Women's Centre or Family Resource Centre.

## What is Dalhousie Legal Aid?

Dalhousie Legal Aid Service provides Legal Aid services to clients in Halifax Regional Municipality. In some cases, Dalhousie Legal Aid may serve clients outside of HRM. Dalhousie Legal Aid can help with youth criminal law and family law, as well as other areas such as landlord/tenant disputes, Legal Aid appeals, social assistance appeals, child protection hearings, and poverty law issues. Because it is a teaching clinic, third year law students work with clients under the supervision of staff lawyers. For contact details see the **Resources** chapter at the back of the guide.

## How do I apply to Dalhousie Legal Aid?

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Dalhousie Legal Aid is partnered with Nova Scotia Legal Aid. Anyone who wants assistance from Dalhousie Legal Aid needs to apply through Nova Scotia Legal Aid for a certificate. To do this, you must go to either the Dartmouth or Halifax office and fill out an application. For Dartmouth call 420-8815 and for Halifax call 420-3450. There is no fee for obtaining a certificate.

TIP

In Supreme Court (Family Division) clients can access free legal advice and information from the Summary Advice lawyer (also known as **Summary Advice counsel**), such as: legal terms, how to start or respond to a court application, the implications of agreeing or not agreeing to a court order, court processes, legal documentation, how to apply to Legal Aid, and other aspects of family law. You can be referred to the Summary Advice lawyer by court staff or make an appointment directly.

# Chapter 8

## Child Protection

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# General information

## What is child abuse?

Child abuse covers many different types of behaviour that may harm a child, including:

### Physical abuse

The intentional use of force on any part of a child's body that results in injury.

### Emotional abuse

Anything that causes serious mental or emotional harm to a child, which the parent does not attempt to prevent or address.

### Sexual abuse

The improper exposure of a child to sexual contact, activity or behaviour.

### Neglect

Any lack of care that may cause significant harm to a child's development.

TIP

Children can be apprehended by child protection authorities if the mother remains with an abusive partner or continues to have contact with her abusive ex-partner after separation. This is often referred to as **failure to protect**. The Nova Scotia Children and Family Services Act Section 22(2)(i) says that a child is in need of protective services where the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or a guardian who fails or refuses to obtain services or treatment to remedy or alleviate the violence.

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## **What is the difference between child protection and child welfare?**

Child protection services protect children under 16 years of age from abuse and neglect while making every effort to keep families together. Child protection social workers assess reports of alleged child abuse and neglect and provide services to families to address the issues which place children at risk of harm. Child welfare agencies provide a range of government programs, including: child protection services, foster care services, adoption services, and services to children in care.

## **Why do agencies have different names, like CAS and Family and Children's Services?**

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There are child welfare agencies across Nova Scotia. Most of these agencies are District Offices of the Department of Community Services, but some are privately run Children's Aid Societies and Family and Children's Services agencies. They all provide the same child welfare programs, are all funded by the government, and all follow the same standards of practice.

## What is the Children and Family Services Act?

Nova Scotia's Children and Family Services Act is the law that seeks to protect children from harm. This Act talks about children in need of protective services rather than child abuse. A child may be in need of protective services because he or she is being abused or is at risk of being abused physically, sexually, emotionally or because he or she is or is at risk of being neglected.

You can find the Children and Family Services Act online at: [www.gov.ns.ca/legislature/legc/statutes/childfam.htm](http://www.gov.ns.ca/legislature/legc/statutes/childfam.htm). If you don't have access to the Internet, you can look at this Act at your local Transition House, Women's Centre, Family Resource Centre, or library.

### First Nations Women

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First Nations women and children living on reserve in Nova Scotia, and First Nations children who have been taken into care and have status, are served by Mi'kmaw Family & Children's Services. Mi'kmaw Family and Children's Services delivers culturally relevant services and programs to all 13 reserves in Nova Scotia and has main offices in Indian Brook and Eskasoni. Like all child welfare offices in the province, Mi'kmaw Family & Children's Services operates under Nova Scotia's Children and Family Services Act. See the **Resources** chapter at the back of the guide for contact details.

## Is child abuse a crime?

Some forms of child abuse may be considered crimes under the Criminal Code of Canada. If you need more information about this, talk with a lawyer or call the Legal Information Society's Legal Information Line 455-3135 in HRM or 1-800-665-9779 toll-free elsewhere in Nova Scotia.

### New Canadian Women

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New Canadian women should know that what constitutes child abuse varies from culture to culture. There are parents who consider it their responsibility to discipline their children physically. Although these parents might have heard that physical punishment may cause concern in Canada, they may not know why it is considered inappropriate. Nor are they likely to have received information about other ways of guiding children's behaviour. Parents in immigrant families may also have different understandings of child neglect. Keeping a daughter home from school to look after a sick sibling, or letting a young child stay home alone after school, are practices that might be acceptable to some families. They may not realize that authorities in Canada may be concerned with these practices. For more information on these issues, you can contact the Metropolitan Immigrant Settlement Association (MISA). Contact details are in the **Resources** chapter.

## Who investigates reports of child abuse?

Reports of child abuse are investigated by child protection agencies. In Nova Scotia, child welfare services include child protection and supports for children in care, including foster care and adoption. Child protection services are provided by provincial offices and community agencies, and both work under the legislation and regulations of the provincial Children and Family Services Act.

To find out the name and telephone number of the agency in your area, you can contact Nova Scotia Community Services toll free at 1-877-424-1177 or look in your local phone book in the government pages under **Child Abuse**. All child protection agencies are listed in the **Resources** chapter at the back of this guide.

TIP

In an emergency involving risk to a child, you can always call 911. Agencies have after-hours emergency duty workers on call.

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## Do people have to report to child protection if they think a child is at risk?

Yes. Under the Children and Family Services Act everyone has a duty to report if they know or even suspect that a child may be in need of protective services. Every person must report information whether or not it is confidential or privileged. It is an offence not to report such information. It is also an offence to knowingly report false claims against someone.

Abusive men often falsely report the mother of their children to child protection authorities. They may do this after separation as a way of harassing their former partners or to distract child protection from the risk they actually pose to the children. In some cases, the abuser may threaten to report the mother prior to separation in order to try to stop her from leaving.

### **Can people report to child protection without giving their name?**

Reports can be made without giving your name; however, the more information the child protection agency has, including the name of the reporter, the better able the agency is to investigate the report.

## **8**

### **If someone makes a report do they have to go to court to testify?**

People who report to child protection because they have witnessed or have evidence of child abuse may be required to testify in court. The person would be notified by the court and/or the agency if he or she is required as a witness.

## **Do child abusers' names appear on the Child Abuse Register?**

A person's name may be entered on the Child Abuse Register if he or she has a criminal conviction for an offence against a child. As well, in some cases, the person's name may be entered on the Register if a family court makes a finding that a child "is in need of protective services" because of physical or sexual abuse by the person. The child protection agency may also make an application to add a person's name to the Register and, if granted by the judge, the name will be added.

If a person's name is submitted by the court to be listed in the Register, he or she will be notified and will have the opportunity to oppose the decision through the court.

If a person's name is listed on the Child Abuse Register as the result of a criminal conviction and the conviction is later overturned by the court, the name should be deleted from the Register.

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## **Can I find out if someone is on the Child Abuse Register?**

If you are hiring a person, including a volunteer, who is or would be caring for or working with children, and have written consent from the individual, you may request that his or her name be searched on the Child Abuse Register. The Department of Community Services manages the Register and conducts these searches. Seek legal advice if you suspect your ex-partner has child abuse convictions.

## Where can I find information about child protection policies and procedures?

A child protection social worker can explain this process to a parent. The Children and Family Services Act is available on the Department of Community Services website. Transition House, Women's Centre and Family Resource Centre staff may be able to help you understand child protection legislation and policies. You can also contact the Legal Information Society (LISNS) website at [www.legalinfo.org](http://www.legalinfo.org).

## If you or your ex-partner is investigated

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### Can a child protection worker enter my home to investigate a report of child abuse?

A child protection worker does not normally have the right to enter the parent/guardian's home without first asking permission. However, if the parent refuses permission, the child protection worker may apply for a court order (warrant). If a child protection worker has obtained a court order, he or she is legally entitled to enter. As well, a child protection worker may enter a home without a warrant and search for the child for the purpose of taking the child into care if the worker has reasonable and probable grounds to believe that a child is in need of protective services and that the health and safety of the child is in immediate danger. The police may assist the worker if this happens.

## Can I find out who reported me to child protection?

The child protection worker is not able to reveal the identity of the person making a report. If the matter goes to trial, the person accused of child abuse or his or her lawyer can ask for this information and the judge will decide whether it should be revealed.

## Will child protection workers apprehend my children?

Taking a child from the home either temporarily or permanently should only happen when a child is believed to be in immediate danger of abuse or neglect.

The agency has options other than removing the child from the home including supervising the parenting, or removing a person from the home if contact with that person is causing or is likely to cause the child to be in need of protective services.

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TIP

In some cases, the police and child protection authorities may work together to investigate suspected child abuse. This is called a “joint investigation.” When this happens, one or both agencies can take action. For example, there might be enough evidence for child protection to find that a child is at risk of future harm, but not enough evidence for the police to lay a criminal charge.

## Will I have to go to court if my family is involved with child protection?

If the child protection agency removes a child from the home, they must either return the child within 5 days or go to court to have a judge decide whether the child is in need of protection. If the agency applies to the court, then you will need to go to court.

The judge can decide whether to dismiss or continue the case. If the judge decides there are reasonable and probable grounds to believe that the child is in need of protection, then you will need to go to court again.

A parent may also have to attend court if the agency makes an application to the court seeking a Supervision Order. This occurs where there are serious protection concerns and the agency wants to provide the family with services, and the parents have been unwilling or unable to participate with these services. The agency must be satisfied that the child's safety and well being can be protected without removing the child from the home.

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## Do I need a lawyer if my child is apprehended by child protection?

Yes. If you can't afford a lawyer, you may qualify for Nova Scotia Legal Aid. To find out if you qualify, see the [Legal Aid](#) section of this guide. For more information about lawyers, see the [You and Your Lawyer](#) chapter of this guide.

If you don't qualify for Legal Aid and cannot afford to hire a lawyer, you may have to represent yourself in court. Even if you are representing yourself you should try to get some legal advice from a lawyer. You can call the Legal Information Society's Legal Information Line and Lawyer Referral Service at 1-800-665-9779 or 455-3135.

## What information can I receive about my case?

You can request a copy of your child protection file through the Freedom of Information and Protection of Privacy Act. The child protection file can also be produced for a custody proceeding through a subpoena or by a Court Order. A custodial parent can expect verbal information from the child protection social worker as decisions are made throughout the process.

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## How long does the child protection process take?

Once the investigation is complete and a child is found to be in need of protective services, the court process usually lasts between one month and 18 months.

TIP

Child protection authorities do not always have to go to court to protect a child. In some cases, they may make recommendations and arrange a service plan that one or both parents agree to follow.

## What does the child protection court process involve?

There are three stages to the court process: the interim, the protection and the disposition hearings.

### Stage 1: the interim hearing

The interim hearing is held within five days of the agency bringing an application claiming that the child is in need of protective services. At this hearing if the judge makes a finding that there are reasonable and probable grounds to believe that a child is in need of protective services the court can order that the child be in the temporary care of the agency or be returned home under the supervision of the agency. If the judge finds that the agency did not have reasonable and probable grounds for the application then the proceeding will be dismissed.

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If the parents or guardian do not agree with the order from the interim hearing the matter may be set down for a fuller hearing within 30 days of the date of the original application. At this hearing, the judge can dismiss the application if, after hearing further evidence, the judge finds that there are no reasonable and probable grounds to believe the child is in need of protective services. If the court finds reasonable and probable grounds to believe that the child is in need of protective services, the court can order one or more of the following:

- the child be returned home, or should stay in the home, with or without conditions and under the supervision of the agency
- a parent, guardian, or other person will not live with or have contact with the child
- the child be placed with someone other than the parent or guardian (for example, a relative), with conditions and supervision by the agency
- the child remain in the care of the agency (for example, foster care)
- if the child is not returned home, that the parent or guardian shall have access according to conditions set down by the court, unless access would not be in the child's best interests
- the child, parent, or guardian has a medical or psychiatric examination or assessment or that other services be put in place such as parent education or counselling.

### Stage 2: the protection hearing

This stage must take place no later than 90 days from the date of the application. At the protection hearing the court has to determine if the child is, in fact, in need of protective services as defined by the Children and Family Services Act. If the court finds that the child is not in need of protective services then the court will dismiss the application. If the court finds that the child is in need of protective services then the matter is set over to the third stage.

### Stage 3: the disposition hearing

The disposition is the final stage and will be held within 90 days of the Stage 2 protection hearing. At the disposition hearing, the court looks at what is the future plan for the child.

The court has a number of options including:

- dismissing the agency's application
- ordering the child be in the care and custody of a parent or guardian under the supervision of the agency
- ordering the child be returned to the care or custody of a person other than the parent or guardian, usually a relative, subject to the supervision of the agency (the relative would have to agree to have the child placed with him or her)
- placing the child into temporary care and custody of the agency
- placing the child in permanent care of the agency.

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The court's decision is called the disposition. The disposition will generally be reviewed regularly unless at the Stage 1 interim hearing the application of the agency was dismissed or the child was placed in the permanent care of the agency. These reviews can continue for 12 to 18 months depending on the age of the child. Generally, at the end of the review time frame, the court must either dismiss the agency's application or place the child in the permanent care and custody of the agency.

