

# Separation of Common-Law Couples

**DIFFERENT RULES THAN MARRIED COUPLES**



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INFORMATION EMPOWERS

# Setting the Scene

A common-law relationship is when two people make a life together without being married. Quebec law officially calls these couples “de facto” couples.

When these couples break up, the rules are different than for married couples.

This article explains these rules.

**This pamphlet is up to date to March 7, 2014.**

It is for general information purposes only. If you need legal advice on a specific situation, consult a lawyer or notary.



Also at [educaloi.qc.ca](http://educaloi.qc.ca):

- Written Agreements Between Common-Law Couples
- The Court Process for Common-Law Couples
- The Mediation Process
- Steps in Asking for Child Custody and Child Support
- and much more...

## Definition of Common-Law

Even if a couple has been together for one, three or 15 years, and even if they have children together, they are never automatically married under Quebec law.

Note that being a common-law couple and being in a "civil union" is not the same thing. This article only deals with common-law couples. For more on civil unions, see Éducaloi's website.

## Fewer Protections on Separation

Common-law couples who break up don't have some of the protections married couples have. Here are some examples:

- They don't benefit from the protection for the family residence if only one person owns the home or only one person is on the apartment lease.
- There is no right to a division of property.
- Partners can't ask for financial support for themselves from their ex-partners. (This is different from child support.)
- The partners don't inherit from each other if one dies without a will or the surviving partner is not named in the will.

### **Important!**

Couples can still come to an agreement between themselves about some of these issues. This is explained below.

## Some of the Same Benefits

Common-law couples do have the same benefits as married couples in specific cases. For example, they often have similar benefits under pension plans, insurance policies, workplace accident compensation plans, and tax laws.

But even with these benefits, there is no standard definition of a common-law couple. A couple can be considered common-law under one law, but not under another. It all depends on which law applies.

## No Divorce Process

When common-law couples separate, they don't have to file for divorce. Divorce only exists between married couples.

But there are still many issues common-law couples must settle. These issues include living arrangements and financial support for any children involved and how to divide a family home if both people own it.

## Deciding Issues in Advance

Common-law couples can agree in advance about how to handle some of the issues that arise after a separation. They can do this by signing a written agreement called a contract. They can agree on many issues in a contract, as long as none of it goes against the law. A legal advisor can help create or review a contract.

If there is a contract, it is important to check what it says. If there is no contract, couples have to settle all their issues when they separate. The next sections list some of these issues.

# Issues to Settle on Separation: Examples

## Children

- child custody (living arrangements)
- visiting rights
- child support payments

After they separate, both parents keep parental authority over their children. Parental authority means all the rights and responsibilities parents have towards their children.

Parents must continue to discuss with each other all of the important decisions affecting the children. This is true even if only one parent has custody. Both parents must also provide financially for their children, in keeping with their financial situations.

## Property

- who will stay in the family house or rental housing
- how to divide the house if it belongs to both people
- how to divide the furniture and other property
- how to divide debts
- how to divide pension plans through an employer

If the partners can't agree on these issues, there are some consequences:

Each person keeps his or her own property, even if it was bought while the couple was living together or the family used it. The property is not divided.

If only one person owns the home or is named on the lease, that person can stay in the home and ask the other person to leave. If there are children involved, the rule is a bit more complicated. See Éducaloi's website for more information.

## Financial Support and Compensation

- support payments for one person in the couple who might need them (different from child support)

- financial compensation for one person's contribution to a partnership between the couple
- financial compensation for a person placed at a financial disadvantage for the benefit of the other person

If the partners can't reach an agreement, there are some consequences:

Neither person has a legal right to support payments.

The other two types of financial compensation apply only in very specific cases. We recommend that you talk to a lawyer.

## When Common-Law Couples Don't Agree

If common-law couples can't agree on issues arising from their separation, they can go to court.

Couples with children can try to reach an agreement with the help of a mediator – a neutral third person – paid for by the government. In fact, the law requires these couples to try mediation before getting a judge involved.

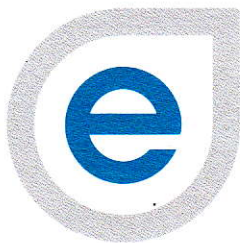
### DID YOU KNOW?

Common-law partners don't have a legal right to support payments for their own needs from an ex-partner?

FOR MORE INFORMATION  
ON COMMON-LAW COUPLES,  
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