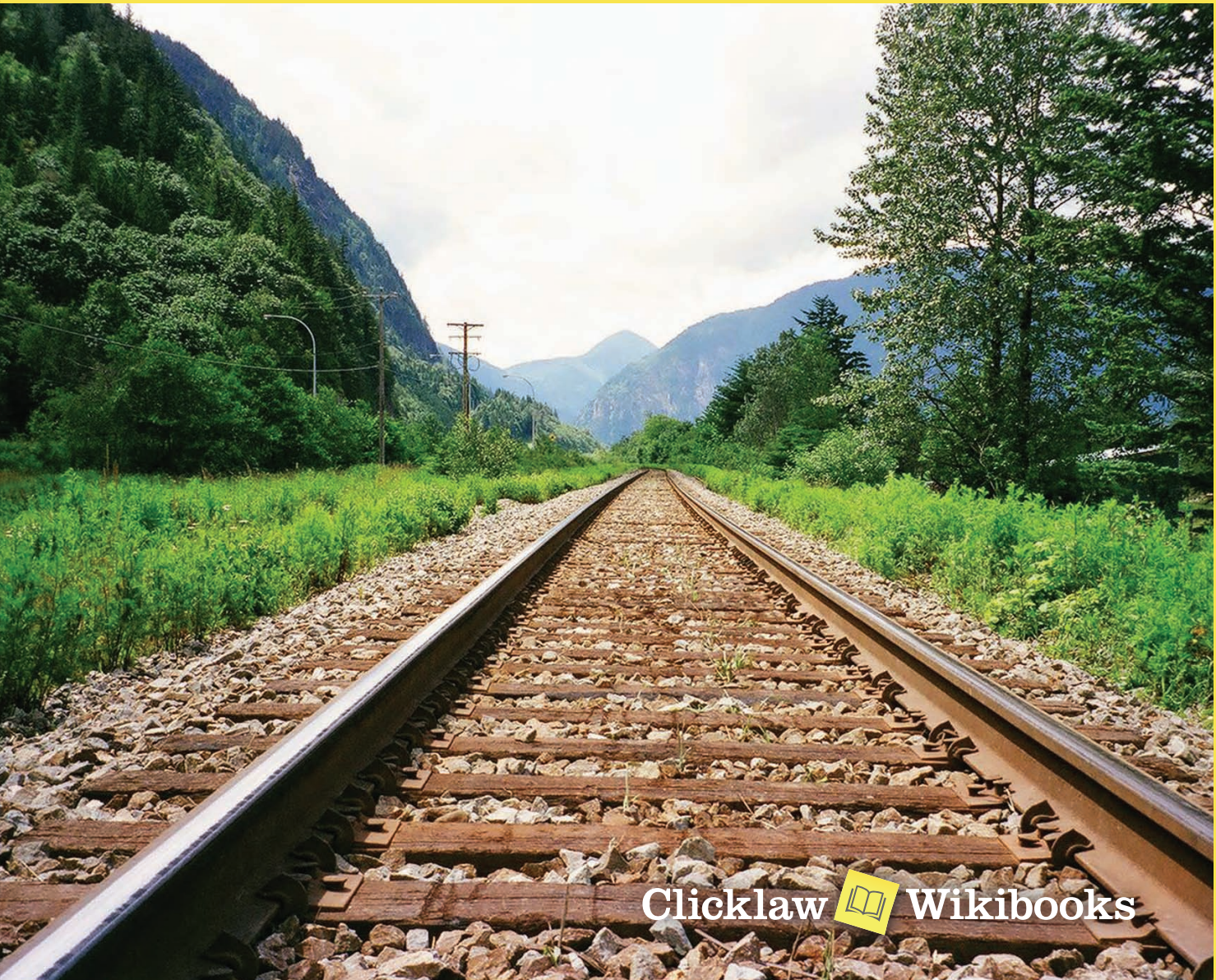


A Clicklaw Wikibook

Legal Help for British Columbians

A guide to help non-legal professionals
make legal referrals for their clients
by Cliff Thorstenson

May 2013



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Publication details

First edition: 2008 (Published under the title *Legal Help for Rural British Columbians*)

Second edition: 2009

Third edition: 2012

Fourth edition: May 2013

ISBN 978-0-921864-43-1

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Introduction to Legal Help for British Columbians

Legal Help for British Columbians is a resource for non-legal professionals in British Columbia who have clients or patients with legal problems and little money to deal with them.

It is meant to help you:

- guide your client or patient in taking the *first steps* toward addressing their legal problem, and
- make the best *referrals* for your client or patient to information, assistance, advice or representation to address the legal issue.

The Guide can also be used directly by those seeking assistance with their legal problem.

Reason for this Guide

Because legal resources are often not available locally in many areas of British Columbia, the usual first "point of contact" to get help with a legal problem is not a lawyer or legally trained advocate, but a friend or helping professional such as a counsellor, doctor, nurse, teacher, government worker, public librarian, or religious leader.

It is hoped that this Guide will help you — the friend or helping professional — provide basic information and appropriate referrals to friends, clients or patients who find themselves with common legal problems.

Organization of this Guide

There are three parts to this Guide:

- The first part describes **common legal problems** faced by low-income persons in British Columbia, organized by topics such as "Consumer and Debt," "Criminal Law," and "Family Law."
- The second part is a Resource List describing **legal resources** and how to obtain them. It includes sources of legal information, assistance, advice and representation, such as legal aid representation, workers' advisers, and the website Clicklaw^[1].
- The Guide concludes with a form to help a client **prepare for their interview**. When completed, it will contain a lot of the information a lawyer or advocate will want to know at a first interview with a client.

Who's involved

Leading the writing of this Guide is founding author Cliff Thorstenson, who works with a team of reviewers and contributors in updating the Guide. *Legal Help for British Columbians* was the first Clicklaw Wikibook, which are collaboratively developed, plain language legal publications that are born-wiki and can also be printed. The author and contributors update the Guide online on Clicklaw Wikibooks at wiki.clicklaw.bc.ca, which should be consulted for the most recent information on topics covered by this Guide.

A special thanks to Allan Parker, QC, Andree Harley, Linda Locke, QC, and Glen Ferrier for their input and assistance with initial development of this Guide. Also, thank you to the Law Foundation of British Columbia^[2] for providing the funding and to Jill Veitch for editing and layout support for the first two editions.

Please note

This Guide explains the law and legal procedures in general. It is not intended to give legal advice on your particular legal problem, and should not be relied on for that purpose. Please note that fees and guidelines outlined in the Guide are subject to change.

Your comments

Your comments on the content and format of this Guide are most appreciated. Please forward them to:

Courthouse Libraries BC

Phone: 1-800-665-2570

Email: editor@clicklaw.bc.ca^[3]



Photo credit: Dylan Thorstenson

References

[1] <http://www.clicklaw.bc.ca/>

[2] <http://www.lawfoundationbc.org>

[3] <mailto:editor@clicklaw.bc.ca>

Getting Started

Know any good lawyers?

By a "good" lawyer, we mean one that knows what he or she is doing, has experience dealing with the relevant areas of law, communicates effectively, is efficient and affordable, and will work hard for his or her client. The Resource List describes several legal services that provide information and assistance and some limited advice and representation, but you really can't beat full representation by a lawyer or legally supervised advocate.

First steps

If you do not know a lawyer who can help you:

1. See if you qualify for legal aid representation: people with low incomes who are facing serious criminal, family or immigration issues may qualify for legal aid. If you qualify for legal aid, the Legal Services Society will appoint a lawyer for you. For information on applying for legal aid representation, see legal aid representation in the Resource List.
2. Speak with friends or helping professionals who have worked with lawyers recently, and see if they can recommend someone.
3. Contact the Lawyer Referral Service and ask for the names of lawyers near you who practice the type of law you need (see Lawyer Referral Service in the Resource List).
4. Do an internet search for lawyers in your area or check the Yellow Pages of the local phone book under the heading "Lawyers." You might want to call one that (a) is near you, (b) practices in the area of law you want, and (c) offers a free initial consultation. If the contacted lawyer does not do that type of work, he or she may know another lawyer who does.



Most lawyers specialize, so it is useful to get a lawyer who practices in the area of law that covers your legal problem. Also, non-lawyer advocates (within their areas of experience, such as welfare or tenancy) may be as knowledgeable as many lawyers. See the tip sheet "What an Advocate Can Do For You ^[1]."