## **Can I visit with my children if they are placed in temporary care?**

You may be allowed to have visits with your children if they are placed in temporary care. Supervised visits may take place in a supervised access location or at a parent's home.

## **Can I get my children back if they are placed in temporary care?**

Whether you get your children back once they are put into temporary care will depend on whether you meet the terms and conditions set out by child protection. For example, they may ask you to attend abuse or addictions counselling, meet with a family support worker, arrange safe housing, or have no contact with your abuser. In order to return your children, child protection authorities must be convinced that you no longer pose a risk to them.

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## **Can I visit my children if they are placed in permanent care?**

You may, in some instances, be allowed to have visits with your children if they are placed in permanent care. However, if the agency has permanent care and custody and there is no court order with respect to access, the agency can decide whether you see your children. If your children are placed for adoption or have become adopted, you may no longer be able to visit them.

## Can I get my children back if they are placed in permanent care?

There are time limits for appealing a judge's decision. You only have 30 days to appeal a judge's decision giving permanent care and custody to a child protection agency. You make the appeal by filing and serving a Notice of Appeal within 30 days of the order. In some instances, a parent may be able to bring an application to terminate the permanent care and custody order. You should speak with a lawyer about your situation.

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#### **Appealing a child protection agency's decision**

If your case is already before the court you will have to talk to your lawyer and perhaps go to court to appeal the child protection agency's decision. However, if your case is not before the court and you do not agree with a decision made by child protection authorities, either because they found your child at risk or did not find your child at risk, you can appeal the decision.

The appeal process is the five-stage "When You Disagree" process.

- 1 To appeal a decision made by your local child protection agency, you must first talk with the social worker at the local agency. If the problem is not resolved, you should contact the Casework Supervisor by calling or writing a letter.
- 2 The Casework Supervisor will invite you and the Social Worker to a meeting and try to help you reach an agreement. Within 10 working days of requesting a meeting, you'll get a written report on what was decided at the meeting.
- 3 If you still feel there is a problem, you can contact the District Manager by phone or in writing. Within 10 working days of your contact, you will get a written report on what was decided.
- 4 If you feel there is still a problem, you have the right to contact the Regional Manger. You should receive a report about your problem within 15 working days after contacting the Regional Manager.
- 5 If you are still unsatisfied, you can contact the Director of Child Welfare at the provincial Department of Community Services. The Director will reply to you with a written report on what has been decided within 20 working days of hearing from you.

For help with this process, you may wish to contact your local Transition House or another knowledgeable advocate.

## Child protection and family court

### Can child protection become involved in a situation that is before the family court?

Yes. Regardless of whether parents of a child are involved in a family court proceeding, child protection may become involved with the parents if a referral is received by a child protection agency and a decision is made to start an investigation. The period of time the agency stays involved will depend on whether they find (substantiate) that the child has been abused or neglected and whether they find that the child is at risk of future harm.

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### Can child protection become involved in a situation where a family court order already exists?

Yes. The process would be the same regardless of whether a family court order already exists. If the court grants child protection authorities a protection order, that protection order supersedes (takes the place of) any existing family court order. For example, if a family court order allows unsupervised access and child protection is granted an order for supervised access the parties must follow the protection order rather than the family court order.

## **Should my family court lawyer be involved in my child protection matter?**

There may be times during child protection involvement when a parent will wish to consult with a lawyer. You must decide whether the lawyer is the one who is representing you in your custody and access proceeding. Once a child protection agency starts a court application it is recommended that every parent be represented by a lawyer.

## **How do I get hold of evidence from my child protection file for use in family court?**

The child protection file can be produced and available to the custody proceeding through subpoena. You can also make an application for your file through the Freedom of Information and Protection of Privacy Act (FOIPOP).

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## **Do child protection social workers testify in family court?**

Child protection social workers testify in custody proceedings when they have been subpoenaed to do so.

## **What if a child protection worker says my child is at risk and gives me verbal advice, but does not open a file or put the concerns in writing?**

In Nova Scotia, any contact by a child protection worker with a client is documented. If a child protection worker has expressed concern about your child's safety or given you verbal advice on how to protect your child without committing those concerns to writing, you may want to make a Freedom of Information and Protection of Privacy Act application for your case file. If the concerns have been documented in the case file you may be able to introduce them as evidence in family court. You may even wish to speak with your lawyer about the possibility of calling the worker to testify in court.

## **8**

### **What can child protection do if my children are at risk during access ordered by the family court?**

A child protection agency can take action if the terms of a family court order result in risk of harm to children. For example, if a parent begins abusing drugs during access visits and the children are at risk of harm because of this behaviour, a child protection agency can take action to protect the child.

# Child protection and domestic abuse

## What policy does child protection have regarding domestic abuse?

Domestic violence is a serious concern for the Minister of Community Services in Nova Scotia and exposure to domestic violence is believed to be harmful to children. Section 22(2) (a)(b)(f)(g) and (i) of the Children and Family Services Act provides definitions of when a child can be found to be in need of protection that may apply to a child exposed to domestic violence.

## Can child protection take my child if my partner has been charged with assaulting me?

If your child has witnessed domestic abuse, he or she would be considered to be at risk of physical or emotional harm. Child protection services can intervene at this point. As well, the safety of your child depends on your safety. If you have been abused by your partner, your child is at higher risk of being abused. In some cases, child protection authorities may insist that you do not have contact with your spouse if you want your children to remain in your care. Child protection could also seek a court order to remove your partner from the home.

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## **What will child protection do if domestic abuse continues after separation?**

The parents' relationship would be considered by the agency, but if the domestic abuse continued, the children may continue to be harmed or be at risk of harm despite the parents' separation. Child protection can take action to protect the children.

## **What can child protection do if a mother cannot protect herself or her children from the abuser?**

Child protection becomes involved with a family when the parents are abusive, neglectful, or are unable to protect their children from harm. The parent's ability to protect her children is assessed throughout child protection investigations and involvement. If the parent is not able to protect, the agency will work with the parent to ensure the safety of the children. They may apply for a court order to prevent the abusive parent from having any contact with the children.

## What can a woman do if she believes her child is at risk but child protection won't get involved?

A parent should report new information in writing to a child protection agency so that the agency may assess the risk of harm to the child. If a parent does not agree with the decisions made in her case she should follow the “When You Disagree” process, and initially tell her concerns to the social worker. If the issue is not settled to her satisfaction, the parent should first contact the casework supervisor, and then she should contact the Executive Director/District Manager of the agency. See [Appealing a child protection agency's decision](#) above.

You may wish to contact an advocate or outreach worker from the local Transition House, Women's Centre, Avalon Sexual Assault Centre or other community non-profit serving women who have experienced violence. A worker from one of these agencies may be able to help you throughout the child protection process and with the appeal process if you do not agree with the child protection decision.

## **What if an abusive partner makes a false allegation about the mother to child protection?**

A child protection agency will investigate reports which suggest children may be at risk. However, agencies are aware of the dynamics that exist between separated partners. They consider the source of the information in assessing the credibility of the report and how far they will get involved. If a false allegation is made, it is in the custodial parent's interest to cooperate fully to allow the agency to determine as quickly as possible that there is no reason to intervene.

## **What action can child protection take if the abusive partner makes a false allegation against the mother?**

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Through the Children and Family Services Act an individual who makes a referral falsely and maliciously can be prosecuted.

## **What support is available to abused women who are involved with child protection?**

If you are involved with child protection authorities you may want to contact your local Transition House or another knowledgeable advocate for help and support. Transition House workers are experienced in providing support throughout the child protection process whether concern is about the woman or her abusive ex-partner.

## Where can I get more information?

For further information about child protection you can contact:

- the Nova Scotia Department of Community Services at 1-877-424-1177 or visit [www.gov.ns.ca/coms/](http://www.gov.ns.ca/coms/)
- your local Transition House or Women's Centre
- Nova Scotia Legal Aid (under Legal Aid in the government section of your phone book)
- Legal Information Society of Nova Scotia's Legal Information Line & Lawyer Referral Service at 1-800-665-9779 or 455-3135 or [www.legalinfo.org](http://www.legalinfo.org)
- a lawyer in private practice.

# Chapter 9

## Self-Care

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Dealing with an abusive ex-partner, responding to the demands of the legal system and meeting the needs of children can be very challenging, especially when you are doing all three at once.

During this time it is important for you to find ways to look after yourself. Here are some ideas to get you started.

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*“It is essential that you realize that you can recover from intimate partner violence. You used many coping skills (good and bad) to survive the abuse and the challenges of the entire court process. You survived, and it is important for you to focus on that. Your next challenge is to learn how to nurture yourself and to concentrate on taking care of your own emotional, physical, and/or spiritual needs, to become the person you truly deserve to be.”*

Susan MacPhee, Women’s Counsellor, Alice Housing

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## Understand the effects of abuse

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It may be helpful to understand how the abuse in your relationship has affected you. Understanding this can help you see that feelings and behaviours you may worry about are completely “normal” and to be expected under the circumstances. For example, many women leaving abusive relationships experience strong feelings of rage, anxiety, depression, self-hatred, guilt, shame, and loss of confidence. Some feel they are “going crazy” or “losing their mind.” Others describe feeling isolated, unable to cope as parents, or even suicidal. Many turn to drugs or alcohol as a way of coping.

Remember that you are in the process of moving into a new kind of normal and as you and your children begin to heal the effects of the abuse will lessen.

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*“One thing that really helped me through this was talking to other women who have been through the same things. I went to various groups offered through Transition House and they really helped me understand what I went through, and helped me work towards moving on in my life.”*

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For more information on the affects of abuse and what to expect after separation, you may want to speak with Transition House or Women’s Centre staff, or a mental health professional.

## **Find good support people for you and your children**

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Women and their children may need different kinds of support as they move through the legal process and begin to heal after an abusive relationship. Depending on your needs and circumstances, you may want one support person or even several.

### **Women**

Your support person might be a friend or relative, a mental health professional, a staff person from a Transition House, Women’s Centre or Family Resource Centre, a doctor, a spiritual leader or even a lawyer. She or he might help you by accompanying you to court, listening to you when you need to talk, driving you to counselling appointments, explaining the court system, or simply by looking after your children sometimes.

## First Nations Women

First Nations women may feel it is important to build a support network that reflects their culture. For example, you may include Elders, Mi'kmaw Family Healing Centre staff, and other professionals, such as social workers from Mi'kmaw Family and Children's Services, who understand First Nations cultures.

### Children

A child's support person might be a friend or family member, a Transition House children's worker, a coach, a teacher, a doctor, a mental health professional, a guidance counsellor, or a spiritual leader. He or she might support your child by talking, attending legal or other appointments, doing an activity such as sports or crafts, or simply "being there."

Here are some qualities you may want to look for in a support person:

- Listening – Does the person really listen to you, or just look for opportunities to talk or tell you what you “should” do?
- Understanding – Does the person understand the dynamics and challenges of abuse? Or is he or she judgemental and blaming, suggesting that you are somehow responsible for the abuse?
- Credibility – Does the person know what he or she is talking about? If the person is a professional, what are his or her qualifications or sources of knowledge and experience? What is the person's reputation in the community?
- Dependability – Does the person do what they say they are going to do and keep their word?

- Confidentiality – Can the person be trusted? Have you known this person to gossip about others in the past? If the person is a professional, is he or she required to share your personal information with anybody else?
- Respect – Do you feel the person respects you? Does he or she value your ideas, thoughts, feelings and concerns?
- Patience – Is the person calm and supportive, or is he or she easily frustrated? Does the person remain patient even when you change your mind, express your worries or ask lots of questions?

## Build general health

It is important for you and for your children that you find ways to keep healthy.

### Exercise

Regular exercise, including walking, provides more energy and a healthier body with which to deal with stress.

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Each of us needs a “safety valve” activity or outlet for pent-up emotions.

Exercise relieves tension and reduces stress by drawing attention away from mental/physical anxiety and is a release for emotions.

## Nutrition

Develop a nutritionally balanced diet. Attention to proper nutrition is a form of insurance against illness and enables you to deal with stress more effectively.

Try to quit or reduce smoking, and limit alcohol and caffeine intake.

Limit sugary snacks.

## Sleep and Rest

In order to be alert and cope with stress, it is important to allow your body enough sleep (7 or 8 hours for most).

Take regular breaks to allow your body to “recharge its batteries.”

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*“At a time when abused women are tired and battle weary they need to be at their strongest. I know there were times I let things slide because I was so tired of fighting. I had a lot of support (family, friends, Transition House), and I still had moments where I didn’t fight back and didn’t understand what was really going on.”*

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*“My ex used to do things just for the shock value to get a reaction from me. It took me a while to realize it was calculated in order to make me look or act crazy. It was his last-ditch effort to make me look like an incompetent parent who was explosive and unpredictable. But then I started to see that I was losing credibility because of him and I learned to rise above it. I hope other women don’t fall into the same trap.”*

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## **Pick your battles**

Picking your battles means deciding where to put your energy. It can be tiring and time-consuming to deal with everything that comes up, so it is important to figure out which things need your attention now and which things can wait for the time being. For example, it may be frustrating if your children return from an access visit dirty and report they ate candy for lunch. But it is not as important as if your child reports that your ex-partner was drinking and driving. The drinking and driving requires immediate action, while hygiene and junk food issues can be left, at least for now. Picking your battles means being clear about your priorities and saving your energy for what really matters.

