



NCSAC SERVICES: Let's talk legal with Bill Reid

Topic: Family Law



FAMILY LAW: Marriage

Marriage is a legal status that can only be acquired through specific procedures established by a government authority. However, a marriage that takes place in one jurisdiction is usually valid throughout the world.

FAMILY LAW: Common - Law

Common-law, on the other hand, is not a status conferred by any one authority. Accordingly, different authorities establish different conditions that constitute common-law status for their purposes. Even in Canada, different authorities require that cohabitation take place for different periods of time before they recognize it as a common-law relationship for the purposes of the specific laws that they're responsible for applying.

FAMILY LAW: Separation & Divorce

A couple that is either married or common-law may become separated just by establishing separate residences. However, just as a marriage only exists if procedures established by law have been followed, divorce can only be achieved by following procedures established by a particular jurisdiction. Someone who has lived in Ontario for at least one year may apply for divorce, if other required grounds exist, regardless of where they were married – and the Canadian divorce should be recognized throughout the world, for legal purposes.

FAMILY LAW: Financial Considerations

A married couple that separates permanently will need to divide their assets and debts, and most of those will belong to both of them equally, regardless of which of them is the registered owner. They will also have to deal with the issue of spousal support - meaning, whether one spouse pays the other ongoing financial support. They will need to deal with these issues whether or not they eventually divorce. Common-law partners who separate normally keep whatever is in their respective names, and divide whatever they own jointly, however the issue of support exists much the same way as in a marriage.

FAMILY LAW: Children

If two parents don't live together - regardless of whether they are or were married, or common-law, or even if they never lived together – they will need to deal with the issues of custody, access and support of their children. They may do so by way of a private agreement, either oral or in writing, or if they are not able to agree, either one may file a court application. A court application will result in a court order, either agreed to by both parties or imposed by a judge.

FAMILY LAW: Custody

The custody of a child pertains to who makes the important decisions in the child's life – about things like health, education, extra-curricular activities and religion. Therefore, custody may be sole (where one parent makes all the decisions), joint (where the parents make them together) or shared (where each parent makes the decisions when the child is with them).

FAMILY LAW: Custody

Custody is not about where a child lives, which is the child's residence. Therefore, it's possible that one parent will have sole custody and be the child's primary residence, but it's also possible that the child's primary residence will be with one parent while both parents have custody, or that one parent will have sole custody but the child live equal time at each parent's residence.

FAMILY LAW: Access and Support

A parent that the child doesn't live with may be granted access to the child, and must pay child support, in specific amounts set by the government. Access may be on specific days and times, or it may be left to be agreed between the parties each time it takes place – for example, “reasonable access on reasonable notice”. The specific amount of child support to be paid depends on what percentage of a week the child lives with each parent, which province the child lives in, how many children the same set of parents have, and the incomes of the parents.

 NCSAC SERVICES: Let's talk legal with Bill Reid

FAMILY LAW: Questions?

TO CONTACT BILL, EMAIL HIM AT:
W.A.REID@GMAIL.COM



POWERED BY
YOUR NCSAC