What happens next

The lawyer will want to meet with you (either in person or by phone) to discuss your case. Before meeting with a lawyer or advocate, complete the Preparing for Your Interview form included in this Guide. Make sure you bring copies of all documents relating to your case. A meeting with a lawyer is more effective if you are well prepared.

At the end of the meeting, you can discuss whether the lawyer will do more work for you, and how much that work will cost.

Where to get help

See the Resource List for a list of legal resources, including lawyers and legally supervised advocates who can provide advice and sometimes representation for little or no cost.

Complete the Preparing for Your Interview form included in this Guide before speaking with an advocate or lawyer.

✔ The above was last reviewed for legal accuracy by Drew Jackson, March 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1645>

Part 1: Common Legal Problems

Complaints about Police and Other Authorities

Complaints about Police and Other Authorities

Here are the first steps and some useful resources for people in BC facing problems with authorities, such as:

- I was harassed or assaulted by the police.
- A provincial government worker was abusive to me.
- A federal government worker was abusive to me.
- I was abused in a Residential School.

I was harassed or assaulted by the police

You have two options in dealing with complaints about the police:

- use the police complaint process, or
- take direct legal action against the police by suing in court.

It is important to get legal advice about both these options, particularly suing. This section will focus on how the police complaint process works.



There are notice and limitation periods as short as two months for taking legal action against a municipal police officer — it is very important that these time limits are followed.

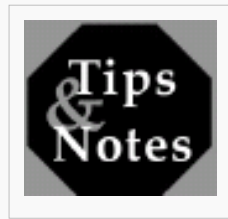
BC has two separate agencies that accept complaints about the police.

Most of rural BC, and some municipalities, are policed by the RCMP. For complaints about the RCMP, use the Commission for Public Complaints Against the RCMP.

Many municipalities in BC are policed by their own police force — the Vancouver Police Department is an example of a municipal force. The Office of the Police Complaints Commissioner (BC) accepts complaints relating to municipal police forces. That office also accepts complaints relating to the transit police and some tribal police forces, including the Kitasoo Xaixais Police Service and Stl'atl'imx Tribal Police.

If you know which force the officer worked for (a municipal force or the RCMP), it's better to direct your complaint to the right agency. But if you don't know, don't worry. Both agencies will accept, and forward, complaints to each other to make sure your complaint is investigated.

It's always best to make your complaint directly to one of the two agencies, rather than to a police officer or police department. Complaining to the agency guarantees that your complaint will follow the formal investigation process.



There is now an independent, civilian-led body that will conduct investigations into on- and off-duty police involved in incidents that result in death or serious harm. For more information see the website for the Independent Investigations Office of BC ^[1].

First steps

1. Make notes about what happened, where and when. Include the name or badge number or description of the officer(s) if you can.
2. Contact people who witnessed the incident. Ask them to write down what happened and give you a copy. They should include their name, address and phone number.
3. If you were injured, go see a doctor to record your injuries. Tell the doctor what happened. Take pictures of your injuries.
4. Complete and send in a *complaint form* to the Commission for Public Complaints Against the RCMP or to the Office of the Police Complaints Commissioner (BC). You can obtain complaint forms from the website of either of these agencies; see the Resource List for contact and website information.

What happens next

Your complaint will be investigated by a police officer. In minor cases, the investigator will contact you and attempt to resolve the complaint informally, sometimes by arranging an apology or explaining what had happened. In more serious cases, or where you say that you would prefer not to do informal resolution, the investigator will investigate the incident in depth. You will be provided with a report of what happened.

Most complaints in British Columbia are not substantiated, which means the complainant's version of events is not accepted, or the conduct complained about is legal under Canadian law.

In the case of the RCMP, if you are not satisfied with the informal resolution or the investigator's report, you can submit a Request for Complaint Review to the Chair of the Commission for Public Complaints Against the RCMP. The Chair may deny your request, order a further investigation or, in very serious cases, order a public hearing.

In the case of municipal forces, if you are not satisfied with the informal resolution or the investigator's report, you can send a letter to the Office of the Police Complaints Commissioner (BC) asking for a review. The Commissioner will review the investigation and may order further investigation.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Commission for Public Complaints Against the RCMP.
- Office of the Police Complaints Commissioner (BC).
- BC Civil Liberties Association, Community Legal Assistance Society.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The *Law Students' Legal Advice Program Manual* chapter on "Public Complaints Procedures"^[2].
- Clicklaw for more resources listed under the common question "I was assaulted by police"^[3].

✓ The above was last reviewed for legal accuracy by David Eby, January 2013.

References

[1] <http://iiobc.ca/>

[2] <http://www.clicklaw.bc.ca/resource/1740>

[3] <http://www.clicklaw.bc.ca/question/commonquestion/1094>

A provincial government worker was abusive to me

If you believe that a decision or action of a provincial public agency has been unfair, rude, unduly slow, negligent, arbitrary, oppressive or unlawful, you can make a complaint to the BC Ombudsman. The Ombudsman can deal with complaints about provincial government ministries, municipal and regional governments, Crown corporations and government boards. It can also deal with complaints about hospitals, health agencies, schools, colleges, universities and self-regulated professions such as the Law Society of BC, College of Physicians and Surgeons, and Registered Nurses Association of British Columbia.

First steps

1. Make notes of the names of the officials you deal with, their actions and the relevant dates.
2. Keep copies of all relevant documents.
3. If your complaint is about a decision, get reasons for the decision.
4. Ask if the agency has its own process for reviewing or appealing the decision. If so, use it.
5. If you are not satisfied with the agency's complaint resolution, complete and send in a complaint form^[1] within one year of the action you are complaining about. (See Ombudsman in the Resource List for contact and website information on the BC Ombudsman complaint process.)

What happens next

You will be contacted by a worker from the Office of the Ombudsman to discuss your complaint. If the complaint proceeds, the public agency will be notified and asked to respond. If this does not resolve the complaint, the Office of the Ombudsman will conduct a further investigation and may make recommendations to the agency and, if necessary, to the legislature. For the most serious issues, the Ombudsman may issue a public report.

The Ombudsman does not have the authority to order a public agency to take certain action. However, because the Ombudsman reports directly to the BC Legislature, agencies usually do not ignore the Ombudsman's recommendations.

If you are not happy with the investigation, you can contact the Manager of Investigations at the Ombudsman's office.



The Ombudsman may refuse to investigate if you have not used an internal review process. For example, many decisions denying welfare benefits can be reviewed and repealed under the *Employment and Income Assistance Act*. Use that review/appeal process first before going to the Ombudsman.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Ombudsman, including the Ombudsman website, which has "useful contacts" to make complaints about nongovernmental service providers such as lawyers, doctors and banks.
- The *Law Students' Legal Advice Program Manual* chapter on "Public Complaints Procedures ^[2]."
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.

Your local MLA (Member of the BC Legislative Assembly) may also be willing to help with your complaint against a BC public agency. Call Enquiry BC at 1-800-663-7867 for contact information for your MLA.

Before meeting with a lawyer or advocate, complete the form *Preparing for Your Interview* included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by David Eby, January 2013.

References

[1] <http://www.ombudsman.bc.ca/how-to-make-a-complaint>

[2] <http://www.clicklaw.bc.ca/resource/1740>

A federal government worker was abusive to me

Unlike the provincial government, the federal government (Government of Canada) does not have an Ombudsman overseeing all federal departments. Some federal government ministries, departments or agencies such as Canada Post, do have an Ombudsman, but others only have an informal process for handling complaints.

First steps

1. Make notes of the names of the officials you dealt with, their actions and the relevant dates.
2. Keep copies of all relevant documents.
3. If your complaint is about a decision, get reasons for the decision.
4. Contact Service Canada at 1-800-622-6232. Have a pen and paper ready, because they only give information by phone.
5. Tell the Service Canada agent that you want to make a complaint, and give them the name of the ministry, department or agency. The Service Canada agent will give you a phone number, website address and other information about how to make a complaint about that particular office.