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*“Looking back now I wish I hadn’t given him the power that I did... I stood and listened to him, I reacted to his comments, I tried to fight back, I gave him an audience. Someone told me along the way, “He only has the power that you give him,” and when I realized that this was true things changed for me!”*

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*“I used to tell my lawyer to call before three o’clock when my kids were at school. I knew I might end up crying on the phone or telling him things the kids shouldn’t overhear.”*

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## **Fall apart when and where it’s safe**

Many people going through a crisis fall apart sometimes. This might mean a good cry, complaining about your ex-partner to a friend or, for some women, it might mean some kind of breakdown. The most important thing about letting off steam is that you do it in a way that is safe for you and your children. For example, if you become distressed in court it may affect how you are perceived by the judge, and could actually support your ex-partner’s claims that you are “hysterical” or “unstable.” To protect children, who are likely to be upset by your distress, it is important to “keep it together” as well as you can when they are around. For example, some women arrange appointments or phone calls with lawyers, police, child protection authorities, and Community Services during school hours so that children don’t overhear worrying conversations or see their mothers upset.

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*“One thing I learned through my ordeal was to try my best to keep my emotions and emotional thinking in check when dealing with issues that came up. As hard as it is, it is extremely important to keep your eyes open, your ears open and control what you say and do. How you behave and portray yourself can help you or hurt you when dealing with the courts, Family Services, and lawyers.”*

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*“This may sound weird, but the thing I’m most proud of in my life is the thing that’s been the hardest to deal with. I am so proud of how I’ve handled this whole situation – the criminal and family court proceedings, the multiple investigations by child protection. I’ve developed as a person. I have more courage, endurance and self-respect than I did before. I never stooped to the level my children’s father did; I never lied and I have always put my kids first.”*

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## **Make space for other things**

You might feel like there is no room in your life for anything outside of children, access arrangements, harassment from your ex-partner and ongoing court proceedings! But no matter how much you have going on it is possible to make a little space for other interests. You might start by escaping into a book when you have five minutes to spare. Some women who have separated from abusive partners decide to look up old friends or relatives, or take up activities they haven’t done in years. You might go walking with a friend, volunteer in the community, or join a scrapbooking club. Sometimes it is simply about finding a quiet space inside yourself by meditating or sitting quietly and just “switching off.” Remember, you are rebuilding your life and that takes time.

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*“My therapist used to say to me: “I’ve lived through lots of terrible things and some of them actually happened!” It took me a long time to understand that I could control my thoughts and reduce my stress – no matter what was going on with my ex. In the beginning I was always terrified, always thinking about the worst possible outcome. Now I concentrate on what is actually happening here and now, not what might happen. Managing my thoughts is also a way to control how much he still affects me. The less I think about him, the less he is part of my life.”*

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## **Build self-esteem**

Self-esteem isn't just about seeing your good qualities. It's about being able to see all of your abilities and weaknesses together, accepting them, and doing your best with what you have. Self-esteem is about self-acceptance and self-love. If you accept and care for yourself, you are more likely to make healthy choices and take positive actions that are good for you. Most Transition Houses and Women's Centres have groups and programs to help support women's self-esteem. Mental Health counsellors, spiritual leaders, friends and other support people can all help you build your self-esteem.

## Checklist of stressful thoughts

These are ways in which our thinking does not match the reality of the situation. How we think can affect how we feel. For example:

- **All-or-nothing thinking:** You look at things in absolute, black-and-white categories.
- **Overgeneralization:** You view a negative event as a never-ending pattern of defeat.
- **Mental filter:** You dwell on the negatives and ignore the positives.
- **Discounting the positive:** You insist that your accomplishments or positive qualities don't count.
- **Jumping to conclusions:** 1) Mindreading: You think that you know what people think about you; 2) Fortunetelling: You predict, with no evidence, that things will turn out badly.
- **Magnification or minimization:** You blow things out of proportion or you shrink their importance.
- **Emotional reasoning:** You reason from how you feel: "I feel like an idiot, therefore I must be one."
- **Should statements:** You criticize yourself or other people with "should" and "shouldn't", "must" and "mustn't", "ought to" and "have to."
- **Labelling:** Instead of saying "I made a mistake," you tell yourself "I'm a loser" or "I'm a jerk."
- **Personalization and blame:** You blame yourself for something you weren't entirely responsible for, or you blame other people and overlook the ways that you contributed to a problem.

## Physical signs of stress

- muscle tension – back, legs, neck, etc.
- headaches
- digestive problems (for example, nausea, indigestion, ulcers, diarrhea)
- eating changes (for example, compulsive eating, loss of taste, loss of appetite)
- eating disorders (anorexia, bulimia, compulsive eating)
- sleep disorders (for example, insomnia, restless sleep, nightmares, excessive sleep)
- teeth grinding – may lead to aching jaws
- increased perspiration – palms of hands, body
- heart problems (for example, palpitations, rapid or changing heartbeat, chest pain)
- breathing (for example, problems catching breath, deep sighs)
- skin problems (for example, hives, rashes, acne, eczema)
- sexual difficulties (for example, decreased desire)
- high blood pressure.

## Psychological signs of stress

### **Mental or emotional**

- anger/irritability, hyperactivity (for example, pacing, impatience, restlessness)
- depression, pessimism, lack of caring
- nervousness
- decreased concentration and disorganization
- loss of memory and confusion
- difficulty making decisions
- self-consciousness (for example, decreased confidence)
- decreased ability to be flexible

- feelings of being overwhelmed
- impaired performance (for example, decreased problem-solving skills).

### **Behavioural**

- pacing, fidgeting
- nervous habits (nail-biting, foot-tapping)
- increased eating, smoking, drinking
- crying, yelling, swearing
- blaming
- throwing things.

## **Recognize what you can change and accept the things you can't**

“Picking your battles” is about knowing there are lots of things you could try to change, but recognizing that some are far more important than others. This tip is about recognizing the difference between the things we can change and those we can't. When it is necessary and possible to change something, we can find the courage to take action, and when it is unnecessary or impossible to take action then we can try to be peaceful and accepting, even when we don't agree.

# Chapter 10

## Information for Service Providers

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The following information is intended for service providers who work with abused women and/or their children, including advocates, lawyers, Victims' Services staff, and other legal and justice professionals.

If you work with abused women who have children there is a good chance they are dealing with difficult, and perhaps dangerous, custody and access situations with their former partners.

Many service providers consider child custody and access a civil or "family" matter. However, when there is a history of abuse, the line between civil and criminal becomes blurred.

Canadian researchers Peter Jaffe and Linda Neilson, who specialize in the field of domestic abuse and family law, have found that most forms of post-separation abuse involve children either directly or indirectly.

For example, the abuser may threaten or harass the victim during child handovers, file excessive family court applications, withhold child support payments or property, make false allegations to child protection authorities, refuse to return the children after access visits, or even harm the children directly, all as part of his effort to control and harass his former partner.

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Two of the most important things any service provider can do to support an abused woman during the post-separation period is to recognize the extent to which her children render her vulnerable to further abuse and to understand the risks faced by her and her children.

## Why is domestic abuse relevant to custody and access decisions?

### Abuse does not end with separation

In Canada, most women who report violence after separation say the violence is more severe than it was during the relationship. In fact, many women say the violence started after they left the relationship. Whether violence happens before or after separation, children may be present.

Woman abuse has serious physical, psychological and sexual impacts on women and serious consequences for children exposed to it. Even if an abuser never directly abuses his children, his behavior and attitudes may have a profoundly destructive impact on the children's wellbeing. This impact is likely to continue with ongoing contact after divorce or separation.

### Domestic abuse and child abuse

Some professionals do not recognize that abuse of the mother by the father is relevant to the father's parenting ability. And yet researchers estimate that between 30 and 60 percent of the children of abused mothers are also the victims of abuse (Edleson, 1999).

### Domestic abusers are poor role models

Children learn gender roles, conflict resolution, and many other important lessons from their parents. This may lead to intergenerational abuse (Straus et al. 1980) where the daughters of abused women become victims of abuse and the sons become abusers. During the focus groups held during

the research phase of the FLIPAW project, some Nova Scotia Transition House workers reported seeing these patterns across generations.

### Undermining of the victim/mother

There are many ways that an abusive man may undermine the mother.

The abuser may:

- make her believe she is an inadequate parent (for example, by preventing her from creating structure and consistency or by telling her she is an unfit mother)
- make her children lose respect for her (for example, by showing the children she is an acceptable target of abuse or by disregarding her parenting rules)
- cause her to change her parenting style in response to his parenting style (for example, she may be afraid to use discipline because the children have been through so much, or she may be too strict in an effort to keep the children from provoking or annoying the father)
- undermine her ability to cope (for example, by not allowing her to use birth control so that she has too many children or by causing her depression or anxiety)
- disrupt her bond to her children (for example, by preventing her from comforting a distressed child or causing her to shut down emotionally)
- put her into a position where she must compete with him for her children's loyalties (for example, by presenting himself as the fun parent and the mother as bad or by buying the children things the mother cannot afford).
- For more information, see **Chapter 1** of this guide.

## Violence in new relationships

According to Peter Jaffe (2003), some legal and mental health professionals see it as a sign of stability when an abuser becomes involved in a new relationship. However, research shows that well over half of abusive men who have left a violent relationship become violent with their new partners (Woffordt, Mihalic, & Menard, 1994). This means the abuser's children may continue to be exposed to domestic abuse even after their parents separate. In some custody and access cases a key witness for the father may be his new partner who testifies about his kindness and gentleness as a partner and parent (Jaffe et al, 2003). Conversely, if women leaving an abusive relationship become involved with another abusive partner, custody of the children may be transferred to the father, even when he was abusive towards the mother, because the court takes the view that the mother cannot protect the children from witnessing domestic abuse in her new relationship. As a result of either of these situations, the judge may assume that past problems were caused by a difficult relationship between a particular man and woman, rather than a problem that will carry into a new relationship because of the man's abusive nature.

### Ongoing court proceedings

Research suggests that abusive men are twice as likely as non-abusive men to apply for custody of their children and equally as successful in family court (Bowermaster & Johnson, 1998; Zorza, 1995). During FLIPAW focus groups, women expressed their belief that abusers use the family court to maintain control over them and their children. This position is echoed by Peter Jaffe, who discusses how abusive men exploit

the family court, through extensive litigation, to continue controlling and abusing their former partners, for example by draining their emotional and financial resources through perpetual litigation (2003). One study found that the average length of family court proceedings in abuse cases was 3.5 years with some cases lasting even longer (Sinclair, 2000).

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*“I left when my son was just over a year old and my ex has taken me back to family court at least twice a year ever since. In the first two years, I stopped counting after we’d been to family court 38 times. My son’s 12 now and it’s still going on. Most of the time he doesn’t even exercise the access he’s granted and he represents himself so it doesn’t cost him anything. I wouldn’t dare go to court without a lawyer, so I’ve been paying legal fees for more than a decade.”*

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### Extreme outcomes

The link between domestic abuse, separation and murder is now well-documented (Campbell, 1995; Campbell, Sharps, & Glass, 2001) and in extreme cases the children of abused women are at risk of witnessing murder or of becoming the victims of murder or abduction themselves.

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### Woman abuse and the legal system

Research shows that when women seek legal advice or participate in mediation, their experience of domestic abuse is frequently ignored as a factor that affects the safety and well being of both themselves and their children (Jaffe et al, 2003). Many legal system professionals still fail to recognize

that abuse may influence a woman's ability to safely negotiate a separation agreement with the abuser, or that abuse may make it difficult for her to speak out to lawyers, mediators, and judges about her needs and those of her children. This is why abuse cases are no longer directed into court-connected mediation or joint conciliation in Nova Scotia.

### Woman abuse in child custody and access decisions

Women who have children and are victims of abuse may be in particular danger when seeking a separation or divorce. Abusers may use family law processes to continue their harassment and control of a former partner. Abusive men are more likely than other men to ask for sole custody or to insist on extensive access to their children.

[Abusive men] may demand custody or extensive visitation rights with no history of parenting or having time available for the children. Some fathers who pursue lengthy litigation may be less interested in contact with their children than in engaging their ex-partner in legal warfare. It has been suggested that batterers are overrepresented in highly litigious custody cases and that the motive is to prolong their control over, intimidation of, and involvement with their ex-partners; the children are no more than a means to an end.

*Child Custody & Domestic Violence: A Call for Safety and Accountability*  
Peter Jaffe, Nancy Lemon, and Samantha Poisson (2003)

## How can advocates and service providers respond appropriately to clients experiencing domestic abuse?

- Treat disclosures of abuse as important and relevant
- Understand the links between children’s best interests and mothers who are safe
- Believe that disclosures come from women’s concern for their own and their children’s safety and wellbeing
- Know the common impacts on children of exposure to domestic abuse
- React decisively to abusers’ escalating abuse and disregard for the law (for example, talking about revenge, breaches of court orders, probation conditions, etc.)
- Don’t expect the victim to cooperate or have a neutral attitude to the abuser when abuse is an issue
- Use the language of crime with respect to the abuse (assault, stalking, intimidation, threats, rape) and avoid the language of relationship trouble (“high conflict divorce,” “warring couple,” “it takes two to tango,” “he said/she said,” etc.)
- Be familiar with, and act to prevent or counter, typical control tactics of abusive fathers during legal processes (for example, false allegations to child protection authorities, allegations the mother has fabricated domestic abuse to gain advantage in family court, allegations the mother is unstable, threats to take or harm children, etc.)

## How do advocates and service providers sometimes minimize or deny domestic abuse?

Service providers may minimize or deny woman abuse by:

- encouraging women, directly or indirectly, not to disclose abuse as a tactic to appear more cooperative in court
- believing a woman is making up or exaggerating abuse to win in family court, or that the abuse isn't bad enough to be important
- ignoring the control tactics of abusive fathers and the impact on children of exposure to abuse of their mother
- failing to uphold “no contact” orders or to see breaches of orders as an indicator of serious risk to women and children
- failing to see abuse of the mother as reason enough to change custody or access orders in the best interests of children
- using language that minimizes and ignores the importance of woman abuse (for example, “high-conflict divorce” or “warring couple”).

