

# EQUALITY FOR COUPLES AND FAMILIES

SHEET 1 OF 5

## MARRIAGE AND CIVIL UNION

The law considers a couple to be the union of two people. [Polygamy and bigamy](#) are prohibited.

Before marriage, future spouses must meet the existing [legal requirements](#), particularly with respect to their age and civil status. The minimum age at which a person may marry is 16. However, marriage between persons aged 16 or 17 must be authorized by a court. Both parties must give clear and informed consent to the union. Resources are available in the event of a [forced marriage](#).

[Marriages](#) and [civil unions](#) have the same effect and apply to all couples, even if the unions took place in another country. For example, in both cases, the spouses:

- owe one another respect, fidelity, succour and assistance
- together take in hand the moral and material direction of the family
- jointly exercise parental authority and assume the tasks resulting therefrom, such as the maintenance and education of their children
- choose the family residence together
- contribute towards the expenses of the marriage in proportion to their respective means
- together assume the debts incurred to meet the ongoing needs of the family, unless otherwise expressed
- together with their property constitute a [family patrimony](#) that includes, among other things, the family residence, furniture and automobile

Québec law also stipulates that wives [must keep their maiden name](#) (in French only) and use it in exercising their civil rights, even if they were married outside Québec. Moreover, a wife must herself sign all the documents relating specifically to her; her husband cannot do this in her stead. Every woman is free, however, to introduce herself socially using her spouse's name; or she can add it to her name. This practice is, however, less and less common in Québec.

# EQUALITY FOR COUPLES AND FAMILIES

SHEET 2 OF 5

## DE FACTO OR COMMON LAW UNIONS

The spouses in a [de facto union](#) (also called a common-law union) do not have the same rights and responsibilities as couples who are married or in a civil union. Even if they have been living together for a long time, common-law couples are not subject, for example, to the legal provisions regarding the division of family assets and spousal support.

Certain societal or fiscal laws do have provisions regarding [the rules that apply to common-law unions](#). They establish criteria pertaining, for example, to the duration of cohabitation or to children issuing from such unions. These laws encompass payment of taxes, income support, work accidents, legal aid, etc.

In the interests of greater financial security, it is recommended that common-law spouses sign a [contract between common-law partners](#) and purchase property together.

**Whatever the status of the spouses, whether one is [sponsored](#) or not, [nobody has to put up with violence](#). (See also the section on equality with regard to the security, integrity and dignity of the person.)**

# EQUALITY FOR COUPLES AND FAMILIES

SHEET 3 OF 5

## EQUALITY FOR COUPLES AND FAMILIES

To prepare for or take care of a newborn or a newly adopted child, [new parents are entitled to take a leave of absence from their jobs](#): this could be a maternity leave, a [paternity leave](#), or parental leave, which the parents can share. More and more men are opting to take paternity leave. This is specifically for the father and cannot be shared with the mother. To learn more about the various types of parental leaves that can be used to take care of a newborn or adopted child, go to the website of the [Commission des normes, de l'équité, de la santé et de la sécurité du travail](#).

At birth or upon adoption, children in Québec receive one or more given names chosen by their parents, along with a family name. The latter can be the family name of either parent, or a compound name composed of both parents' family names. A child can never receive more than two family names.

[All children have the same rights](#) and obligations, regardless of sex, circumstances of birth or their parents' type of union.

## FAMILY RESIDENCE

Married couples or spouses in a civil union enjoy [specific protection for the family residence and furniture](#). Thus, even if only one partner has signed a lease agreement, he or she cannot sublet the family residence, or transfer or terminate the lease, without the written consent of the other partner, if a notice of family residence has been sent to the landlord. If the residence was purchased, a partner cannot sell, rent or mortgage it without obtaining the written consent of the other partner, unless a [declaration of family residence](#) (in French only) was previously sent to the Registre foncier du Québec.

# EQUALITY FOR COUPLES AND FAMILIES

SHEET 4 OF 5

## BREAK-UPS

If a couple was married in a country where divorce is illegal or where women are prohibited from requesting a divorce, a woman can nonetheless present a divorce application before a Québec court. Divorce applications are regulated by Québec and Canadian laws, which do not make distinctions between men and women.

Even if two people were married in another country and lived there a number of years before settling in Québec, the laws in effect in Québec apply to child custody when a union breaks down. However, some countries may not recognize child custody judgments rendered in Québec.

A person sponsored by their spouse does not lose their right to permanent residency if they separate from their sponsor. They keep their permanent residency card and their status. [Sponsors are required to keep their commitments toward their ex-partners](#), even if they no longer reside together.

When spouses agree to separate, dissolve their union or divorce, they can collaborate in preparing a [draft agreement](#) for presentation in court. In the event of dissolution of a civil union, if the couple does not have a child they can also make a joint declaration before a notary. If they are unable to reach an agreement, they can draw on the services of a lawyer specialized in family law or family mediation.

[Family mediation](#) is a conflict resolution method. It helps to reduce conflicts around child custody, visiting and outing rights, child support and the division of assets. In some cases, mediation services are free of charge.

A person whose income is not sufficient to cover legal fees can apply for [legal aid](#). If the application is accepted, the applicant can obtain [legal services free of charge](#) or by [paying a set amount](#), called a contribution.

# EQUALITY FOR COUPLES AND FAMILIES

## SHEET 5 OF 5

Various [governmental and non-governmental organizations](#) can offer help and advice confidentially during a separation or divorce.

After a breakup, both former spouses retain their parental authority and each is required to contribute to the maintenance and education of their children, regardless of who obtained custody.

### *Child Custody*

The issue of child custody can be resolved through the voluntary collaboration of both parents. Where conflict persists, [the court decides](#). Judges' decisions are made in the best interests of the child, at all levels: intellectual, emotional, moral, etc. A judge may also opt for joint custody according to various terms and conditions if both parents possess sufficient competency and have good communication between them.

On the other hand, parents cannot impede personal relationships between children and grandparents unless there is a serious reason for doing so.

### *Child support pension*

[Both parents are required to provide for their child's needs](#). In accordance with this principle, one parent may be required to pay child support to the other parent. The amount of this pension is based on the number of children involved, the income of both parents and the time distribution in the child custody arrangement. The amount of child support is indexed annually, without exception.

Revenu Québec collects child support and transfers it to the beneficiary. It is possible to obtain an exemption the obligation to involve Revenu Québec, provided that both parents request it.

### *Spousal support*

[A spouse may be required to pay spousal support to their former partner](#). (in French only). Spousal support is generally considered to be a support for the recipient and allows them to reorganize their life. This is done on a case-by-case basis. Common law spouses do not have the same obligation to each other.