
Separation agreement

A separation agreement records the decisions made by you and your spouse concerning, for example, how your property will be divided or who will have custody of your children.

You can draft your separation agreement when you decide to separate. However, the same matters can be dealt with, before your separate, in your cohabitation agreement.

Protection mandate

In your protection mandate, you can state who will take care of you and administer your property if you become incapacitated.

Will

A will is a document in which, among other things, you state who will inherit your property.

Your de facto spouse is not your legal heir. If you want your spouse to inherit your property you have to state this in your will.

If you do not have a will, your property will be shared by your children and other relatives.

DE FACTO SPOUSES

For more information

The information summarized in this document was valid at the time of printing. For more information, go to the website of the Ministère de la Justice at www.justice.gouv.qc.ca, or contact

Ministère de la Justice

Phone: 418 643-5140

Toll-free: 1 866 536-5140

E-mail: informations@justice.gouv.qc.ca



Cette publication est également disponible en français.

Produced by the Ministère de la Justice.

♻️ This paper contains recycled fibre.

justice.gouv.qc.ca

COM-054(2016-11)

JUSTICE
IN QUÉBEC:
AT YOUR
SERVICE

Justice
Québec 

ENSEMBLE 
on agit pour une société
juste et équitable

Québec 

You feel as though you met only yesterday. Since you first set eyes on each other, you have taken several major steps together: your first apartment, your first trip, your first child, your first house... and yet you have never made your couple official. You are perfectly entitled to do nothing!

In Québec, you and your partner can live together and have children without being married or in a civil union. You are considered to be two de facto spouses living in a de facto union.

De facto union

The term “de facto union” refers to two people who live together as a couple without having made a public commitment to do so, for example by getting married. The de facto union is not binding—the spouses have no rights or obligations towards each other. In the eyes of the law, they are considered to be two single people, however long they have been together.

However, they still have certain rights and are subject to some obligations, in particular concerning their children.

Your rights

Even if your couple is not legally recognized, you have the right

- to adopt your spouse’s child, if both of the child’s parents agree;
- to consent to care for your spouse if he or she is unable to give consent, for example following an accident or because of incapacity;
- to remain in your home after a separation, even if you have not signed the lease;
- to end your lease in a case of domestic or sexual violence.

De facto spouses are recognized by some laws, entitling you

- to a benefit, such as a retirement pension;
- to a measure, such as the partitioning of a retirement plan.

In some cases, you can obtain a death benefit following your spouse’s death, for example if it occurs as the result of

- a road accident;
- an employment accident;
- a crime;
- an act of good citizenship.

Obligations

Except if you and your spouse have signed a cohabitation agreement, you have no obligations toward each other. However, you have an obligation toward your children with respect to

- parental authority, in other words the set of rights and obligations that ensure that parents provide for their children’s wellbeing;
- the obligation of support, in other words the obligation to provide for your children’s essential needs in terms of education, housing, food and clothing.

Protection

Since your couple is not recognized by law, you and your spouse do not have the same rights and obligations as a married couple. For example, you have no obligation of support towards your spouse, and you do not share a family patrimony.

However, you can take certain steps to create rights and obligations that will protect you. These include

- signing a cohabitation agreement or separation agreement;
- drawing up a protection mandate or will;
- designating your spouse as the beneficiary of your life insurance policy;
- signing a house purchase contract jointly with your spouse.

Cohabitation agreement

A cohabitation agreement records various decisions you have made jointly with your spouse, for example concerning:

- how you will share the responsibilities of your life together;
- how you will represent each other in certain situations (power of attorney);
- the measures that will apply if you separate or if one of you dies, with respect to the separation of your property and a support payment or compensatory allowance made by one spouse to the other.

A cohabitation agreement cannot be used as

- a will;
- a protection mandate.