## How do abusers use children against their ex-partners and children?

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Abusive men can use their contact with their children to:

- keep tabs on their ex-partners: “Who is your mother seeing?” “What does she do all day?” “Where does she go?” “What car is she driving?”
- play power games with their ex-partners (for example, not showing up for visits, but dropping by when they feel like it, and then threatening to take their former partners to court

for denying their father's rights: "I'm taking you back to court. I'm not paying child support unless I get to see the kids when I want.")

- put down their ex-partners or say bad things about them: "Your mother is a slut." "Your mother put me in jail." "Your mother ruined my life."
- teach the children that it is okay to use threats or violence to get what they want: "If your sister bugs you, hit her. That will keep her in line."
- try to get their ex-partners back: "Tell your mom that I'm sorry that I hit her." "We should be a family again." "Your mother needs to forgive me."
- upset routines or break rules that their ex-partners have made for the children: "Your mom is so mean; you can watch TV all you like."
- use drop-offs and pick-ups of children to threaten and harass their ex-partners: "I'm going to get you."

Family courts have traditionally turned a blind eye to domestic violence or have minimized its significance. Custody disputes involving domestic violence have been forced into a one-size-fits-all paradigm, an erroneous and potentially life-threatening approach... Ironically, at a time when there is growing public awareness of domestic violence, the family law system has been one of the least responsive institutions to this social problem.

*Child Custody & Domestic Violence: A Call for Safety and Accountability*  
Peter Jaffe, Nancy Lemon, and Samantha Poisson (2003)

## What are some of the challenges in supporting abused women with children through the family court system?

- Neither federal nor Nova Scotia custody and access legislation states that woman abuse or “children exposed to violence” are determining factors in deciding custody and access. Whether a history of domestic abuse is relevant to child custody and access is decided on a case by case basis.
- Federal and Nova Scotia custody and access legislation, do not identify the conduct of a parent as relevant unless it directly affects his or her ability to parent. Whether domestic abuse is relevant to parenting is determined by lawyers and judges individually.
- Federal and Nova Scotia custody and access legislation places a high value on the relationship between access parents and children and supports “maximum contact” as being in the best interests of the children. Having said that, judges have discretion in determining the best interests of the child and can take into account the impact of domestic abuse.
- There is a lack of awareness and education around the impact and implications of post-separation domestic abuse when determining custody and access arrangements.
- Legal and other professionals may not have adequate training and resources to understand the impact of domestic abuse and how best to work with abused women with children during custody and access proceedings. They may not recognize how custody and access arrangements may create a potential environment for abuse to continue.

- Because of lack of understanding and training, legal and other professionals may unintentionally place a woman and her children at risk by promoting or agreeing to unsafe custody and access arrangements.

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The research cited in this chapter comes primarily from the following source:

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# Legal Terms

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This chapter contains simple explanations of some terms you may hear as you go through the family court process. They are not complete legal definitions.

## Access

The right of a parent who does not live with her or his children to visit or spend time with them. Access is described in the court order or separation agreement. Different types of access include reasonable access, specified access, and supervised access.

## Action

A legal procedure where one party sues another.

## Adjournment

A delay or postponement of a court hearing or trial.

## Affidavit

A written statement of facts that is sworn under oath as being the truth.

## Age of Majority

The age of majority is 19 years in Nova Scotia.

## Alternative Dispute Resolution (ADR)

Refers to ways to settle disputes or differences without a court trial. An example of ADR is mediation.

## Answer

The formal response by the Respondent to a Petition for Divorce, setting out his or her response to the items asked for in the petition such as custody, access, support, and the division of property. The Respondent has a certain number of days to file an Answer after he or she receives the Petition for Divorce. In a divorce the spouse applying for the divorce is called the Petitioner and the other spouse is called the Respondent.

## Appeal

A review by a higher court of a decision made by a lower court. There must be legal grounds or reasons to appeal, such as that the lower court has made an error. You can't appeal just because you disagree with or do not like the judge's decision. Usually you have 30 days from the date of the court's decision to appeal.

## Appearance

When a person comes to court, either voluntarily or after being summoned.

## Appellant

The person who appeals a legal decision.

## Applicant

A person who starts an application in court. For example, an application for custody of a child.

## Application

Filing an application is the first step in asking for a court order (for example, making an application for exclusive possession of a home).

## Arrears

Being late in paying a debt or money that you owe (for example, failing to pay child support on time).

## Balance of Probabilities

More likely than not that something happened. This is the standard of proof in civil law, including family law. In criminal court the standard of proof is “beyond reasonable doubt.”

## Best Interests of the Child

The test that the court uses to make decisions about custody and access. The child’s needs and well-being are the most important factors. The judge must decide what is best for the child, not what is best for either of the parents.

## Case Law

Case law reflects how the courts have previously interpreted laws. Lawyers often refer to previous case law to support their arguments or requests made in court. It is also called the common law.

## Certificate of Divorce

The final document issued by the court at the end of a divorce proceeding. The court sends the parties a Certificate of Divorce 31 days after the Divorce Judgment has been issued, provided the Divorce Judgment has not been appealed. A Certificate of Divorce says that the divorce is final; it means that the parties are free to remarry.

## Chambers

A process for a judge to hear applications for some court orders. Chambers applications are still heard in a courtroom.

## Child Support

Money paid by one parent to the other parent to contribute to the children's living expenses.

## Child Support Guidelines

The Child Support Guidelines are rules for calculating how much child support the non-custodial/non-residential parent will have to pay. The guidelines include child support tables for each province and territory. There are also rules for calculating special or extraordinary expenses, claims of undue hardship, and child support amounts in cases of split or shared custody. The federal Child Support Guidelines are used when parents are divorcing or already divorced. The provincial Child Maintenance Guidelines are used in all other situations, such as when parents were not married to each other, lived together in a common-law relationship, or are married and separated, but not divorcing.

## Child Welfare, Child Protection, Children's Aid Societies, Family and Children's Services

Child protection services exist to protect children under 16 from abuse and/or neglect while making every effort to keep families together. [www.gov.ns.ca/coms/families/abuse/](http://www.gov.ns.ca/coms/families/abuse/)

## Collaborative Family Law

A cooperative approach used as an alternative to court. Partners work together with a lawyer to resolve issues.

## Conciliator

Conciliation is a mandatory process that begins after one of the parties starts a proceeding in the Supreme Court (Family Division). A conciliator is a court officer who helps you sort out what to do about your situation and what the next steps might be.

## Common-law Spouses

A relationship where two people of the same or opposite sex live together as spouses but are not married.

## Complainant

The person who lays information with the police that an offence has been committed. For example, you are the complainant if you report to the police that your spouse has assaulted you.

## Corollary Relief Judgment

A court order issued as part of a divorce proceeding. It addresses issues such as custody, access, child support, spousal support, and the division of matrimonial assets.

## Costs

Refers to money to be paid by one side if there is a contested hearing or trial between the parties. Costs are intended to help compensate the successful party for his or her legal expenses as a result of being in court. A judge may order costs at the end of a trial. A judge may order costs against a person who fails to follow the court's directions or instructions before or during the trial.

## Custodial Parent

The parent with whom the children live is known as the custodial or the residential parent. The other parent is the non-custodial or non-residential parent.

## Custody

The term custody refers to who is responsible for making the decisions involving the children and where the children live.

## Custody and Access Statement

A document used in the Family Court that sets out parenting arrangements. The parent applying for custody or access must complete this statement. If the other parent disputes the claim for custody or access, then he or she must also complete a Custody and Access Statement.

## Damages

Monetary compensation that a court may award for financial or property losses, emotional or physical injuries, loss of earnings, and costs of care.

## Default

Not doing something you are legally required to do (for example, not obeying the terms of a court order or not filing documents the court needs).

## Defendant

The person sued in a civil action or charged with a criminal offence.

## Dependent Child

In Nova Scotia, a child under the age of 19 who is not able to care or provide for him or herself. It can also apply in matters of child support to a child over 19 who is unable to care for him- or herself because of a disability and also to a child over 19 who is attending university or college.

## Disclosure

One party providing information they have to the other party (for example, a parent providing documents that show his or her income so that the appropriate level of child support payments can be assessed).

## Discovery

A pre-trial procedure in which one party obtains information held by the opposing party concerning the case.

## Divorce Judgment

An order of the court that says that two people are divorced. The divorce judgment becomes effective on the 31st day after the date of the judgment unless one of the spouses appeals.

## Docket

A brief courtroom appearance in front of a judge to identify issues, find out if the parties are represented by lawyers, and/or consider whether the parties may be able to resolve the issue on their own. Usually the docket date is 4–6 weeks after you file an application.

## Domestic Partners

In Nova Scotia, couples who are in a common-law or a same-sex relationship can sign a registered domestic partnership agreement. Although it is not the same as marriage, it gives them many of the same legal rights and obligations.

## Duty Counsel

A lawyer at the courthouse (Supreme Court (Family Division) only) who can help you and provide information if you don't have a lawyer. The lawyer will not represent you in court.

## Emergency Protection Order (EPO)

A court order used in domestic abuse cases where the victim is in immediate urgent need of protection. EPOs can include a range of terms, such as prohibiting the abuser from contacting the victim or giving the victim sole possession of the home and/or temporary custody of the children.

## Evidence

Information given by the parties or witnesses, either in person or in writing (in an affidavit); the judge hears or reviews the evidence and uses it to reach a decision.

## Exclusive Possession

The right of one party to be the only one to use a residence or other asset, usually a matrimonial home (the family home) or its contents. The Supreme Court and the Supreme Court (Family Division) may award exclusive possession when one of the parties applies for it or the parties may include it as a term in a separation agreement. The Family Court cannot make an order for exclusive possession.

## Exhibit

A paper, document, or piece of physical evidence provided to the court at a trial or hearing or as part of an affidavit.

## Ex Parte

An application made by a person in the absence of the other party (for example, when a woman does not know where her child's father is and applies to the court for custody in his absence).

## Filing a Court Document

Legal documents delivered to (filed with) the court clerk in a court proceeding, to be placed into the official record.

## Hearing

A courtroom procedure in front of a judge at which evidence and information may be presented to decide some issue of fact or of law, or both.

## Home Study Assessment / Custody & Access Assessment

An assessment conducted by a person who has the professional skill to investigate, assess, and report to the court on the needs of the children and the ability of the parties to meet those needs. A judge may order an assessment in cases involving custody and access.

## Information

A sworn statement by a person requesting a peace bond or alleging that an accused committed an offence. An information gives the time and place of an incident and the law that may have been broken.

## Interim Order

A temporary order dealing with some matters until the final decision of the court (for example, an interim order for custody or access).

## Jurisdiction

The power of a court to hear a case. For example, a criminal court order may say that family court has jurisdiction over child access. Jurisdiction also refers to the area in which the judgments or orders of a court can be enforced or executed (for example, a geographical area such as Nova Scotia).

## Leave of the Court

The court's permission to proceed with certain types of applications. For example, a grandparent needs leave of the court before he or she can make an application for court-ordered access to a grandchild.

## Legal Aid

Legal representation and advice for people who cannot afford to hire a lawyer and whose income is below a specified level – usually around social assistance levels. Nova Scotia Legal Aid only deals with certain types of family law matters, including child protection, and serious criminal offences.

## Litigant

A person involved in a legal case.

## Litigation Guardian/Guardian Ad Litem

An adult who starts or defends a legal proceeding on behalf of a person who is mentally incompetent or who is under the age of majority. Certain requirements must be met before a person can act as a litigation guardian, including that he or she be represented by a lawyer.

## Maintenance

Money paid by a person toward the living expenses of a spouse, child, or dependent parent.

## Maintenance Enforcement Program (MEP)

A provincial government program that assists in enforcing court orders for child and spousal support. All support orders made on or after January 1, 1996, are automatically registered with MEP. If your order was made before that date you can apply to MEP to get it registered. If your order was made outside Nova Scotia, you have to register it with family court first. The payer makes maintenance payments through the program. If the payer fails to make the payments required by the court order, the MEP may take action to enforce the order. For more information visit [www.gov.ns.ca/just/mep](http://www.gov.ns.ca/just/mep).

## Matrimonial Assets

Property acquired by either or both married spouses before or during their marriage. Not all assets are matrimonial assets. For example, inheritances, business assets, and payments one spouse receives from an insurance claim are usually not considered matrimonial assets but they might be, depending on the circumstances. You should get legal advice on your own situation.

## Matrimonial Home

Where the married spouses lived before separation.

## Mediation

A type of alternative dispute resolution in which a trained, impartial mediator helps the parties reach agreements about issues such as custody and access and sometimes also about child support, spousal support, and the division of matrimonial assets and debts.

## Non-custodial Parent

The parent who does not live with or have custody of the children. Also called the non-residential parent.

## Organizational Pre-trial or Pre-hearing Conference

A meeting before a judge or court officer that takes place before the trial or hearing and before the Settlement Conference. At this appearance there will be discussions about the number of witnesses each side is calling, who those witnesses will be, how long the trial will take, whether all the necessary information has been filed, whether further documents will be filed, and whether the trial is ready to proceed. There may be more than one Organizational Pre-trial.

It is important to attend all scheduled Organizational Pre-trial and Pre-hearing Conferences.

If you don't attend the Organizational Pre-trial or Pre-hearing Conference that has been scheduled with a judge, the judge may make an order against you for one or more of the following:

- payment of child support
- directing a third party to disclose information about your income, expenses, assets, debts, employment or residence
- striking your pleadings (court forms) from the court file
- finding you in contempt of court and requiring you to pay a fine or be imprisoned
- making you pay costs
- otherwise deciding all or parts of your case against you.