What happens next

Depending on the office you are complaining about, you should receive some form of response from them within a reasonable period of time. If you don't, you may wish to refer the complaint to your Member of Parliament. Service Canada can give you the name and contact information for your Member of Parliament.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Service Canada, where staff can provide contact information to make a complaint about a worker in a federal government ministry or agency.
- Your local MP (Member of Parliament) may also be willing to help you with your complaint against a federal public agency. Call Service Canada at 1-800-622-6232 for contact information for your MP.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by David Eby, January 2013.

I was abused in a Residential School

From the latter part of the 19th century until late into the 20th century, the Government of Canada and various churches operated *Residential Schools* for Aboriginal children throughout Canada. For a large portion of that time, Aboriginal parents were compelled to send their children to these schools, thereby removing the children from their communities and their culture. In addition, many students were subjected to physical, sexual and psychological abuse while attending a Residential School.

For years, a person had to sue in court to get compensation for abuse suffered in a Residential School. Then the federal government and various church entities agreed to provide compensation through the Indian Residential Schools Settlement Agreement.

The Settlement Agreement offered two types of specific compensation:

- **Common Experience Payment (CEP):** All former students of Residential Schools who were alive on May 30, 2005 were entitled to a CEP. Former students were entitled to \$10,000 for their first school year (or part of a school year) of residence, plus \$3,000 for each additional school year (or part of a school year) of residence, regardless of the level of abuse that may have been suffered. The deadline for CEP applications expired on September 19, 2011 but the Settlement Agreement allowed for late applications to be filed until September 19, 2012 in exceptional circumstances.
- **Independent Assessment Process (IAP):** Under the IAP, a victim of certain types of sexual or very serious physical or psychological abuse at a Residential School could apply for additional compensation based on the severity and frequency of the abuse. The deadline for applying for the IAP was September 19, 2012.

First steps

1. Because bringing up the past may be difficult, make sure you have emotional and psychological support. You may wish to contact the Indian Residential School Survivors Society at 1-800-721-0066. The Society provides counselling services and referrals to other services near you. You may also wish to contact Health Canada's Indian Residential Schools Resolution Health Support Program at 1-877-477-0775, or the National Indian Residential School Crisis Line at 1-866-925-4419.
2. It is no longer possible to submit a claim under the Independent Assessment Process. If you opted out of the Settlement Agreement before August 20, 2007, you may still be able to sue in civil court for abuse that would have been compensable under the IAP. If you did not opt out of the Settlement Agreement and did not submit an IAP application by the deadlines above, you may wish to contact a lawyer to see if an action can be brought in civil court.

What happens next

Common Experience Payment

After receiving your CEP application, the federal government will verify the years that you attended Residential School and process a payment. If they have any questions, they will contact you.

If your CEP application is denied in full or in part, you may submit a request for *reconsideration* to the federal government. If you are not satisfied with the result of the reconsideration process, you can request an appeal to the National Administration Committee. Any requests for reconsideration or appeal should be filed promptly. To inquire about the reconsideration and appeal processes, you can call the CEP Response Centre toll-free at 1-866-565-4526.

Independent Assessment Process

Decisions about IAP compensation are made by independent *adjudicators*. Once your IAP application is accepted into the process, the Secretariat communicates with you or your lawyer about all the steps required before a hearing is scheduled. Claimants have to gather and submit various documents which may help demonstrate how the abuse they suffered affected them. The federal government will provide information and documents about the claimant, the alleged perpetrator, and the Residential School.

A private hearing (meeting) is then held where the adjudicator speaks respectfully with the claimant about their experiences. In some cases, the adjudicator will send the claimant for a medical or psychological assessment to help with the decision-making process. Claimants are not "on trial" and are not cross-examined by lawyers for the federal government, the churches or the alleged perpetrator.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Indian Residential Schools of Aboriginal Affairs and Northern Development Canada.
- Indian Residential School Survivors Society.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Pierre Bisbicus, February 2013.

Consumer and Debt

Consumer and Debt Problems

Here are the first steps and some useful resources for people in BC facing consumer or debt-related problems such as:

- I don't have enough money to pay my debts.
- The bank is threatening foreclosure on my home.
- A debt collector is harassing me.
- I bought a product from a door-to-door salesperson and no longer want it.
- My car broke down and the dealer won't fix it.



Bankruptcy costs money. The simplest will cost you about \$1,400. This may seem ironic if you can't pay the debts you already have! However, many trustees in bankruptcy offer a free initial consultation and will negotiate a payment plan you can afford. There are some debts, such as support payments, court fines and some student loans, that won't go away after a bankruptcy.

I don't have enough money to pay my debts

Debt is one of the most common sources of legal problems. The problem is made worse when you try to ignore the debt and your creditors (the people trying to collect from you).

First steps

If you cannot pay your debts:

1. Contact the creditors. If necessary, see if you can negotiate a different repayment plan with each of them. For example, they may give you more time.
2. If the creditors won't agree, see if you can get a *consolidation loan* from your bank or credit union to put all the debts together at a lower interest rate than you are now paying. Seek the assistance of a not-for-profit credit counselling agency that can assist you in planning and applying for such a loan. See Credit Counselling Society of BC in the Resource List.
3. If you cannot negotiate a repayment plan or arrange a consolidation loan, you should speak with a credit counsellor about some of the options under the *Bankruptcy and Insolvency Act*, including *proposals* and *bankruptcy*.

What happens next

If you pursue a formal proposal or bankruptcy itself, you must have a trustee in bankruptcy to assist you. Try the Yellow Pages of your phone book under "bankruptcy" or see Bankruptcy BC in the Resource List for contact information for trustees in bankruptcy. Most of your creditors will have to agree to a formal proposal. In a bankruptcy, your assets (except for necessities like clothing, medical aids, furniture, appliances, work tools, an inexpensive vehicle and sometimes your residence) are turned over to your trustee, who will use them to pay off some of your debts. Once you are "discharged" from bankruptcy (usually after nine months) the bankruptcy debts will be cancelled. It will take some time after the bankruptcy for you to re-establish your credit.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Credit Counselling Society of BC.
- Bankruptcy BC.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The *Law Students' Legal Advice Program Manual* chapter "Creditors' Remedies and Debtors' Assistance ^[1]," which has useful information on getting out of debt.
- The Clicklaw common question "I'm thinking about declaring bankruptcy ^[2]" for a few more resources on bankruptcy.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Drew Jackson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1727>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1014>

The bank is threatening foreclosure on my home

When a bank or other institution lends you money to buy a home, they take a *mortgage* to secure payment. A mortgage is registered against the title of your home, and if you don't make the required payments, the bank may be able to *foreclose*. This will usually mean you have to pay them the entire amount owing on the mortgage, though sometimes you can arrange to catch up your payments. If you cannot make some kind of arrangement, you risk your house being sold to pay the mortgage. The usual first step in a foreclosure is a *demand letter* from the lender or its lawyer, saying that you are *in arrears* (behind) in your payments and demanding that you bring them up to date.

First steps

1. Do *not* ignore the demand letter. If at all possible, you should get legal advice right away. Then, try to negotiate with the lender to see if you can arrange manageable repayment terms.
2. If you can't work things out with the lender, the lender will probably serve you with a BC Supreme Court *petition* asking for an *order nisi* of foreclosure. If granted, an order nisi will state the amount owing on the mortgage and will establish a time period — usually six months, but sometimes shorter — during which you can *redeem*, or pay off the mortgage. At some point in the foreclosure process, the lender may also ask for an order that your home be sold, and for an order that the lender will have *conduct* (control) of the sale.
3. If you are served with a foreclosure petition, it is important to get legal help. If you are self-representing, you must file a *response* document within 21 days of service, *and* deliver it to all parties along with any *affidavits* (sworn written statements) telling your side of the story.

Supreme Court forms can be accessed through the "Laws, Cases & Rules ^[1]" page on Clicklaw; click on "BC Supreme Court Civil Forms." For information on what should go into an affidavit, see the publication "Can't Pay Your Mortgage? What You Can Do If You're Facing Foreclosure ^[2]."

What happens next

The court will set a date for a hearing of the petition. The judge will read the affidavits and other materials and listen to the lender's lawyer and to you. Generally, if you are in default, the best you can hope for is enough time to arrange for other financing to pay out the lender or at least to come up with enough to catch up your payments. You can also use that time to try to sell the house, up to the time the lender gets an order for them to have conduct of sale.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Credit Counselling Society of BC.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Legal Services Society publication "Can't Pay Your Mortgage? What You Can Do If You're Facing Foreclosure ^[2]."
- The Clicklaw common question "I've missed a few mortgage payments and am facing foreclosure ^[3]" for a few more resources on foreclosure.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Drew Jackson, February 2013.

