

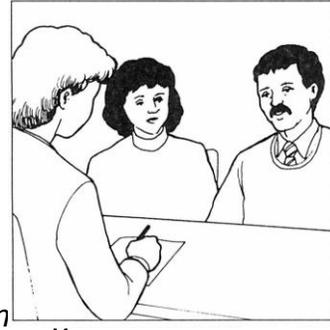
## Handout 5: What Happens When Families Break Up?

### Getting Separated

Every year in BC, thousands of married and common-law couples stop living together. This is called separation. They need to make important decisions, especially if there are children.

They have to decide on the following questions:

- Where will the children live?
- What arrangements will be made so the child can see the other parent?
- How will they support the children?
- How will they divide the things they own?



For example, Susan and Bill talked about these questions and answers.

- *The children will stay with Susan.*
- *The children will visit with Bill every weekend.*
- *Bill will pay child support, and also pay for extra expenses for the children.*
- *Susan and the children will stay in the family home. Bill will get the car and Susan will keep the furniture.*

### Getting Divorced

Divorce is the only way to legally end a marriage. The court says the marriage is over. The only legal reason for divorce is “marriage breakdown.” The judge will decide there was a marriage breakdown if the husband and wife have not lived together for one or more years; or the husband or wife committed adultery (made love with someone else); or one person was physically or mentally cruel to the other.

If the married couple agrees to get a divorce, they may not need a trial. The judge can make a decision when he or she reads their documents. If there is a child involved, the judge will want to see that the parents have agreed upon who has daily care of the child and how the parents will support the child.

### Separation Agreements

Sometimes a separating couple, (married or common-law) go to separate lawyers and the lawyers help them write a separation agreement. A separation agreement says in writing what the couple agreed to do so they don’t argue later.

A couple can also go to Family Court and get help from a family justice counsellor. The family justice counsellor can help them to write a separation agreement if they both agree about what is in the agreement. Family justice counsellors can help a couple

make an agreement about the children and about support money, but not about property.

### ***If a Couple Can't Agree***

If a couple can't agree, they can ask a mediator to help them. A mediator is someone who helps people listen to each other and then come to an agreement. A mediator can be a family justice counsellor, a lawyer, a person trained in mediation, or even someone who is respected in the community.

Family justice counsellors work as mediators and counsellors to help couples reach an agreement. This is especially important if the couple has children. There is no charge for the services of a family justice counsellor, and you do not have to start a court case to get help.

You can call Enquiry BC for information on family justice counselors in your community. Call 250-387-6121 (in Victoria), 604-660-2421 (in Vancouver), or toll-free 1-800-663-7867 (elsewhere in BC). Online: [www.ag.gov.bc.ca/family-justice/index.htm](http://www.ag.gov.bc.ca/family-justice/index.htm)

If talking to a mediator doesn't help, then a couple may go to court. In court, a judge can decide the things that the couple can't agree on. It is a good idea to get some advice from a lawyer before going to court. In some cases, a husband or wife may be able to get legal aid if they can't afford a lawyer. Check with your local Legal Services Society at: <http://www.lss.bc.ca/>.

### ***Family Mediation***

When a marriage dissolves in divorce or separation, most of the interested partners do not want their disagreement to escalate to court proceedings. In many of these cases there are children involved. In 1985, the *Divorce Act* stated that reconciliations and family mediation could be used to deal with issues that cause conflict in the marriage. It is a volunteer conflict-resolution process. Usually spouses meet, without their lawyers, with a trained mediator to resolve their issues. Mediators are usually trained social workers, psychologists or lawyers.

Services provided by a mediator include:

- Providing a safe and supportive setting for all parties, including children
- Helping to clarify and identify the issue
- Ensuring free communication that is fair, informed and unbiased
- Offering clients information on effective decision making
- Ensuring that discussions are respectful and nonthreatening
- Not giving legal advice

## ***Advantages of Mediation in Family Disputes***

Mediation is highly encouraged by the governments and courts in Canada because it:

- Keeps the decision-making with the people who know the children best - the parents
- Promotes co-operation and compromise, reducing hostility and conflict
- Helps protect family relationships by improving communication between the parents
- Is a confidential process which cannot be used in a court
- Is cheaper than litigation

## ***Immigrant Women and Separation***

Some immigrant women want to leave their husbands, but they're afraid. They think they won't be able to stay in Canada alone. This is not usually true. If the woman is a permanent resident (landed immigrant), she can stay in Canada even if she separates or gets divorced.

Sometimes a woman comes to Canada to marry a man. He is her sponsor. A sponsor promises the government to support his wife for a period of three to 10 years. The man asks the government to make her a landed immigrant. This takes a long time. If the couple separates (stops living together) before the wife gets her landed immigrant papers, she might have to leave Canada. She needs to talk to a lawyer before they separate.

The man still has to support her if they stop living together. The man may say he won't support her. Or maybe he doesn't have enough money. Maybe she can't work because she has a small baby or because she doesn't speak English. She should then go to Family Court. The judge may tell her husband to pay her some money every month.

## ***Families Change*** [www.familieschange.ca](http://www.familieschange.ca)

Parents and children need help and support while going through the family break-up. This website has sections for both parents and children and provides important information and strategies for dealing with the issues. There is a section tailored to younger children as well as a section for youth teens and pre-teens.