If the Organizational Pre-trial or Pre-hearing Conference is held before a court officer, she or he may recommend to a judge that one or more of these orders be made against you.

These orders can be made in your absence and without hearing you further.

### Parent Information Program

A program that assists parents to help their children deal with issues relating to the separation or divorce of their parents.

### Parenting Plan

A plan developed by a parent for the day-to-day care and visiting or access arrangements for the children when the parties are no longer living together.

## Parenting Statement

A document used in the Supreme Court (Family Division) that sets out parenting arrangements. The parent requesting a court order for custody or access must complete this document. If the other parent disputes the claim regarding custody or access, then he or she must also complete a Parenting Statement. In Family Court it is called a Custody and Access Statement.

## Parties

The person or people on one side of a dispute or an agreement. Parties are the people who have the right to appear in court and to seek an order from the court.

## Payer

The person who pays child or spousal support.

## Peace Bond

A formal signed promise to the court not to contact a person or go to a place. For example, a peace bond may be signed by your spouse agreeing not to contact you. If your spouse breaks the bond by contacting you, you can report it to the police and he may be charged with breaking the bond. For step-by-step information on how to apply for a peace bond, visit the Department of Justice website [www.courts.ns.ca/self\\_rep/provincial\\_peace\\_bond\\_06.pdf](http://www.courts.ns.ca/self_rep/provincial_peace_bond_06.pdf). See also the Legal Information Society of Nova Scotia's FAQ on Peace Bonds at [www.legalinfo.org](http://www.legalinfo.org).

## Petition for Divorce

An application to the Supreme Court or the Supreme Court (Family Division) to start a divorce. Either spouse may file a petition for divorce with the court, or both spouses may file a joint petition.

## Petitioner

A person who starts a divorce proceeding.

## Primary Residence (of the child)

The residence where the child spends the majority of her or his time. Courts usually say where the child's residence will be. Even if parents have joint custody, the child will usually have a primary residence.

## Pro Bono

“For the public good.” This is when a lawyer represents a client for free or at a very low rate. Not all lawyers are involved in pro bono work but it is considered a valuable way to help vulnerable and disadvantaged individuals and to give back to the community. It is not the same as Legal Aid.

## Provincial Court

In Nova Scotia, the court that deals with most criminal matters. Every adult charged with a criminal offence comes to Provincial Court first, and many criminal trials take place there. However, trials of cases involving very serious offences are heard in the Supreme Court, including all trials involving a jury.

## Receiving Parent /Recipient

The person (such as a parent) who receives child or spousal maintenance or support.

## Recognizance

An agreement signed by a person charged with a criminal offence before he or she is released by the court, promising:

- to return to court on a certain date
- to stop a specific behaviour
- not to have contact with certain people or places.

## Respondent

A person against whom an application or a petition for divorce has been started.

## Restraining Order

A court order that restricts the behaviour of a person, such as an abusive partner. If the person breaks the order, he or she can be charged by the police.

## Retainer

The advance payment required by most lawyers in private practice as a deposit before they will begin work on your case.

## Rules of Court

Procedures that must be followed and forms to be used when seeking an order from the court. They are called Family Court Rules in Family Court and Civil Procedure Rules in the Supreme Court and Supreme Court (Family Division).

## Separation

Two people who are married to each other but who are living separate and apart. You do not need an official document in order to be “legally” separated.

## Separation Agreement – Minutes of Settlement

A contract between two spouses to live apart on certain terms and conditions, which usually include custody and access, support, and the division of matrimonial assets and debts. You should not sign a separation agreement without getting advice from a lawyer. Do not use the same lawyer as your spouse. Judges will rarely change the terms of a signed agreement.

## Service

Delivery of court documents to the person being sued. A person has a right to know if he or she is being sued. Some documents may be served by mail or left with a designated person on behalf of the person being sued. In some situations, documents must be personally served by placing the documents directly into the hands of the person being sued. There are companies that you can hire to serve documents for you. You can find them listed under Bailiffs in the Yellow Pages of the phone book.

## Settlement Conference

A short meeting with a judge who is not going to hear the trial. At this meeting, the parties briefly explain to the judge their own positions on each issue. The judge then gives a brief opinion based on how he or she thinks the case could be resolved. This meeting is used to help settle cases. This usually takes place after the Organizational Pre-Trial.

## Spouse

A husband, wife, or same-sex partner by marriage. In Nova Scotia, if you are living in a common-law or a same-sex relationship, you can also qualify as a spouse under the Matrimonial Property Act if you register as a domestic partnership under the Vital Statistics Act. This gives you more rights if a common law relationship ends.

## Spousal Support

Money paid by one spouse to another to contribute to the other's living expenses. The support can be paid either by a set amount every month or in one lump sum.

## Spousal Support Guidelines

Guidelines that may assist a judge in setting an appropriate level of spousal support. The guidelines are complicated, and you should get legal advice about how they might apply to your situation.

## Statement of Expenses

A document used in the Supreme Court (Family Division) that sets out all expenses. This document must be completed by both parties when they are asking a court to order one or more of the following:

- child support in an amount other than the Child Support Guidelines amount
- child support that includes special or extraordinary expenses
- spousal support
- a division of property.

## Statement of Financial Information

A document used in Family Court and Supreme Court, but not in the Supreme Court (Family Division). It sets out all sources of gross income (in other words, income before tax and other deductions). Sometimes it includes estimates of monthly expenses. If child support is the issue, the statement of financial information must also include the information required by the Child Support Guidelines.

## Statement of Income

A document used in the Supreme Court (Family Division) that sets out all sources of gross income (income before tax and other deductions). You must file this Statement if you want a court to order one or more of the following:

- child support
- spousal support
- a division of property.

If you are only seeking the table amount of child support, only the parent paying support must provide this statement. The spouse filing the Statement will need to provide other information along with the Statement, such as pay stubs and income tax returns.

## Statement of Property

A statement of property sets out what assets you own and the debts you owe. You must file a Statement of Property if:

- you asking the Supreme Court (Family Division) to decide a question dealing with property, spousal support, or both
- you are asking the Supreme Court to decide a question dealing with property.

### Statement of Special or Extraordinary Expenses

A document used in the Supreme Court (Family Division) that sets out the specific amounts requested as child support for special or extraordinary expenses. These expenses are described in section 7 of the federal Child Support Guidelines and section 7 of the Nova Scotia Child Maintenance Guidelines. The person asking for the support is required to complete this document.

### Statement of Undue Hardship Circumstances

A document used in the Supreme Court (Family Division) that sets out the reasons a parent is claiming undue hardship regarding child support. Each parent must provide the court with information on the income of each member of their household.

### Subpoena

A document issued by the court that requires a person to give evidence at court proceeding.

### Summary Advice Counsel

See Duty Counsel. The Summary Advice program is available in Supreme Court (Family Division) only.

### Summons

A document that orders a defendant or respondent to come to court.

### Supervised Access Services

A service provided by a third party that enables a non-custodial parent to visit his or her children in a safe, neutral, and child-focused setting with the supervision of trained staff or volunteers.

## Support

See Child Support or Spousal Support.

## Supreme Court of Canada

Canada's final court of appeal. For more information visit [www.scc-csc.gc.ca/AboutCourt/role/index\\_e.asp](http://www.scc-csc.gc.ca/AboutCourt/role/index_e.asp).

## Supreme Courts in Nova Scotia

In Cape Breton and Halifax Regional Municipality the Supreme Court (Family Division) hears family law matters. The Nova Scotia Supreme Court in these regions deals with most other civil law matters (other than family) and more serious criminal law matters.

In areas outside HRM and Cape Breton, the Nova Scotia Supreme Court deals with some family matters, including divorce and division of property, and more serious criminal law matters. For more information see Chapter 4 of the guide ([www.courts.ns.ca/family/index\\_fam.htm](http://www.courts.ns.ca/family/index_fam.htm)).

## Swear (Affirm)

Before a party or a witness gives evidence at a trial or hearing he or she will be required to swear to tell the truth. You can swear on a holy book, such as the Bible, or make a solemn affirmation (a promise). The process of swearing to tell the truth or taking a solemn affirmation is often referred to as “being sworn.”

## Testimony

The evidence that a witness gives under oath or affirmation, in an affidavit (sworn statement) or at a hearing or trial.

## Trial

A court proceeding when both parties have the opportunity to present their case before a judge. They can call witnesses to give evidence and can give evidence themselves. Following the presentation of the evidence, the judge will reach a decision on what orders to make.

## Undue Hardship

A condition that makes it difficult or impossible for a parent to make the amount of child support set out in the Child Support Table, or makes it difficult for the receiving parent to support the child on that amount. There are rules about when such a claim for undue hardship can be made. You should get legal advice if you want to make a claim or if the other parent makes a claim.

## Unrepresented Litigant

A person attending court without a lawyer. For more information about representing yourself in family court, visit the following websites:

[www.gov.ns.ca/just/repselfmain.htm](http://www.gov.ns.ca/just/repselfmain.htm);

[www.courts.ns.ca/self\\_rep/websites\\_for\\_person\\_going\\_to\\_court\\_06.pdf](http://www.courts.ns.ca/self_rep/websites_for_person_going_to_court_06.pdf)  
and [www.courts.ns.ca/self\\_rep/fam\\_div\\_checklist\\_courtprep\\_06.pdf](http://www.courts.ns.ca/self_rep/fam_div_checklist_courtprep_06.pdf).

## Variation

An application to change an existing court order (for example, an application to change an access order).

## Waive

To give up a right.

## Warrant

A court document that orders police or other peace officers to arrest someone. The court can issue a warrant if someone fails to appear in court or does not obey a court order.

## Witnesses

People who give evidence to the court.

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The following is a list of some of the resources you may need, including those mentioned in the guide. You may wish to contact your local Transition House or Women's Centre to find other useful resources in your area.

## **Transition Houses and shelters**

Transition Houses offer emergency shelter, information, help with legal matters, and support for women in abusive relationships. For more information on services contact the Transition House Association of Nova Scotia (THANS) at 429-7287 or [www.thans.ca](http://www.thans.ca).

### **Amherst: Autumn House**

Crisis line: 667-1200

Office: 667-1344

[www.thans.ca/autumn.htm](http://www.thans.ca/autumn.htm)

### **Antigonish: Naomi Society**

Office/Crisis: 863-3807

Weekend Crisis Response: 867-4229

[www.thans.ca/naomi.htm](http://www.thans.ca/naomi.htm)

### **Bridgewater: Harbour House**

Crisis line: 543-3999

Office: 543-3665

Toll-free: 1-800-543-3999

[www.thans.ca/harbour.htm](http://www.thans.ca/harbour.htm)

### Halifax: Adsum House

(For homeless women and children)

Tel: 876-5011

Crisis: 423-4443 or 429-4443

[www.adsumforwomen.org](http://www.adsumforwomen.org)

### Halifax: Barry House

(Emergency shelter for homeless women and children at risk)

Tel: 422-8324

### Halifax: Bryony House

24-hr crisis line: 422-7650

Office: 429-9001

[www.bryonyhouse.ca](http://www.bryonyhouse.ca)

### Kentville: Chrysalis House

Crisis line: 679-1922

Office: 679-6544

Toll-free: 1-800-264-8682

[www.thans.ca/chrysalis.htm](http://www.thans.ca/chrysalis.htm)

### New Glasgow: Tearmann Society

Crisis line: 752-0132

Office: 752-1633

Toll-free: 1-888-831-0330

[www.thans.ca/tearmann.htm](http://www.thans.ca/tearmann.htm)

## Resources

### Port Hawkesbury: Leaside Transition House

Crisis line: 625-2444

Office: 625-1990

Toll-free: 1-800-565-3390

[www.thans.ca/leaside.htm](http://www.thans.ca/leaside.htm)

## Sydney: Cape Breton Transition House

Crisis line: 539-2945

Office: 562-4666

Toll-free: 1-800-563-2945

Children's Services: 562-1336

[www.thans.ca/cbth.htm](http://www.thans.ca/cbth.htm)

## Truro: Third Place

Crisis line: 893-3232

Office: 893-4844

Toll-free: 1-800-565-4878

[www.thans.ca/third.htm](http://www.thans.ca/third.htm)

## Yarmouth: Juniper House

Crisis line: 742-8689

Office: 742-4473

Toll-free: 1-800-266-4087

[www.thans.ca/juniper.htm](http://www.thans.ca/juniper.htm)

## Juniper Digby Outreach

Tel: 245-4789

Toll-free 1-800-266-4087

## Mi'kmaw Family Healing Centres

Millbrook First Nation, Truro

Tel: 893-8483

Crisis line: 1-800-565-4741

## Waycobah First Nation, Whycomogah

Tel: 756-3440

Crisis line: 1-800-565-3440

## Second stage housing

Second stage housing offers safe and affordable housing for abused women and their children.

### HRM: Alice Housing

Tel: 466-8459

[www.alicehousing.ca](http://www.alicehousing.ca)

### Sydney: Cape Breton Transition House

Tel: 539-2945

Toll-free: 1-800-563-2945

[www.thans.ca/cbth](http://www.thans.ca/cbth)

### Truro: Welkaqanik Next Step Shelter

(Priority given to aboriginal women)

Tel: 895-1738

Toll-free 1-800-565-4372

[www.nsns.ca](http://www.nsns.ca)

## Women's centres

Provide a range of programs, information, advocacy, and referral services for women.