References

- [1] <http://www.clicklaw.bc.ca/content/lawscases>
- [2] <http://www.clicklaw.bc.ca/resource/1037>
- [3] <http://www.clicklaw.bc.ca/question/commonquestion/1015>

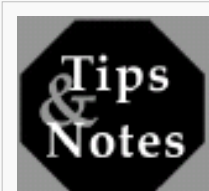
A debt collector is harassing me

Your creditors (people you owe money to) are allowed to take reasonable steps to collect the debt, including hiring a collection agent. However, a collection agent can't threaten or harass you, nor a member of your household, a neighbour or friend, or your employer. Collectors are specifically prohibited from:

- calling too often or at inappropriate times, or
- using threatening, profane, intimidating or coercive language, or
- publishing or threatening to publish your name and failure to pay.

The debt collector must make reasonable efforts to first contact you in writing about the debt. There are strict rules about calling you at work, and there are rules about when you can be called at home.

You can insist that the debt collector deal with you only in writing or through your lawyer, if you have one.



For information about unreasonable debt collection practices concerning *student loans*, call:

- 1-800-667-0135 about federal student loans, or
- 1-250-387-6100 about provincial student loans.

First steps

1. It is important to put an immediate stop to the calls, and take control of negotiating a solution. If you are not able to do this by yourself, seek immediate legal help or contact Consumer Protection BC. In the meantime, record the dates, times and content of all communications they have with you and others about the debt. Insist on getting something in writing, and use caller identification or tracing if the collector refuses to properly identify themselves.
2. Try to negotiate payments with the debt collector. He or she will want to know your financial circumstances (income, expenses, assets and liabilities). You should not agree to a payment that deprives you or your family of basic needs or give out personal information other than financial information.
3. If you are unable to negotiate a repayment plan with the debt collector, see the section of this Guide entitled, "I don't have enough money to pay my debts."
4. If a debt collector is using unreasonable debt collection methods, including insisting on a payment when they know you are living in poverty, contact Consumer Protection BC at 1-888-564-9963 and ask to speak with the Complaints Manager about the collection agency you are dealing with.

What happens next

If you contact Consumer Protection BC, the Complaints Manager will contact the collector if he or she feels the practice is unreasonable and ask the collector to stop the practice. Consumer Protection BC can also require the collector to follow a *compliance order* to stop future unreasonable practices.

If you suffer loss or damages because of the unreasonable practices of a collector, you can sue them in Provincial (Small Claims) Court. See "I need to take someone to court" in this Guide.

Where to get help

See the Resource List included in this Guide for a list of helpful resources. Your best bets are:

- Consumer Protection BC.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I am being harassed by debt collectors. Are they allowed to do that?"^[1]

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.



Debt collectors sometimes threaten to take your house, car or other property. They can only do so with a court order or if the property was used to "secure" the debt. If you are threatened in this way, get a copy of the loan agreement and the name of the collection agent, and contact Consumer Protection BC (see the Resource List for contact information).

✓ The above was last reviewed for legal accuracy by Drew Jackson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1013>

I bought a product from a door-to-door salesperson and no longer want it

When a person comes to your home and sells you goods or services, this is called a *direct sale*. You generally have *10 days* to cancel a direct sale if you decide you don't want the product, regardless of what it says in the paperwork the seller gives you. If you don't get a copy of the contract of sale or the product itself right away, this period may be longer.

First steps

1. As soon as you decide you don't want the product you bought from a door-to-door salesperson, cancel the sale by delivering, mailing, emailing or faxing the supplier (the person that the salesperson was working for), informing them of your intention to cancel the contract. Ensure that the supplier receives the notice in time (usually within 10 days after you receive a copy of the contract), and keep a copy of what you send them and a record of the date and method you sent it.
2. Call the supplier to ensure that they will return your money and take back the product. You may be responsible for shipping costs to return the product to the supplier.

What happens next

The supplier has *15 days* to return your money once you have notified him or her of your wish to cancel the sale. If you do not receive the funds within that period of time, complain to Consumer Protection BC; see the Resource List for contact and website information.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Consumer Protection BC.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The publication *Consumer Law and Credit/Debt Law* ^[1].
- The *Law Students' Legal Advice Program Manual* chapter "Consumer Protection ^[2]," for useful information on "Direct Sales."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Drew Jackson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1040>

[2] <http://www.clicklaw.bc.ca/resource/1725>

My car broke down and the dealer won't fix it

If you buy a car privately, the general law is "buyer beware," meaning that you are stuck with the car and its problems unless the seller misrepresented (lied about) an important thing about the car. If this happens, you may have to sue the seller in court.

The law gives you more protection if you buy a car from someone in the business, such as a new or used car dealer. For new vehicles, there are legal standards for durability under the provincial *Sale of Goods Act*, and there are common law rights for both new and used vehicles. There are additional protections for what promises are made about both new and used vehicles sales from car dealers under the BC business practices legislation. Any waiver of your statutory rights is usually not valid.

First steps

1. Start by contacting the seller and explaining the problem. The seller may offer to fix or replace your car.
2. If you can't reach an agreement with the seller, you may decide to report the circumstances to Consumer Protection BC or the Better Business Bureau.
3. If the seller claims that any of your statutory rights don't apply, speak with a lawyer.

What happens next

If the above steps don't work, you may have to sue the seller in Small Claims Court for claims up to \$25,000, or Supreme Court for larger claims. See the section of this Guide under the heading "I need to take someone to court" for information on how to sue.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Consumer Protection BC.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The publication *Consumer Law and Credit/Debt Law* ^[1].
- The *Law Students' Legal Advice Program Manual* chapter "Consumer Protection ^[2]," for useful information on "Contracts for the Sale of Goods."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Drew Jackson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1040>

[2] <http://www.clicklaw.bc.ca/resource/1725>

Criminal Law

Criminal Law Problems

Here are the first steps and some useful resources for people in BC facing problems with the criminal justice system such as:

- I've been charged with a criminal offence and have to go to court.
- I've been accused of a criminal offence and have been offered "diversion", "restorative justice" or "alternative measures".
- I want to change my release conditions so I can have contact with my spouse or children.
- I want to move my criminal case closer to home.
- I have a criminal record and want to get a pardon or "record suspension".



A number of "problem-solving courts" have emerged over the past few years that deal with people who are prepared to plead guilty or take responsibility for criminal offences. Two of them — the Drug Treatment Court of Vancouver and the Downtown Community Court — only take cases from the Vancouver area, but the New Westminister First Nations Court will take some aboriginal offender cases waived from elsewhere in the province. Sentencing at the First Nations Court consists of a roundtable discussion among the judge, lawyers, helping professionals, offender, victim and supportive family and community members about an appropriate sentence or "healing plan." Related family legal matters and youth court matters can be dealt with at the same time. Contact Native Courtworkers (see the Resource List), Crown Counsel or a lawyer for information about accessing the New Westminister First Nations Court.

I've been charged with a criminal (or youth) offence and have to go to court

If you are charged with a criminal or youth offence, it means that, unless you are sent for *diversion*, *restorative justice* or *alternative measures* (see the section in this Guide titled "I've been offered 'diversion'"), you will have to resolve the charge in court. You can do this either by pleading guilty and being sentenced by a judge, or by pleading not guilty and going to trial. If you are convicted at trial, you will be sentenced by a judge.

First steps

1. If the police want to speak with you, you have the right to contact a lawyer for advice first. Many criminal lawyers (see the Yellow Pages) will do this at no charge. You can also call a lawyer through the "Brydges Line" at 1-866-458-5500. This service is provided free of charge by the Legal Services Society and is available across the province, 24 hours a day, seven days a week. It is almost always advisable that you refuse to answer questions or discuss the case with the police and certainly not before speaking with a lawyer.
2. If you cannot afford a lawyer on your own, see if you qualify for legal aid representation. (See legal aid representation in the Resource List for information about applying for legal aid.) If you qualify, the Legal Services Society will appoint a lawyer to advise you and represent you in court. Note that you may not be able to apply for legal aid representation until you have attended your *first appearance* in court (see Step 4 below) and found out the Crown Counsel's *initial sentencing position*.
3. Go to court on the date shown on your *promise to appear* or other police release document.
4. Get a copy of your *disclosure*. This package will contain the details of the charges against you. It includes the *circumstances* (police report) from the Crown Counsel (prosecutor) and the *information* (charges) from the court clerk. Ask for an *adjournment* (delay) for two weeks or more so you can consult with a lawyer. If there is a *duty counsel* — a lawyer who helps people who don't have their own lawyer — at the courthouse, he or she can help you with this step.

