Keeping Your Children Safe

Read this resource if you have children and:

- your partner has abused or threatened you or your children; and
- you've left your abusive partner or are thinking of leaving.

See Who Can Help? (**info.legalaid.bc.ca** under Intimate partner violence) for where to get legal advice.

How can you protect your children?

If you decide to leave your partner, or are thinking of leaving, and are worried about your children's safety, take them with you when you leave, but make sure you remain in the same community or nearby. For example, if you live in Vancouver, you could go to North Vancouver or Richmond, but Kelowna may be too far and considered an attempt at a relocation.

However, if your only safe space is far away, do the following after you leave:

- Get a lawyer immediately through Legal Aid BC (**legalaid.bc.ca**) or duty counsel and have them write a letter to the other party stating that the children are safe. (Duty counsel are lawyers at courthouses who give free advice to people representing themselves in court.)
- Apply in family court (either Provincial Court or Supreme Court) for a protection order or parenting order. See Protection Orders (**info.legalaid.bc.ca** under Intimate partner violence).

It's important for you to start a legal process and to let a lawyer and the courts know you've left your partner and taken your children with you.

If you can't take your children with you when you leave, get them as soon as you can. If you feel it's unsafe to go back for your children, ask the police to go with you. The police can make sure that you're safe. If you don't have a court order, the police can't force your partner to give you the children.

If you're afraid for your and your children's immediate safety, or you believe your partner may abuse you and your children in the future, apply for a protection order.

What legal terms about parenting do you need to know?

If you and your partner separate, there are some legal words you need to know. The following words are used in the BC Family Law Act:

- Parents who lived with or played a meaningful role in a child's life are the child's **guardians**. When one parent moves out, it doesn't matter who the child lives with; both parents continue to be guardians.
- Guardians have **parenting time** and **parental responsibilities**. Parenting time is the time a guardian spends with the child. Parental responsibilities are your responsibilities when raising a child (such as making daily decisions about the child and making important decisions about the child's education and medical treatment).
- **Contact with a child** is time that a non-guardian has with the child.

For more information about family law, see the Family Law in BC website (**family.legalaid.bc.ca**).

How can a parenting order help?

You can apply for parenting orders to limit your partner's parental responsibilities and parenting time. A parenting order can make your parental responsibilities clear or limit your partner's parental responsibilities or parenting time.

You can apply for a parenting order without a lawyer. But it's better to get legal help. See Legal help in Who Can Help? (**info.legalaid.bc.ca** under Intimate partner violence).

You can get an **interim** (temporary) parenting order quickly. You can apply for that right away. An interim order doesn't end unless you get a new order or consent to it ending.

In an emergency, you can apply for an interim order without telling your partner. This is called a **without notice** or **ex parte order**. You have to explain to the judge why it's an emergency and not safe to tell your partner about the order.

When deciding what parenting arrangements to make, the judge considers only your **child's best interests**. This includes:

- the child's health and emotional well-being;
- the child's views, unless it's inappropriate to consider them;
- the love and affection between the child and other important people in the child's life;
- the child's need for stability;
- the history of the child's care;

- the ability of parents or others who want guardianship, parenting time, or contact to look after the child;
- the effect of any family violence on the child's safety, security, and well-being; and
- whether the child's parents are able to cooperate with each other.

The judge may order that a **custody and access report** (also called a section 211 report) be written. For a fee, a professional such as a psychologist, counsellor, or social worker prepares this report to give an opinion or recommendation about the best parenting arrangements for your children. A **family justice counsellor** can write this report for free if the court appoints one, but it can be a long wait.

For more information, see to the Attorney General website (**www2.gov.bc.ca** search for Family justice counsellors)

If you have a parenting order or agreement and then get a protection order with different parenting details, the protection order must be obeyed first. For example, if your parenting order gives your partner parenting time but your protection order says your partner can't go near the children, the protection order must be obeyed first, and the parenting order goes on hold.

What can you do if you're afraid for your children's safety?

Even if your partner has abused you or your children, your children might still miss them and want to see them. Your partner can go to court or ask for parenting time with them through a lawyer, family justice counsellor, or mediator. If you're afraid for your children's safety, tell the judge and ask for:

- **conditions on parenting time or contact.** The judge can decide how your partner can spend time with the children. For example, the judge could say your partner can't:
  - » use drugs or alcohol while with the children and for 24 hours before that, or
  - » can't take the children out of your home community or have them stay overnight.
- **supervised time**. Your partner can visit the children only when someone else is with them. Before you go to court, ask a friend or family member if they would be able to supervise visits.
- **specific times**. Your partner can spend time with the children only at certain times.
- **a specific meeting place**. Your partner must not take the children from a certain place.

To ensure your safety when your children are seeing your partner, here are things you can do:

- Make a safety plan. Meet in public, or have another adult go with you or be your go-between. Ask the judge to put this into your court order. Or make sure it's in the agreement.
- Make written notes when your partner doesn't show up for a scheduled parenting time or shows up drunk or on drugs. The notes could help in court.
- If your partner shows up drunk or on drugs for a scheduled parenting time, don't hand over your children if you feel it's unsafe for them. Instead, offer to plan the visit at another time.
- If you feel unsafe or you're in immediate danger, call **911**. If your area doesn't have 911 service, call your local emergency police or RCMP.
- If your partner **breaches** (disobeys) a parenting order, you can go back to court and ask the judge to **enforce** (take steps to make your partner follow the court order) the order. The judge can also make different types of orders. For example, the judge can order a parent or a child to go to counselling or support programs.

Where can you get counselling for your children?

Witnessing abuse hurts children and can affect them emotionally. You can get free help for your children through the **Children Who Witness Abuse Programs**. Call or text VictimLinkBC (**victimlinkbc.ca**) at **1-800-563-0808**, or email.

Children and youth can also talk to a counsellor through the Kids Help Phone (**kidshelpphone.ca**) at **1-800-668-6868** or text **686868**.

Child protection services

Your children may have witnessed or experienced abuse in your home. If you and your children are staying in the family home with your abusive partner, your children's safety is important.

Under BC law, anyone who suspects that a child is being abused or neglected can report this to a social worker with the **Ministry of Children and Family Development** (MCFD) or a delegated Aboriginal agency. Call **1-800-663-9122**.

MCFD will make sure your children are safe and aren't harmed by witnessing family violence. Social workers will try to work with you to keep your children safe with you or with a family member. But they also have the power to place your children in foster care if there isn't an agreement about the plan for where they can live that's safe.

Legal Aid BC

September 2024