### Antigonish Women's Resource Centre

219 Main St, Suite 204, Antigonish

Tel: 863-6221

[www.antigonishwomenscentre.com](http://www.antigonishwomenscentre.com)

### Bridgetown: The Woman's Place

38 Queen St, Bridgetown

Tel: 665-5166

[www.womensplaceresourcecenter.com](http://www.womensplaceresourcecenter.com)

### Halifax: Dalhousie University Women's Centre

6286 South St., Halifax

Tel: 494-2432

[www.womenscentre.dsu.dal.ca/links.html](http://www.womenscentre.dsu.dal.ca/links.html)

### Halifax: Saint Mary's University Women's Centre

526 Student Centre

Tel: 496-8722

### Lunenburg: Second Story Women's Centre

22 King St., Lunenburg

Tel: 543-1315

[www.secstory.com](http://www.secstory.com)

### New Glasgow: Pictou County Women's Centre

503 South Frederick St., New Glasgow

Tel: 755-4647

[www.womenscentre.ca](http://www.womenscentre.ca)

### Sheet Harbour: LEA Place Women's Centre

22709 Hwy # 7, Sheet Harbour

Tel: 885-2668

### Sydney: Every Woman's Centre

102 Townsend St., Sydney

Tel: 567-1212

### Truro: Central Nova Women's Resource Centre

535 Prince St., Truro

Tel: 895-4295

[www.womenscentre.ca/WCcontacts.htm](http://www.womenscentre.ca/WCcontacts.htm)

### Wolfville: Acadia University Women's Centre

Student Union Building

Tel: 585-2140

### Yarmouth: TRI County Women's Centre

238 Main St., Yarmouth

Tel: 742-0085

[www.tricountywomenscentre.org](http://www.tricountywomenscentre.org)

## Family resource and single-parent centres

### Amherst: Maggie's Place

Tel: 667-7250

[www.maggiesplace.ca](http://www.maggiesplace.ca)

### Antigonish: Kids First Family Resource Centre

Tel: 863-3848

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Northern/  
KidsFirstAntigonish.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Northern/KidsFirstAntigonish.htm)

### Bridgewater: Family Support Centre

Tel: 543-1301

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Western/Bridgewater.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Western/Bridgewater.htm)

### Canning: Kids Action Program

Tel: 582-1375

Cape Breton: Family Place Resource Centre

Tel: 562-5616

[www.phac-aspc.gc.ca/dca-dea/programs-mes/capc\\_family\\_e.html](http://www.phac-aspc.gc.ca/dca-dea/programs-mes/capc_family_e.html)

Digby: Digby County Family Resource Centre

Tel: 245-6464

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Western/Digby.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Western/Digby.htm)

Guysborough: Kids First Family Resource Centre

Tel: 533-3881

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Northern/  
KidsFirstGuysborough.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Northern/KidsFirstGuysborough.htm)

Halifax Regional Municipality: Bayers/Westwood Family Support Resource Centre

Tel: 454-9444

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/BayersWestwood.  
htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/BayersWestwood.htm)

Halifax: Family SOS

Tel: 455-5515

[www.familysos.ca](http://www.familysos.ca)

Halifax: Northend Parent Resource Centre

Tel: 492-0133

Halifax: Parent 'n' Tot Meeting Place

Tel: 443-9569

[www.parentntot.com/info.html](http://www.parentntot.com/info.html)

### Halifax: Single Parent Centre

Tel: 479-3031; 479-0508 (Prenatal Program)

Tel: 479-3855 (Support to New Mothers and Their Infants Programs)

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/SingleParentCentre.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/SingleParentCentre.htm)

### CFB Halifax: Military Family Resource Centre

Tel: 427-7788

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/HalifaxMFRC.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/HalifaxMFRC.htm)

### CFB Shearwater: Military Family Resource Centre

Tel: 720-1885 or 720-1040

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/Shearwater.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/Shearwater.htm)

### Lower Sackville: Memory Lane Family Place

Tel: 864-6363 (centre) or 865-8982 (day care)

[www.memorylanefamilyplace.com](http://www.memorylanefamilyplace.com)

### Dartmouth: PACT: Parent and Child Together

Tel: 434-8952

[www.parentsandchildrentogether.info](http://www.parentsandchildrentogether.info)

### Dartmouth Family Resource Centre

Tel: 464-8234

[www.phac-aspc.gc.ca/canada/regions/atlantic/work/e\\_k\\_1.html#5](http://www.phac-aspc.gc.ca/canada/regions/atlantic/work/e_k_1.html#5)

### Inverness County: Family Place

Tel: 258-3002

Liverpool: Queens Family Resource Centre

Tel: 354-7176

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Western/QueensFRC.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Western/QueensFRC.htm)

New Ross: Family Resource Centre

Tel: 689-2414

[www.nrfrc.150m.com](http://www.nrfrc.150m.com)

New Waterford: Family Resource Centre

Tel: 862-7140

Pictou County: Kids First Family Resource Centre

Tel: 755-5437

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Northern/  
KidsFirstNewGlasgow.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Northern/KidsFirstNewGlasgow.htm)

Shelburne: Kings Street Centre

Tel: 875-3256

Toll-free: 1-800-563-3256

Truro: Maggie's Place

Tel: 895-0200

[www.maggiesplace.ca](http://www.maggiesplace.ca)

Yarmouth: Parent's Place

Tel: 749-1718

[www.parentsplaceyarmouth.org](http://www.parentsplaceyarmouth.org)

## Child protection, child welfare, children’s aid societies, family & children’s services

[www.gov.ns.ca/coms/department/contact/index.html](http://www.gov.ns.ca/coms/department/contact/index.html)

### Annapolis District Office of Community Services

5495 Granville Road, PO Box 39,

Annapolis Royal, NS, B0S 1A0

Tel: 532-2337

Fax: 532-5858

### Antigonish District Office of Community Services

325 Main Street, Antigonish, NS, B2G 2C3

Tel: 863-3213

Fax: 863-7549

### Children’s Aid Society of Cape Breton – Victoria

Suite 31, Provincial Building, 360 Prince Street,

Sydney, NS, B1P 5L1

Tel: 563-3400

Fax: 563-3660

### Children’s Aid Society & Family Services of Colchester County

60 Lorne Street, PO Box 950, Truro, NS, B2N 3K3

Tel: 893-5950

Fax: 893-5609

## Resources

### Family & Children’s Services of Cumberland County

26–28 Prince Arthur Street, PO Box 399, Amherst, NS, B4H 3Z5

Tel: 667-3336

Fax: 667-1594

### Digby District Office of Community Services

84 Warwick Street, PO Box 399, Digby, NS, B0V 1A0

Tel: 245-5811

Fax: 245-7138

### Guysborough District Office of Community Services

Chedabucto Mall, PO Box 90, Guysborough, NS, B0H 1N0

Tel: 533-4007

Fax: 533-3822

### District Offices of Community Services in Halifax Regional Municipality

#### Halifax District Office – Child Welfare Services

6009 Quinpool Road, 4th Floor, Willow Tree Tower,

Halifax, NS, B3K 5J7

Tel: 425-5420

Fax: 422-9424

#### Cole Harbour District Office

Cole Harbour Place, 3rd Floor, 51 Forest Hills Parkway,

PO Box 1, Dartmouth, NS, B2W 6C6

Tel: 435-7472

Fax: 462-5527

#### Dartmouth District Office

Suite 205, Dartmouth Professional Centre, 277 Pleasant St,

Dartmouth, NS, B2Y 4B7

Tel: 424-3298

Fax: 424-0625

### Sackville District Office

Suite 3400, 40 Freer Lane, Sackville, NS, B4C 0A2

Tel: 869-3600

Fax: 864-4669

### Family & Children's Services of Hants County

1469 King Street, PO Box 99, Windsor, NS, B0N 2T0

Tel: 798-2289

Fax: 798-3669

### Children's Aid Society of Inverness Richmond

218 MacSween Street, Unit 3, Port Hawkesbury, NS, B9A 2J9

Tel: 625-0660

Fax: 625-4021

### Family & Children's Services of Kings County

76 River Street, PO Box 188, Kentville, NS, B4N 1G9

Tel: 678-6176

Fax: 679-0522

### Lunenburg District Office of Community Services

Suite 105, Provincial Building, 99 High Street, Bridgewater, NS,  
B4V 1V8

Tel: 543-4554

Fax: 543-6186

### Children's Aid Society of Pictou County

7 Campbell's Lane, PO Box 488, New Glasgow, NS, B2H 2H9

Tel: 755-5950

Fax: 755-7367

### Family & Children's Services of Queens County

123 Henry Hensey Drive, PO Box 1360, Liverpool, NS, B0T 1K0

Tel: 354-3525

Fax: 354-7460

### Shelburne District Office of Community Services

PO Box 9, Barrington, NS, B0W 1E0

Tel: 637-2337

Fax: 637-2137

### Family & Children's Services of Yarmouth County

10 Starrs Road, Yarmouth, NS, B5A 2T1

Tel: 742-0700

Fax: 742-8945

### Mi'kmaq Family and Children's Services

[www.mikmaq.ca/directory/community.html](http://www.mikmaq.ca/directory/community.html)

Indianbrook

Tel: 758-3553

Toll-free 1-800-263-8686

Eskasoni

Tel: 379-2433

Toll-free 1-800-263-8300

## Counselling and mental health services

Most Transition Houses offer counselling for women and children, or they can tell you about other places to get counselling. You may also be able to get counselling through Victims' Services (see Victims' Services). The Family Service Association and Family Services of Eastern Nova Scotia, listed below, also offer counselling and have a sliding fee scale.

### Breakthrough Co-op Ltd.

Halifax

Tel: 455-9939

[www.breakthrough.ns.ca](http://www.breakthrough.ns.ca)

### Family Service Association of Halifax Regional Municipality,

Halifax

Tel: 420-1980

### Family Service of Eastern Nova Scotia

Sydney

Tel: 539-6868

[www.fsens.ns.ca](http://www.fsens.ns.ca)

### Halifax District Office, Child Welfare

Halifax

Tel: 425-5420

[www.hfxcasfoundation.org](http://www.hfxcasfoundation.org)

## Nova Scotia Council for the Family

Halifax

Tel: 422-1316

[www.nscouncilfamily.org](http://www.nscouncilfamily.org)

## Reproductive Mental Health Service

IWK Health Centre, Halifax

Tel: 470-8098

## Self-Help Connections

Dartmouth

Tel: (902) 466-2011

Toll-free 1-866-765-6639

## Mental health services

### Canadian Mental Health Association (CMHA): Nova Scotia Branch

Tel: 466-6600

[www.novascotia.cmha.ca](http://www.novascotia.cmha.ca)

### Amherst: Cumberland Mental Health Centre

Tel: 667-3879

[www.cha.nshealth.ca/ourhospitals/cumberlandregional/default.htm](http://www.cha.nshealth.ca/ourhospitals/cumberlandregional/default.htm)

### Annapolis Royal: Annapolis Community Health Centre

Tel: 532-2381 (ext. 143)

[www.avdha.nshealth.ca/achc](http://www.avdha.nshealth.ca/achc)

### Antigonish: St. Martha's Hospital Mental Health Clinic

Tel: 863-4511

## Annapolis County

Bridgetown

Tel: 665-4801

Berwick: Kentville Mental Health Adult Clinic

Tel: 678-7381 (ext. 2870)

## Bridgewater: South Shore Regional Hospital Mental Health Services

Tel: 527-5208

[www.mentalhealthsouthshore.ca](http://www.mentalhealthsouthshore.ca)

## Clare Mental Health Clinic

Tel: 645-3470

## Colchester County Mental Health Services

Tel: 893-5526

## Colchester/East Hants County: Truro

Tel: 895-4211

## Dartmouth Canadian Mental Health

Tel: 463-2187

## Dartmouth Mental Health Services

Tel: 464-3116

## Digby Mental Health Centre

Tel: 245-4709

## Glace Bay Mental Health Clinic

Tel: 849-4413

## Halifax

Abbie Lane Mental Health Outpatient, QEII

Tel: 473-2531

IWK Health Centre: Community Mental Health

Tel: 422-1611

## Kings County: Kentville

Tel: 679-7464

## Lunenburg County: Bridgewater

Tel: 527-5228

## Middleton: Annapolis County Mental Health Clinic

Tel: 825-4825

## New Glasgow: Aberdeen Mental Health Services

Tel: 755-1137

## New Waterford Mental Health Clinic

Tel: 862-7195

## North Sydney Mental Health Clinic

Tel: 794-8551

## Pictou County: New Glasgow

Tel: 755-9441

### Queens County: Liverpool

Tel: 354-2721

### Shelburne Mental Health Clinic

Tel: 875-4200

### Sydney Adult Outpatient Clinic

Tel: 567-7742

### Windsor Mental Health Clinic

Tel: 792-2042

### Yarmouth Mental Health Clinic

Tel: 742-0222

## **Income assistance and employment support**

This is currently known as income assistance, though it may also be referred to as social assistance or welfare.