What happens next

Once you have decided how you will plead (guilty or not guilty), you or your lawyer will have to tell the judge. If you plead guilty, you will probably be sentenced right away. If you plead not guilty, the court will hold an *arraignment hearing* and ask both the prosecutor and you or your lawyer how long the trial will take. Then you will have to set a date for the trial. Before the trial, you or your lawyer will probably have to appear at a *trial confirmation hearing*. (The process is more complicated for *indictable charges* such as aggravated assault or breaking and entering a dwelling; indictable offences are considered more serious than *summary* offences.)

At trial, the Crown will call witnesses that you or your lawyer will be able to cross-examine. You can then call witnesses (possibly including yourself) if you wish. After all of the witnesses have testified, you can summarize your position and the facts and law which support it. At the end of the trial, the judge will either find you guilty or not guilty. If you are found guilty, the judge will sentence you. The sentencing usually happens right away, but may be delayed to another date in more serious or complicated cases.

If you are found not guilty, the matter will be over and you will be free to leave the court. Any bail conditions that were imposed on you will expire.



If you can't make it to court for one of your court appearances, you may be allowed to get criminal duty counsel to go to court for you. Call your local legal aid office or the Legal Services Society Call Centre at 1-866-577-2525 to find out duty counsel schedules.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- Criminal duty counsel, for assistance on the day you have to appear in court.
- Native Courtworkers and First Nations Court Duty Counsel ^[1] for aboriginal clients.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common questions "I've been charged with a crime. How do I defend myself? ^[2]" and "What does the judge consider in sentencing an Aboriginal person? ^[3]" as well as the fact sheet series "What to do if you are charged with... ^[4]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Richard Hewson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/helpmap/service/1125>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1031>

[3] <http://www.clicklaw.bc.ca/question/commonquestion/1053>

[4] <http://www.clicklaw.bc.ca/global/search?k=%22what%20to%20do%20if%20you%20are%20charged%20with%22>

I've been accused of a criminal offence and have been offered "diversion", "restorative justice" or "alternative measures"

Police forces and Crown prosecutors sometimes choose to deal with minor criminal charges and first-time offenders outside of the court system through *diversion* or *restorative justice*. Diversion is a program of community supervision by a probation office. In restorative justice, offenders are encouraged to take responsibility for their actions, to repair the harm they've done, and victims take an active role in the process. The range of options in a diversion program or through restorative justice include making an apology to the victim, doing community service, and taking part in counselling programs.

If you are charged with a criminal offence, you may contact the office of Crown Counsel (the government prosecutor) and ask to be considered for diversion or alternative measures. In some cases, Crown Counsel may offer you these sorts of programs to you even if you don't apply. You will be referred to a local or regional service — often a probation office — which will supervise the alternative measures. The measures will be similar to those under diversion or restorative justice.

First steps

1. Decide if you are prepared to accept responsibility for what happened. This does not mean you are agreeing that you are guilty of a crime, just that you did something wrong and are prepared to accept the consequences. If this decision is difficult for you, you should get some advice from a criminal lawyer. See below under "Where to get help."
2. Tell the person offering diversion, restorative justice or alternative measures whether or not you accept the offer.

What happens next

If you agree to the offer, you may be expected to attend a meeting with the victim of your act and a facilitator. At the end of the meeting, you may be asked to agree to apologize to the victim and/or pay restitution (a sum of money paid to the victim for loss or damage) and do some community service work, such as stacking books at the library, mowing lawns or picking up garbage around public buildings. If you fulfill your obligations within the timeframe you are given, you will not get a criminal conviction. If you don't, your case could go to court. If you do not agree to diversion, restorative justice or alternative measures, you may choose to face the charges in court. See the section "I've been charged with a criminal offence and have to go to court."

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Criminal duty counsel, for assistance on the day you have to appear in court.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "How does diversion work and how can I get it?"^[1]

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Richard Hewson, February 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1035>

I've been charged with a criminal (or youth) offence and want to change my release conditions so I can have contact with my spouse or children

If you are arrested for a criminal or youth offence against another person or their property, a police officer, a justice of the peace or a judge may release you on conditions that you have limited or no contact with that person. This is often called a *no contact order*.

A judge may also impose a no contact order as a term of probation if you plead (or are found guilty) of an offence.

If a no contact order causes a problem for you, you can apply to a court to have those conditions changed.

(For general information on being charged with a criminal or youth offence, see "I've been charged with a criminal (or youth) offence and have to go to court" in this Guide.)

If the conditions you want to change were put there by the police or a justice of the peace

First steps

1. Get and fill out an Application to a Judge^[1] form. You can get one of these from a court registry. You can find the address and contact information for a court registry through Service BC by calling 1-800-663-7867. You may want to have a lawyer or advocate assist you with filling out the application.
2. On the Application to a Judge form, tick off the box marked "To replace Form 11.1 Undertaking Given to a Peace Officer/Officer in Charge [Sec.499(3), 503(2.2)]." Under the heading "The reasons on which the application is based are as follows," put your reasons for wanting to have contact.
 - If you believe contact is not only in your best interests but also in the best interests of your family or the person you are alleged to have offended against (the *complainant*), say why. Say why contact would be helpful to both you and the complainant — for example, to arrange access to your children, to assist with parenting and household duties, to allow for family counselling, to provide needed transportation, etc.

- Find out a date when the court is sitting in your area and can hear your application. You may have been given a court date already, but if that is too far in the future, you can request an earlier date.
3. Mail or fax your Application to a Judge to both the Provincial Court registry and Crown Counsel office. Make sure you tell them the date you want to make the application. If you have good contact information for the complainant, provide that to Crown Counsel.

What happens next

Crown Counsel will consider your request to change the no contact order. Almost all the time, they will ask the complainant his or her views.

On the court date set for your application, the judge will ask you for more information about your request. The judge will also ask for Crown Counsel's views. If the complainant is in court, the judge may ask for his or her views as well.

After hearing all about the application, the judge may decide to change the no contact order or leave it the same.

If you do not like the decision of the judge about your application, you can appeal it to a higher court. Consult a lawyer if you want to appeal.

If the no contact order was put there by a judge

First steps

If it was a judge that put the no contact order in place at a bail hearing, then the order can only be changed later by a judge of that court if the Crown Counsel agrees that the judge can listen to your application.

What happens next

If the Crown Counsel does not agree that the judge can listen to your application, then you must appeal the judge's order to a higher court. Consult a lawyer if you want to appeal.

The Crown Counsel may agree that the judge can listen to your application, but may not agree with the change you are asking for. If this is the case, the judge will listen to your application, and may decide to change the conditions or leave them the same.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Service BC at 1-800-663-7867 for the location and number of court registries and Crown Counsel offices in British Columbia. If the offence took place in a different province or territory of Canada, Service BC may be able to provide you with the general enquiry number for that province or territory.
- Criminal duty counsel, for assistance on the day you have to appear in court.
- Native Courtworkers and First Nations Court Duty Counsel ^[2] for aboriginal clients.
- Lawyer Referral Service and private bar lawyers.
- The Clicklaw common question "I've been charged with a crime. How do I defend myself?" ^[3] and the fact sheet series "What to do if you are charged with..." ^[4].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.



In almost all cases, a no contact order prohibits *direct or indirect communication*. Direct communication includes contact with the complainant in person, by phone, Skype, email, texting, etc. Indirect communication means sending messages to that person through a third party such as a friend or children. Remember that you are at risk. If you are found communicating with the complainant (even if they start or want the contact) you — not the complainant — may be charged with the criminal offence of breach of bail or breach of probation. If you absolutely need to communicate something to the complainant, speak with a lawyer first.

✓ The above was last reviewed for legal accuracy by Richard Hewson, February 2013.

References

- [1] <http://www.ag.gov.bc.ca/courts/forms/pcr/pcr315.pdf>
- [2] <http://www.clicklaw.bc.ca/helpmap/service/1125>
- [3] <http://www.clicklaw.bc.ca/question/commonquestion/1031>
- [4] <http://www.clicklaw.bc.ca/global/search?k=%22what%20to%20do%20if%20you%20are%20charged%20with%22>

I've been charged with a criminal (or youth) offence out-of-town and want to move the case closer to home

Criminal cases almost always are dealt with in the courthouse closest to where the alleged offence takes place. However, if you decide to plead guilty to the offence, you may be able to waive it to another location for the purpose of a guilty plea and sentencing.

(For general information on being charged with a criminal or youth offence, see "I've been charged with a criminal (or youth) offence and have to go to court" in this Guide.)



You can often have a charge waived from another province or territory of Canada to be dealt with by guilty plea in British Columbia. The process is similar but other provinces have different forms and procedures. Contact Service BC for the number of the government information service for the other province or territory, which can give you contact information for the Crown Counsel office where the charges originated.

First steps

1. Before you decide to plead guilty, get and read the *circumstances, information*, and the Crown Counsel's *initial sentencing position* for your case in the "I've been charged with a criminal offence" section of this Guide.
2. If you then decide to plead guilty and you want to do so in a different courthouse, you need to fill in a *waiver form*. You can get a Request for Waiver form ^[1] online or from a court registry. You can find the address and contact information for a court registry through Service BC. You do not need to fill in the date of your court attendance at the new location. Crown Counsel will do that. Mail, fax or deliver the waiver form to the Crown Counsel office in charge of the area where the offence took place (the *originating* office).

3. Make sure you attend any scheduled court appearances, either at the originating location or at the location where you are waiving the charges to. Note that you can have an *agent* attend for you if you have been charged with a summary offence or you have a lawyer who has filed the necessary form, called a Counsel Designation Notice ^[2].



When filling out the waiver form, put the address of the originating Crown Counsel office in the "from" box at the top right of the form. Put the address of the Crown Counsel office responsible for the courthouse you want to waive the charge(s) to in the "to" box.

What happens next

The originating Crown Counsel will consider whether or not to approve the waiver. In some cases they will consult the Crown Counsel in charge of the area where you want to waive the charges to. (In fact, Crown Counsel in either location can generally approve a waiver.)

If Crown Counsel approves the waiver, a court date will be set for you in the new location. Crown Counsel may advise you of this new date but it is your responsibility to make sure you know when and where your next court date is. If you don't know your next court date and haven't heard from the originating Crown Counsel for more than a week, you should contact their office.



Although the above procedure applies to *indictable offences* as well as *summary offences* (indictable offences are considered more serious than summary offences), waiving charges that have already been moved to the BC Supreme Court may be difficult. Consult a lawyer if this is your situation.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Service BC at 1-800-663-7867 for the location and number of court registries and Crown Counsel offices in British Columbia. If the offence took place in a different province or territory of Canada, Service BC may be able to provide you with the general enquiry number for that province or territory.
- Criminal duty counsel, for assistance on the day you have to appear in court.
- Native Courtworkers and First Nations Court Duty Counsel ^[3] for aboriginal clients.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I've been charged with a crime. How do I defend myself?" ^[4] and the fact sheet series "What to do if you are charged with..." ^[5].

Before meeting with a lawyer or advocate, complete the form, Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Richard Hewson, February 2013.

References

- [1] <http://www.ag.gov.bc.ca/courts/forms/pcr/pcr301.pdf>
- [2] <http://www.ag.gov.bc.ca/courts/forms/pcr800/pcr860.pdf>
- [3] <http://www.clicklaw.bc.ca/helpmap/service/1125>
- [4] <http://www.clicklaw.bc.ca/question/commonquestion/1031>
- [5] <http://www.clicklaw.bc.ca/global/search?k=%22what%20to%20do%20if%20you%20are%20charged%22>

I have a criminal record and want to get a pardon (or record suspension)

If you have a criminal record, you may apply to the Parole Board of Canada for a *record suspension* (formerly a *pardon*). A record suspension does not change the fact that you were convicted, nor does it erase your criminal record. A record suspension keeps your criminal record separate and apart from other criminal records by removing all information about your convictions from the Canadian Police Information Centre (CPIC).

The key benefit of a record suspension is it removes disqualifications caused by a criminal conviction, such as the ability to contract with the federal government and eligibility for Canadian citizenship. In many ways, a record suspension allows law-abiding citizens the opportunity to reintegrate into society.

In order to be eligible for a record suspension, you must be conviction-free for a period of time after *completion* of your sentence and also be of good conduct during that period. The waiting period for a record suspension is five years for all *summary* offences, such as theft under \$5,000, and ten years for all *indictable* offences (indictable offences are considered more serious than summary offences). However, not everyone is eligible for a record suspension. For example, if you have been convicted of sexual offences against minors (with certain exceptions), you are not eligible for a record suspension.

In applying for a record suspension, you must show how receiving a record suspension would provide you with a "measurable benefit," and describe how it will help your rehabilitation into society as a law-abiding citizen.

First steps

1. Get a record suspension application package from the Parole Board of Canada by calling 1-800-874-2652 or downloading the "Record Suspension Guide ^[1]" on their website. You can also get a record suspension application package at many police stations and courthouses. This application package includes the forms you will need to apply for all of the required supporting documents. (Alternatively, use one of the private services that help people get record suspensions. They charge a fee to help fill out your application and obtain and submit necessary documents. Look in the Yellow Pages or on the internet under "pardons" or "record suspensions.")
2. Get a copy of your criminal record from the RCMP and local police records from the local police.
3. Get copies of your ID and proof of your status in Canada, if you were not born here.
4. If required, get additional information from the court where you were convicted. You will need additional court information if you do not already have proof of payment for all fines, victim surcharges, restitution, and compensation, as well as proof of the method of trial for each conviction (that is, summary or indictable).
5. Complete the record suspension application and send it to the Parole Board of Canada with \$631 and all of the necessary supporting documents, including the required checklist found in the application package. Your application must include information on:

- What changes a record suspension would bring to your present circumstances.
- All positive changes you have already made to improve your situation since your conviction (plus supporting documents).
- A description of the circumstances and how/why the offences were committed.

What happens next

The Parole Board of Canada will examine your application to decide if you are eligible for a record suspension. You will be advised of their decision in writing in about 12 to 20 months.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Parole Board of Canada.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "How do I apply for a pardon?"^[2]

✓ The above was last reviewed for legal accuracy by Richard Hewson, February 2013.

References

[1] <http://pbc-clcc.gc.ca/prdons/pardon-eng.shtml>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1036>

Employment Law

Employment Law Problems

Here are the first steps and some useful resources for people in BC facing employment-related problems such as:

- My employer isn't paying my wages.
- I have been dismissed (fired) without just cause.
- I've been turned down for Employment Insurance benefits.
- I've been cut off workers' compensation benefits.

My employer isn't paying my wages

As an employee, you are entitled to be paid for all of the hours that you worked, within a short period after completing the work. If you have worked overtime, you may be entitled to additional pay for the excess hours. You may also be entitled to pay for statutory holidays.

If you can't resolve a problem relating to unpaid wages directly with your employer, you generally have two options for taking action:

- sue directly in Small Claims Court or the Supreme Court, or
- make a claim through either the provincial or federal labour ministries.

It is important to get legal advice about both these options. This is because once you have begun one of these processes, you may be legally prevented from switching to or using the other process.

This section will focus on how to make a claim through the labour ministries. Which ministry to make your claim through will depend on whether your employer is *provincially regulated* or *federally regulated*. Most employers are provincially regulated, but the following are federally regulated:

- federal government and federal Crown corporations,
- banks,
- Indian bands and tribal councils, and
- inter-provincial or international railways, airlines and transportation companies.



If you belong to a union, your rights generally depend on the collective agreement, and they are normally enforced by asking the union to pursue a grievance on your behalf. Talk to your shop steward or other union representative about any unpaid wages as soon as possible.