[www.gov.ns.ca/coms/department/contact/FindLocalOffices.html](http://www.gov.ns.ca/coms/department/contact/FindLocalOffices.html)

### Central Regional Office

2131 Gottingen Street, PO Box 2623, Halifax, NS, B3J 3P7

Tel: 424-4754

Fax: 424-5115

## Halifax District Office #1

PO Box 2561, Halifax, NS, B3J 3N5

### *Income Assistance*

Tel: 424-4150

Fax: 424-0578

TDD: 424-3939

### *Day Care Services*

Tel: 424-6679

Fax: 424-7714

### *Housing Services*

MacDonald Building, 2131 Gottingen Street, Suite 501,  
Halifax, NS, B3J 3E4

Tel: 424-5110

Toll Free: 1-800-774-5130

Fax: 424-2091

## Halifax District Office #2

*Services for Persons with Disabilities, In-home Support Program,  
Family Maintenance, Income Support Program*

PO Box 1513, Halifax, NS, B3J 2Y3

Tel: 424-1980

Fax: 424-8240

### *Employment Support Services*

PO Box 2614, Halifax, NS, B3J 3N5

Tel: 424-1980

Fax: 424-1990

### Dartmouth District Office

Dartmouth Professional Centre, 277 Pleasant Street, Suite 400,  
Dartmouth, NS, B2Y 4B7

Tel: 424-3298

Fax: 424-0625

### Sackville District Office

40 Freer Lane Suite 3400,, Sackville, NS, B4C 0A2

Tel: 869-3600

Fax: 864-4669

### Lakeside Office (Satellite Office)

1492 St. Margaret's Bay Road, PO Box 190, Lakeside,  
NS, B3T 1M6

Tel: 876-0580

Fax: 424-8111

### Cole Harbour District Office

Cole Harbour Place, 51 Forest Hills Parkway, PO Box 1,  
Dartmouth, NS, B2W 6C6

Tel: 435-7472

Fax: 462-5527

## Portland District Office

44 Portland Street, 4th floor Royal Bank Building, PO Box 857,  
Dartmouth, NS, B2Y 3Z5

### *Income Assistance/Services for Persons with Disabilities*

Tel: 424-1600

Fax: 424-1629

### *Employment Support Services*

Tel: 424-6200

Fax: 424-6645

## Sheet Harbour Office (Satellite Office)

PO Box 52, Sheet Harbour, NS, B0J 3B0

Tel: 885-2974

Fax: 885-3497

## Eastern Regional Office

Provincial Building, 360 Prince Street, Suite 25, Sydney,  
NS, B1P 5L1

Tel: 563-3302

Fax: 563-5693

## Eastern Region District Offices

### Sydney District Office

Provincial Building, 360 Prince Street, Sydney, NS, B1P 5L1

Tel: 563-3300

Fax: 563-0516

### North Sydney District Office

184 Commercial Street, Parsons Building, North Sydney,  
NS, B2A 3Y7

Tel: 794-5110

Fax: 794-5171

### Port Hawkesbury District Office

P. O. Box 218, Unit #3, Provincial Bldg, MacSween Street,  
Port Hawkesbury, NS, B9A 2J9

Tel: 625-0660

Fax: 625-4021

### Glace Bay District Office

Senator's Place, 3rd Floor, 633 Main Street, Glace Bay,  
NS, B1A 6J3

Tel: 842-4000

Fax: 842-4067

### Northern Regional Office

Aberdeen Business Centre, 610 East River Road, Suite 255,  
New Glasgow, NS, B2H 3S2

Tel: 755-7023

Fax: 752-5088

### Northern Region District Offices

#### Cumberland District Office

26–28 Prince Arthur Street, Suite 201, PO Box 399,  
Amherst, NS, B4H 3Z5

Tel: 667-3336

Fax: 667-1594

### Colchester District Office

P. O. Box 950, 60 Lorne Street, Truro, NS, B2N 3K3

Tel: 893-5950

Fax: 893-5609

### New Glasgow District Office

678 East River Road, New Glasgow, NS, B2H 5E5

Tel: 755-7363

Fax: 755-3631

### Antigonish District Office

325 Main Street, Antigonish, NS, B2G 1C3

Tel: 863-3213

Fax: 863-7549

### Guysborough District Office

Chedabucto Mall, PO Box 90, Guysborough, NS, B0H 1N0

Tel: 533-4007

Fax: 533-3822

### Western Regional Office

10 Webster Street, Suite 202, Kentville, NS, B4N 1H7

Tel: 679-6715

Fax: 679-6127

### Western Region District Offices

#### Yarmouth District Office

10 Starrs Road, Yarmouth, NS, B5A 2T1

Tel: 742-0741

Fax: 742-0747

### Digby District Office

84 Warwick Street, PO Box 399, Digby, NS, B0V 1A0

Tel: 245-5811

Fax: 245-4121

### Shelburne District Office

PO Box 9, Barrington, NS, B0W 1E0

Tel: 637-2335

Fax: 637-2137

### Annapolis District Office

5495 Granville Road, Granville Ferry, NS, B0S 1A0

Tel: 532-2337

Fax: 532-3401

### Queens District Office

123 Henry Hensey Dr., PO Box 1360, Liverpool, NS, B0T 1K0

Tel: 354-2771

Fax: 354-7460

### Lunenburg District Office

Provincial Building, 99 High Street, Suite 105, Bridgewater,  
NS, B4V 1V8

Tel: 543-5527

Fax: 543-6186

### Hants District Office

80 Water Street, PO Box 2350, Windsor, NS, B0N 2T0

Tel: 798-8319

Fax: 798-6605

### East Hants (Elmsdale)

15 Commerce Court, Suite 130, Elmsdale, NS, B2S 3K5

Toll-free 1-866-597-4515

Fax: 798-6605

### Kings District Office # 1

*Prevention, Eligibility Review, Community Supports  
for Adults, In-home Support for Children, Foster Care  
Coordinator*

10 Webster Street, Suite 202, Kentville, NS, B4N 1H7

Tel: 679-5146

Fax: 678-3072

### Kings District Office # 2

*Day Care, Income Assistance, Employment Supports*

76 River Street, Kentville, NS, B4N 1G9

Tel: 678-6176

Fax: 679-6242

## Maintenance and child support

### Federal Child Support Guidelines

Toll-free 1-888-373-2222

[canada.justice.gc.ca/eng/pi/sup-pen/pub/guide/step1-etap1.html](http://canada.justice.gc.ca/eng/pi/sup-pen/pub/guide/step1-etap1.html)

### Maintenance Enforcement Program, Head Office

Tel: 424-0050

InfoLine (24-hour access)

Toll-free 1-800-357-9248

[www.gov.ns.ca/just/FLIC/ME.asp](http://www.gov.ns.ca/just/FLIC/ME.asp)

## Family Courts

Justice Centres and Family Division of the Supreme Court  
[www.courts.ns.ca/family/fam\\_location.htm](http://www.courts.ns.ca/family/fam_location.htm)

### Amherst Justice Centre

16 Church Street, 3rd Floor, Amherst, NS, B4H 3A6  
Tel: 667-2256; Fax: 667-1108

### Family Court Office

Tel: 667-2256; Fax: 667-1108

### Antigonish Justice Centre

11 James Street, Antigonish, NS, B2G 1R6  
Tel: 863-7545; Fax: 863-7479

### Family Court Office

Tel: 863-7312; Fax: 863-7479

### Bridgewater Justice Centre

80 Pleasant St, P.O. Box 369, Bridgewater, NS, B4V 1N1  
Tel: 543-4678; Fax: 543-0639

### Family Court Office

201-599 King Street, Bridgewater, NS, B4V 1B3  
Tel: 543-4679; Fax: 543-0678

### Digby–Annapolis Justice Centre

119 Queen Street, PO Box 1089, Digby, NS, B0V 1A0  
Tel: 245-4567; Fax: 245-6722

### Kentville Justice Centre

87 Cornwallis Street, Kentville, NS, B4N 2E5

Tel: 679-6070; Fax: (902) 679-6178

### Family Court Office

136 Exhibition Street, Kentville, NS, B4N 4E5

Tel: 679-6075; Fax: 679-6081

### Pictou–New Glasgow Justice Centre

115 MacLean Street, 1st Floor, New Glasgow, NS, B2H 4M5

Tel: 755-7364; Fax: 755-7783

### Family Court Office

69 Water Street, PO Box 1750, Pictou, NS, B0K 1H0

Tel: 485-7025; Fax: 485-7060

### Truro Justice Centre

540 Prince Street, Truro, NS, B2N 1G1

Tel: 893-5840; Fax: 893-6261

### Family Court Office

542 Prince Street, Truro, NS, B2N 1G1

Tel: 893-5840; Fax: 893-6261

### Yarmouth Justice Centre

403 Main Street, Yarmouth, NS, B5A 1G3

Tel: 742-0500; Fax: 742-0678

### Family Court Office

Tel: 742-0550; Fax: 742-0678

## Supreme Courts/Supreme Court (Family Division)

### Amherst & Surrounding Areas (Cumberland County)

Amherst Justice Centre, 16 Church St, 3rd Floor,  
Amherst, NS, B4H 3A6  
Tel: 667-2256; Fax: 667-1108

### Antigonish & Surrounding Areas (Antigonish and Guysborough counties)

Antigonish Justice Centre, 11 James St, Antigonish, NS, B2G 1R6  
Tel: 863-7394; Fax: 863-7479

### Bridgewater & Surrounding Areas (Lunenburg and Queens counties)

#### Supreme Court

599 King St, Suite 201, Bridgewater, NS, B4V 1B3  
Tel: 543-4679; Fax: 543-0678

### Digby, Annapolis & Surrounding Areas

#### Digby Justice Centre

119 Queen St, Digby, NS, B0V 1A0  
Tel: 245-7134; Fax: 245-6722

#### Annapolis Royal Justice Centre

377 Saint George St, Annapolis Royal, NS, B0S 1A0  
Tel: 532-5462; Fax: 532-7225

## Resources

### Halifax Regional Municipality

In HRM, the Supreme Court consists of a General  
Division and a Family Division.

### Supreme Court (General Division)

Law Courts Building, 1815 Upper Water St, Halifax, NS, B3J 1S7

Tel: 424-4900; Fax: 424-0524

### Supreme Court (Family Division)

3380 Devonshire Ave, Halifax, NS, B3K 5R5

Mail: PO Box 8988, Station A, Halifax, NS, B3K 5M6

Tel: 424-3990; Fax: 424-0562

### Kentville & Surrounding Areas (Kings, West Hants, and East Hants counties)

Kentville Justice Centre, 87 Cornwallis St, Kentville, NS, B4N 2E5

Tel: 679-6070; Fax: 679-6178

### Port Hawkesbury & Surrounding Areas (Inverness and Richmond Counties)

15 Kennedy Street, Suite 201, Port Hawkesbury, NS, B9A 2Y1

Tel: 625-4216; Fax 625-4084

### Pictou, New Glasgow, & Surrounding Areas (Pictou County)

Supreme Court, 69 Water Street, PO Box 1750, Pictou, NS, B0K 1H0

Tel: 485-6373; Fax: 485-6737

### Sydney & Surrounding Areas (Cape Breton Regional Municipality/Victoria County)

Sydney Justice Centre, 6–136 Charlotte St, Sydney, NS, B1P 1C3

Tel: 563-3550; Fax: 563-2224

## Truro & Surrounding Areas (Colchester County)

Truro Justice Centre, 1 Church St, Truro, NS, B2N 3Z5

Tel: 893-3953; Fax: 893-6114

## Yarmouth & Surrounding Areas (Yarmouth and Shelburne counties)

Yarmouth Justice Centre, Court House, 403 Main St,

Yarmouth, NS, B5A 1G3

Tel: 742-0500; Fax: 742-0678

## Legal Aid services

### Nova Scotia Legal Aid

#### Amherst: Cumberland County

Tel: 667-7544 or Toll-free: 1-866-999-7544

#### Annapolis Royal: Annapolis County/Digby

Tel: 532-2311 or Toll-free: 1-866-532-2311

#### Antigonish: Antigonish County

Tel: 863-3350 or Toll-free: 1-866-439-1544

#### Bridgewater: Lunenburg County/South Shore

Tel: 543-4658 or Toll-free: 1-866-543-4658

#### Dartmouth

Tel: 420-8815 or Toll-free: 1-877-420-8818

#### Halifax – North

Tel: 420-3450 or Toll-free: 1-866-420-3450

### Halifax – South

Tel: 420-6583 or Toll-free: 1-877-777-6583

### Kentville

Tel: 679-6110 or Toll-free: 1-866-679-6110

### Liverpool (Sub-office): Queens County

Tel: 354-3215

### New Glasgow: Pictou County

Tel: 755-7020 or Toll-free: 1-877-755-7020

### Port Hawkesbury

Tel: 625-4047 or Toll-free: 1-888-817-0116

### Sydney: Cape Breton

Tel: 563-2295 or Toll-free: 1-877-563-2295

### Truro: Colchester County

Tel: 893-5920 or Toll-free: 1-877-777-5920

### Windsor: Hants County

Tel: 798-8397 or Toll-free: 1-866-798-8397

### Yarmouth: South Shore

Tel: 742-7827 or Toll-free: 1-866-742-3300

### HRM: Dalhousie Legal Aid

Tel: 423-8105

## Legal and justice support services

### Family Law Information Centres (FLIC)

[www.gov.ns.ca/just/FLIC](http://www.gov.ns.ca/just/FLIC)

#### In Sydney, FLIC is located at:

Sydney Justice Centre

Harbour Place, Main Level, 136 Charlotte Street, Sydney,  
NS, B1P 1C3

Tel: 563-5761

#### In Halifax, FLIC is located at:

Supreme Court (Family Division), Lower Level,

3380 Devonshire Ave, Halifax, NS, B3K 5R5

Tel: 424-8826

### Courts of Nova Scotia (see individual courts for phone numbers)

[www.courts.ns.ca](http://www.courts.ns.ca)

### Legal Information Society of Nova Scotia (LISNS)

5523B Young St., Hydrostone Market, Halifax, NS, B3K 1Z7

Tel: 454-2198 (for publications)

[www.legalinfo.org](http://www.legalinfo.org)

#### Dial-a-Law

(pre-recorded legal information 24 hrs/day), Tel: 420-1888

#### Legal Info Line and Lawyer Referral Service

Tel: 455-3135 or Toll-free: 1-800-665-9779

### Coverdale Courtwork Services

(Supporting women through the Justice System)

Halifax, Tel: 422-6417

### Elizabeth Fry Society

(Supporting women in conflict with the law)

Halifax, Tel: 454-5041

Province-wide toll-free: 1-877-619-1354

### Mi`kmaw Court Worker Program

### Mi`kmaw Legal Support Network

[www.mlsn.ca](http://www.mlsn.ca)

Eskasoni, Tel: 379-2042

Truro, Tel: 895-6385

Halifax, Tel: 468-0381

## Government departments, programs, and services

Federal, provincial, and municipal governments list some numbers in the blue pages at the back of your telephone book. Look first in the index at the beginning of the blue pages. If you cannot find a number for the federal, provincial, or municipal service you want, a good place to start is Service Nova Scotia and Municipal Relations.