If your employer is provincially regulated

First steps

1. Contact your employer and see if you can resolve the problem directly.
2. Obtain a "Complaint Process Self-Help Kit ^[1]" from the Employment Standards Branch of BC as soon as possible. The self-help kit is designed to help employees and employers solve workplace disputes quickly and fairly. It includes a Request for Payment form and a letter from the Employment Standards Branch for you to give to your employer.
3. Your employer has 15 days to respond to your Request for Payment. If he or she does not, or the matter is not resolved, you can file a complaint form ^[2] with the Employment Standards Branch. Note that you have *six months* to file a complaint from the time the wages were not paid or your employment ended. If you are within 30 days of the end of the six-month period, you should file your complaint with the Employment Standards Branch and *then* use the self-help kit to try and resolve the problem.

What happens next

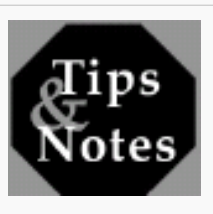
On receiving your complaint, the Employment Standards Branch staff will investigate and offer to resolve your claim through *mediation*. If mediation does not work, it will be sent to a hearing before an *adjudicator*, who will hear from both sides and then make a decision called a *determination*.

If you are not satisfied with the determination of the adjudicator, you can appeal to the Employment Standards Tribunal or ask the tribunal for a *reconsideration*.

If your employer is federally regulated

First steps

1. Contact your employer and see if you can resolve the problem directly.
2. If your employer has not responded within 10 days, obtain a "Payment Claim Kit ^[3]" from Employment Standards (Canada) of Human Resources and Skills Development Canada (HRSDC). The kit contains a labour standards pamphlet and a Payment Claim letter to your employer. Read the pamphlet and complete and send the Payment Claim letter to your employer.
3. Your employer has 10 days to respond to your Payment Claim. If he or she does not, or the matter is not resolved, you can file a Complaint Registration Form ^[4], following the instructions in the Payment Claim Kit.



To find out if your employer is federally regulated, call the Labour Program of Human Resources and Skills Development Canada (HRSDC) at 1-800-641-4049.

What happens next

HRSDC will investigate your complaint and attempt to resolve it with you and your employer.

If the complaint can't be resolved, it will be sent to an independent adjudicator appointed by HRSDC, who will hear from both sides and then make a decision called a determination.

If you are not satisfied with the determination, you can appeal it to the Minister of Labour within 15 days of receiving the determination. The Minister will then appoint a referee to make a formal decision.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Employment Standards Branch of BC if your employer is provincially regulated, and Employment Standards (Canada) if your employer is federally regulated.
- PovNet.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "My employer isn't paying my wages ^[5]" for further resources.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Jim Sayre, February 2013.

References

[1] <http://www.labour.gov.bc.ca/esb/self-help/welcome.htm>

[2] <http://www.labour.gov.bc.ca/esb/facshts/complaint.htm>

[3] http://www.hrsdc.gc.ca/eng/labour/opd/700_10/page03.shtml

[4] <http://www.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=prfl&frm=lab1060&ln=eng>

[5] <http://www.clicklaw.bc.ca/question/commonquestion/1073>

I have been dismissed (fired) without just cause

The general rule is that you can be dismissed (fired or laid off) even if you've done nothing wrong, and the law can't require that you get your job back. There are exceptions, however:

- **Union members:** If you belong to a union, your union representatives can file a grievance on your behalf. The arbitrator can order that you be reinstated, along with back pay.
- **Human rights violations:** If you believe that you've been fired because of your race, political belief, religion, marital or family status, physical or mental disability, sex, sexual orientation, age or a criminal conviction, you can file a human rights complaint, and the BC or federal human rights tribunal could order that you be reinstated, along with lost pay. See "I am being discriminated against or sexually harassed" in this Guide.
- **Health or safety complaints:** If you believe that you've been fired because you complained about a health or safety matter (relating to yourself or anyone else), you can file a *discrimination complaint* with workers' compensation (WorkSafeBC). WorkSafeBC can order that you be reinstated and receive back pay unless the employer can prove that your health and safety actions had nothing to do with your dismissal.
- **Federally regulated employees:** If you have been fired after being employed in a federally regulated industry for 12 months or more, you can ask an adjudicator to order that you be reinstated, along with lost pay.

If you don't fall within one of these groups, you won't be able to get your job back, but you are entitled to receive *reasonable notice* before your employment ends, or *pay for the period of reasonable notice*. The minimum notice requirements depend on whether your employer is federally or provincially regulated (for a brief explanation, see "My employer isn't paying my wages" in this Guide).

If your employer is *provincially regulated*, you are entitled to at least:

- One week's notice (or equivalent pay) after three consecutive months of employment.
- Two weeks' notice (or equivalent pay) after 12 consecutive months of employment.
- Three weeks' notice (or equivalent pay) after three consecutive years of employment, plus an additional week's notice (or equivalent pay) for each additional consecutive year of employment to a maximum of eight weeks' notice (or equivalent pay).

If your employer is *federally regulated*, you are entitled to at least two weeks' notice or two weeks of severance pay in lieu of notice once you have completed three consecutive months of employment.

First steps

If you did not receive the notice or equivalent pay that you are entitled to:

1. Follow the steps outlined in "My employer isn't paying my wages" to file an employment standards complaint. The steps will vary depending on whether your employer is federally or provincially regulated. If your employer is federally regulated, you must file your complaint within 90 days of the dismissal, so act quickly.
2. If you have been dismissed without just cause, you may also sue your employer in court for *wrongful dismissal*. See "I need to take someone to court" in this Guide. A judge may order your employer to pay you more money than the provincially or federally regulated minimums described above.



If you belong to a union and have been dismissed from your job, you should immediately ask your shop steward or other union representative to file a grievance on your behalf.

What happens next

If you have filed an employment standards complaint, see "My employer isn't paying my wages" in this Guide for what happens next. If your employer is federally regulated and you have worked 12 or more months, you can apply for an order that you be given your job back, along with all the pay you would have earned had you not been dismissed. You may be awarded less than your full loss of earnings depending on the facts.

If you have chosen to sue your former employer, see "I need to take someone to court" in this Guide for what happens next.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Employment Standards Branch of BC if your employer is provincially regulated, and Employment Standards (Canada) if your employer is federally regulated.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I've been dismissed (fired) without just cause ^[1]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Jim Sayre, February 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1074>

I've been turned down for Employment Insurance benefits

If you are unemployed, and have worked the required number of hours during the *qualifying period* before losing your job, you may be entitled to Employment Insurance (EI) benefits.

The number of hours required to be entitled to EI benefits depends on the type of benefits you are seeking, your employment history, and the unemployment rate in the region where you live. Whatever the number of hours required, they must have been worked in your qualifying period, which is usually the year before you apply.

If you have quit your job without just cause or were fired for misconduct, you will usually be disqualified from receiving any regular EI benefits. If you are not available for work (which includes actively looking for a job), you can be disentitled until you become available. And if you make false statements to EI, you can be required to repay any benefits you shouldn't have received, and you may also have to pay EI a penalty for having acted dishonestly.

All such decisions are appealable. If EI has turned down your claim, or disqualified, disentitled or penalized you, you can appeal within 30 days of receiving the decision to the General Division of the Social Security Tribunal (SST). The Tribunal can usually overturn EI's decision if they believe that it was wrong. They cannot change the law, however.

Some decisions cannot be appealed to the Social Security Tribunal, such as decisions about how many hours you worked, or whether your job was insured under the EI system. Such "insurability" questions must be appealed within 90 days to the Canada Revenue Agency (CRA), with a further appeal to the Minister of National Revenue and the Tax Court.

If you feel that EI has treated you unfairly, the best advice is simple: APPEAL! It's free, and it's the only chance you have to receive the benefits you feel you deserve.



Choosing the right type of appeal can be tricky. Some "insurability" questions, such as whether your job was insured under the EI system, must be appealed to the Canada Revenue Agency (CRA) rather than the Social Security Tribunal. If in doubt about the right type of appeal to file, seek legal advice.

First steps

1. Complete a written Notice of Appeal to the Social Security Tribunal General Division ^[1], or write the SST a letter of appeal. If you write a letter of appeal, be sure that you include all the information that is required on the form.
2. Submit the appeal form or letter to the SST by mail or fax within 30 days after receiving EI's decision. It is best to attach a copy of the decision you are appealing.