### Federal Government

Information line: 1-800-622-6232; TTY/TDD: 1-800-926-9105

[www.canada.gc.ca](http://www.canada.gc.ca)

## Provincial Government

### Nova Scotia Freedom of Information and Protection of Privacy Review Office

Tel: 424-4684 or Toll-free: 1-866-243-1564

[www.foipop.ns.ca](http://www.foipop.ns.ca)

### Nova Scotia Human Rights Commission

Tel: 424-4111 or Toll-free: 1-877-269-7699

[www.gov.ns.ca/humanrights](http://www.gov.ns.ca/humanrights)

### Nova Scotia Ombudsman's Office

Tel: 424-6780 or Toll-free: 1-800-670-1111

[www.gov.ns.ca/ombu](http://www.gov.ns.ca/ombu)

### Service Nova Scotia and Municipal Relations

(Inquiries about government programs and services)

Tel: 1-800-670-4357

[www.gov.ns.ca/snsmr](http://www.gov.ns.ca/snsmr)

## Victims' Services

The Victims' Services Division of the Nova Scotia Department of Justice provides information and confidential support services to victims of crime and their families. Check also with your local RCMP detachment, police department, or Transition House for support and assistance in domestic abuse cases.

### Department of Justice Victims' Services

[www.gov.ns.ca/just/victimservices](http://www.gov.ns.ca/just/victimservices)

### Halifax (Head Office)

Tel: 424-3309 or Toll-free: 1-888-470-0773

### Dartmouth (Halifax Regional Municipality)

Tel: 424-3307

### Kentville (Annapolis, Kings, Hants, Lunenburg, Queens, Shelburne, Yarmouth counties)

Tel: 679-6201 or Toll-free: 1-800-565-1805

### Sydney (Cape Breton, Richmond, Inverness, Victoria counties)

Tel: 563-3655 or Toll-free: 1-800-565-0071

### New Glasgow (Pictou, Guysborough, Antigonish, Colchester, Cumberland counties)

Tel: 755-7110 or Toll-free: 1-800-565-7912

### Criminal Injuries Counselling Program (Victims' Services)

151 Terminal Road, 4th Floor, Halifax, NS, B3J 2L6

Tel: 424-4651 or Toll-free: 1-888-470-0773

### Police-Based Victim Services

#### Halifax Regional Police Victim Services Unit

Tel: 490-5300

[www.halifax.ca/police/Programs/victimservices.html](http://www.halifax.ca/police/Programs/victimservices.html)

### Aboriginal Victim Services

Tel: 563-3655 or Toll-free: 1-800-565-0071

## Addictions and drug dependency services

### Halifax: Choices Adolescent Program

Tel: 470-6300

[www.iwk.nshealth.ca/index.cfm?objectid=1D9CBCF3-D1FD-5B8A-97AB02557A67DACD](http://www.iwk.nshealth.ca/index.cfm?objectid=1D9CBCF3-D1FD-5B8A-97AB02557A67DACD)

### Addiction Services

Halifax Regional Municipality (central intake), Tel: 424-8866

Antigonish, Tel: 863-5393

Amherst, Tel: 667-7094

Barrington, Tel: 742-2406

Bridgewater, Tel: 543-7882

Church Point, Tel: 645-3502

Digby, Tel: 245-5888

East Hants, Tel: 883-0295

Glace Bay, Tel: 842-4066

Kentville, Wolfville, Berwick, Annapolis Royal, Tel: 679-2392

Liverpool, Tel: 354-3422

Lunenburg, Tel: 634-7325

Middleton, Tel: 825-6828

New Glasgow, Tel: 755-7017

Pictou, Tel: 485-4335

Port Hawksbury, Tel: 625-2363

Shelburne, Tel: 875-8645

Springhill, Tel: 597-8647

Sydney, Tel: 563-2590

Truro, Tel: 893-5900

Yarmouth, Tel: 742-2406

### Marguerite Centre (residential facility for women)

Tel: 876-0006, [www.margueritecentre.ns.ca](http://www.margueritecentre.ns.ca)

## Help lines and crisis centres

### Legal Information Society of Nova Scotia (LISNS)

5523B Young St., Hydrostone Market, Halifax, NS, B3K 1Z7

Tel: 454-2198 (for publications)

[www.legalinfo.org](http://www.legalinfo.org)

Information, referrals, lay counselling, and crisis and suicide intervention.

[www.communitycounselling.org/nova\\_scotia\\_crisis\\_centres.htm](http://www.communitycounselling.org/nova_scotia_crisis_centres.htm)

### Kids Help Phone (24 hours, bilingual)

Tel: 1-800-668-6868

### Metro Help Line (24 hours)

Tel: 421-1188

### Pictou County Help Line

Tel: 752-5952

### Sydney Help Line (Cape Breton/Sydney)

Tel: 562-4357

### Yarmouth Help Line

Tel: 742-1331

## Sexual assault centres and information

Halifax: Avalon Sexual Assault Centre

Tel: 422-4240 or Crisis Line 425-0122

[www.avaloncentre.ca/sane.htm](http://www.avaloncentre.ca/sane.htm)

Sexual Assault Nurse Examiner Program (SANE)

Tel: 425-0122 or 422-6503

Truro: Colchester Sexual Assault Centre

Tel: 897-4366

## Men's domestic abuse intervention programs

[www.gov.ns.ca/coms/families/MensIntervention.html](http://www.gov.ns.ca/coms/families/MensIntervention.html)

Amherst: Cumberland County: New Directions

Tel: 667-4500

Bridgewater (Lunenburg, Shelburne and Queens counties):

Alternatives

Tel: 543-7444

Halifax: New Start Counselling

Tel: 423-4675

Sydney (Cape Breton Island): Second Chance

Tel: 567-0979

Truro (Colchester and East Hants counties): Bridges

Tel: 897-6665

Westville (New Glasgow, Pictou, Antigonish, Guysborough counties)

New Leaf, Tel: 396-2440

## **Additional resources for First Nations women**

Child Help Initiative Project, Native Council of Nova Scotia

Main Office, Tel: 843-3551 or Toll-free: 1-800-565-4372

[www.ncns.ca](http://www.ncns.ca)

Liverpool, Tel: 354-2751

Sydney, Tel: 567-1240

Truro, Tel: 843-3551

Micmac Native Friendship Centre: Halifax

Tel: 420-1576

[www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/MikmaqNFRC.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/MikmaqNFRC.htm)

Mi'kmaq Child Development Centre: Halifax

Tel: 422-7850 [www.nscouncilfamily.org/FRC\\_Directory/Centres/Central/](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/MikmaqCDC.htm)

[MikmaqCDC.htm](http://www.nscouncilfamily.org/FRC_Directory/Centres/Central/MikmaqCDC.htm)

Native Social Counselling Agency (Provincial)

Tel: 895-1738

Nova Scotia Native Women's Association

Tel: 893-7402, [nsnwa.tripod.com](http://nsnwa.tripod.com)

## **Additional resources for African Nova Scotian women**

African United Baptist Women's Institute

Tel: 752-4978

Association of Black Social Workers

Tel: 494-1190, [www.nsasw.org/home.htm](http://www.nsasw.org/home.htm)

Black Educators Association

Tel: 424-7036 or Toll-free: 1-800-565-3398

[www.thebea.ns.ca/index.html](http://www.thebea.ns.ca/index.html)

Congress of Black Women

Tel: 462-0344

## **Additional resources for new Canadian (immigrant) women**

Atlantic Refugee and Immigrant Services Society (ARISS)

Tel: 401-9927 or 406-4098

Citizenship and Immigration Canada

Toll-free: 1-888-242-2100 or TTY: 1-888-576-8502

[www.cic.gc.ca/english/index.asp](http://www.cic.gc.ca/english/index.asp)

### **Resources**

Community Health Interpretation and Information Services (CHIIS) (Interpretation service)

Tel: 425-6604 or 425-5532

### Halifax Refugee Clinic

Tel: 422-6736, [www.halifaxrefugeeclinic.org/index\\_eng.html](http://www.halifaxrefugeeclinic.org/index_eng.html)

### Metro Immigrant Settlement Association (MISA)

Tel : 423-3607, [www.misa.ns.ca/](http://www.misa.ns.ca/)

### Multicultural Association of Nova Scotia

Tel: 423-6534, [www.mans.ns.ca](http://www.mans.ns.ca)

### YMCA Immigrant Programs

Tel: 457-9622, [www.ymcahrm.ns.ca/page.asp?ID=10012](http://www.ymcahrm.ns.ca/page.asp?ID=10012)

## **Additional resources for women who are lesbian, gay, bisexual, or transgendered (LGBT)**

### Lesbian, Gay, Bisexual Youth Project

Tel: 429-5429, [www.youthproject.ns.ca](http://www.youthproject.ns.ca)

### Egale Canada

Tel: 613-230-1043, [www.egale.ca/index.asp](http://www.egale.ca/index.asp)

### Nova Scotia Rainbow Action Project

[www.nsrp.ca](http://www.nsrp.ca)

### PFLAG Canada Ltd

Tel: 1-888-530-6777, [www.pflagcanada.ca/en/about-e.asp](http://www.pflagcanada.ca/en/about-e.asp)

### Pride Cape Breton

[www.pridecapbreton.com](http://www.pridecapbreton.com)

## **Additional resources for deaf women and women with disabilities**

### **Disabled Person's Commission**

Tel: 424-8280 or Toll-free: 1-800-565-8280, [www.gov.ns.ca/disa/](http://www.gov.ns.ca/disa/)

### **Society of Deaf and Hard of Hearing Nova Scotians (SDHHNS)**

[www.sdhhs.org](http://www.sdhhs.org)

#### **Halifax**

Tel: 422-7130 (voice, videophone, TTY)

Toll-free: 1-800-516-5551

#### **Cape Breton**

Tel: 564-0003 (voice, videophone, fax), 564-0486 (TTY),

Toll-free: 1-888-770-8555

### **ReachAbility**

[www.reachability.org](http://www.reachability.org)

Tel: 429-5878 (TTY), Toll-free: 1-866-429-5878

## **Additional resources for Acadian and Francophone women**

### **La Fédération des Femmes acadiennes de la Nouvelle-Écosse**

Tel: 433-2088, [www.ajefne.ns.ca](http://www.ajefne.ns.ca)

### **L'Association des juristes d'expression française de la Nouvelle-Écosse (AJEFNE)**

Tel: 433-2085, [www.ajefne.ns.ca](http://www.ajefne.ns.ca)

## Resources and information about domestic abuse

Transition Houses and Women's Centres also have resources and information about domestic abuse.

### National Clearinghouse on Family Violence (NCFV)

Toll-free: 1-800-267-1291

[www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/bilingual.htm](http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/bilingual.htm)

The Public Health Agency of Canada operates the National Clearinghouse on Family Violence. The NCFV is Canada's resource centre for information on violence within relationships of kinship, intimacy, dependency, or trust.

### Nova Scotia Advisory Council on the Status of Women (NSACSW)

NSACSW works to make sure that issues affecting the lives of Nova Scotia women become part of the government's plan. See *Making Changes: A Book for Women in Abusive Relationships* on the NSACSW website or call to order a copy.

Tel: 424-8662 or Toll-free: 1-800-565-8662, [women.gov.ns.ca](http://women.gov.ns.ca)

### Hot Peaches

International inventory of hotlines, shelters, refuges, crisis centres and women's organizations, searchable by country, plus index of domestic violence resources in over 70 languages.

[www.hotpeachpages.net/index.html](http://www.hotpeachpages.net/index.html)

### Shelternet

Shelternet provides information in different languages about Transition Houses in all parts of Canada, and includes useful information about safety planning, as well as a site for children.

[www.shelternet.ca/splashPage.htm](http://www.shelternet.ca/splashPage.htm)

### Centre for Children and Families in the Justice System London Family Court Clinic

Information for best practices to help abused women and children exposed to violence.

Tel: 519-679-7250, [www.lfcc.on.ca](http://www.lfcc.on.ca)

### Ontario Women's Justice Network

OWJN promotes understanding of the law with respect to the issue of violence against women and children, and provides legal information to women and their supporters.

[www.owjn.org](http://www.owjn.org)

### Muriel McQueen Fergusson Research Centre

The MMFC provides a regional and a national focus for academic research in the field of family violence, and actively seeks the participation of researchers from across the country in carrying out its mandate.

Tel: 506-453-3595, [www.unbf.ca/arts/CFVR/index.php](http://www.unbf.ca/arts/CFVR/index.php)

### National Association of Women and the Law

NAWL is a national non-profit women's organization that promotes the equality rights of women through legal education, research and law reform advocacy.

Tel: 613-241-7570, [www.nawl.ca](http://www.nawl.ca)