What happens next

After your appeal has been filed, the Social Security Tribunal will send you a copy of your EI file, which contains all the information EI used to make its decisions on your application. A Social Security Tribunal member will review EI's file as well as your appeal form or letter and any other information you have provided. The Tribunal member will decide if your appeal should proceed or should be dismissed. If it is dismissed, the Tribunal member will send you the decision in

writing.

Should your appeal go forward, the Tribunal member will determine if a decision will be made on the record or if a hearing will take place. A decision on the record means the Tribunal member will decide based on the documents and submissions that were filed. If a hearing will take place, the Tribunal will call or write to you to schedule the hearing. You can present your own case or you can arrange for someone such as a lawyer or an advocate or a friend to help you.

Following the hearing, the Social Security Tribunal member will issue a decision and send you a copy.

If you disagree with the decision made by the General Division, you can appeal to the second level of appeal at the Social Security Tribunal, the Appeal Division. You will need *leave to appeal* (permission to appeal) to this second level, unless you are appealing the General Division's decision to summarily dismiss your appeal. Your appeal must be filed within 30 days of receiving the General Division's decision.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Service Canada, and particularly their resources on Employment Insurance: the EI Homepage^[2], a section for Employment Insurance Appellants^[3], and a collection of EI appeal decisions favouring workers^[4].
- PovNet.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- Community Legal Assistance Society.
- The *Law Students' Legal Advice Program Manual* chapter on "Employment Insurance"^[5].
- Le Mouvement Action-Chômage de Montréal's "Unemployment Insurance Benefits Practical Guide & Tips"^[6].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Jim Sayre, February 2013.

References

[1] <http://www.canada.gc.ca/sst-tss/hta-cij/eigendiv-divgenae-eng.html>

[2] <http://www.servicecanada.gc.ca/eng/sc/ei/index.shtml>

[3] <http://www.ei-ae.gc.ca/en/home.shtml>

[4] http://www.ei-ae.gc.ca/en/board/favourable_jurisprudence/favourable_decisions_introduction.shtml

[5] <http://www.clicklaw.bc.ca/resource/1724>

[6] http://www.macmtl.qc.ca/Conseils_pratiques/en.htm

I've been cut off workers' compensation benefits

The Workers' Compensation Board (the WCB, also known as WorkSafeBC) pays benefits to people who have an injury or disease caused by their work. The WCB also pays benefits to dependents of a worker who has been killed on the job or died due to an occupational disease.

Workers' compensation is a no fault insurance scheme. If you have been injured at work, you will not be allowed to sue your employer or any other worker or employer who may have caused the injury. Your only recourse is to make a workers' compensation claim. That makes it very important that you report your injury to your employer and the WCB as soon as possible after it occurs, and that you and your doctor give the WCB the information it needs about your condition and prospects for recovery.

Initially, the WCB pays benefits equal to 90% of the net (take home) wages you were earning at the time of injury. After ten weeks the benefits will be based on your long term average earnings. If your benefits drop significantly at this point, you should consider an appeal.

When the WCB decides that you have recovered, your benefits will cease. If you and/or your doctor do not agree that you are ready to go back to work, you should appeal. The WCB will also terminate your benefits if they feel that your condition has stabilized and become permanent. If you or your doctor disagree, you should appeal.

Workers who have a permanent disability are entitled to a total or partial pension, payable until age 65. Permanently disabled workers (and sometimes others) may also be entitled to vocational rehabilitation assistance. As well, WCB pays all medical and related costs of an injury or disease.

If a decision of the WCB limits your benefits or cuts you off benefits, the first stage of the appeal process is to request a *review of the decision* by the WCB Review Division.

First steps

1. To request a review of a decision by the WCB's Review Division, get the Request for Review ^[1] form online or by phone at 1-888-855-2477.
2. Complete the Request for Review form and submit it to the Review Division *within 90 days* of the date that the WCB decision or order was made. The address is on the form.



If you are off work for a significant period of time, you will receive many letters from WorkSafeBC. Read these carefully, because each one could be a decision denying or limiting benefits. If in doubt, get legal advice, and if there is something in the letter that you don't agree with, challenge it. If you fail to request a review of a decision within the 90 day time limit, you may lose any chance of changing it, no matter how unfair it is.

What happens next

WCB Review Division

You will receive a complete copy of your WCB file, including all documents the Board has about your claim. Review it carefully to better understand why the Board made the decision you are appealing, so that you can explain to the Review Division why it is wrong.

If your review involves a medical issue, such as whether you are able to return to work, ask your doctor to write to the Board. Most successful reviews are based on new medical evidence.

Your review may also involve a policy issue. The WCB's policy manual, which is nearly 800 pages long, has the force of law, and there are detailed policies about almost every aspect of the claims process. You can read or download the *Rehabilitation Services and Claims Manual* ^[2] from the WCB's website.

The Review Officer will give you a deadline for sending in any new information or arguments. If you need more time, ask for it. Make sure that you tell the Review Officer about any wrong information in the file, whether it's from a WCB doctor, your employer, or anyone else, and that you explain why the Board's decision was wrong.

The Review Division usually decides the review within six months.



There are several options for seeking legal help on a WCB claim review. The Workers' Advisers Office provides free, expert advice and occasionally representation to any worker who requests it. Contact them immediately, as you may have to wait for an appointment. Most unions also provide free, expert help to their injured members. If you belong to a union, tell them about the injury immediately. There are also community organizations that do WCB cases, and there are private lawyers and non-lawyer advocates who are experts in WCB matters.

Workers' Compensation Appeal Tribunal (WCAT)

If you disagree with the Review Division's decision, you can appeal it to the Workers' Compensation Appeal Tribunal (WCAT). You must appeal *within 30 days* after the date of the Review Division decision.

The WCAT conducts appeals by rehearing them, which means that it considers all the evidence in the file and any new evidence presented by the parties, and then makes its own findings of fact and law. You should ask for an oral hearing, so that you can explain your case to the WCAT vice-chair in person.

The WCAT is the final level of appeal, and its decisions can only be challenged in a judicial review proceeding in the Supreme Court of BC. The WCAT can, however, reconsider its own decisions on the basis of new evidence that couldn't have been presented at the first appeal, or because the first decision was based on a serious legal error.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Workers' Advisers.
- PovNet.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- Community Legal Assistance Society.
- The *Law Students' Legal Advice Program Manual* chapter on "Workers' Compensation" ^[3].
- The WCB's website at www.worksafebc.com ^[4] has a lot of information about workers' compensation, including its policy manuals, practice directives, past decisions of the Review Division, and all the forms needed to pursue a claim.
- The WCAT website at www.wcat.bc.ca ^[5] also has a great deal of useful information, including its procedure manual and a searchable collection of its past decisions.
- The Clicklaw common question "I've been cut off workers' compensation benefits" ^[6].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Jim Sayre, February 2013.

References

- [1] <http://www.worksafebc.com/forms/assets/PDF/63m1.pdf>
- [2] http://www.worksafebc.com/publications/policy_manuals/Rehabilitation_Services_and_Claims_Manual/default.asp
- [3] <http://www.clicklaw.bc.ca/resource/1723>
- [4] <http://www.worksafebc.com>
- [5] <http://www.wcat.bc.ca>
- [6] <http://www.clicklaw.bc.ca/question/commonquestion/1077>

Family Law

Family Law Problems

For comprehensive coverage of family law problems, see *JP Boyd on Family Law* on Clicklaw Wikibooks.

Family issues are among the most common source of legal problems. Here are the first steps and some useful resources for people in BC facing the following types of family law issues:

- I have a family problem and I want to resolve it out of court.
- I just separated from the other parent of my children.
- My partner is abusing me and my kids.
- My ex is not paying child support.
- I am having challenges with my children and don't want the Ministry to remove them.
- The Ministry has taken my kids.



Most family issues — guardianship, parenting time, contact with a child, child and spousal support — can be dealt with in a special branch of Provincial Court called "Family Court." However, cases about divorce or family property must be dealt with in BC Supreme Court. Family Court procedures are simpler, quicker and less expensive than those in Supreme Court. Speak to a lawyer about the choice between Supreme Court and Family Court.

I have a family problem and I want to resolve it out of court

There are many alternatives to going to court if you have a family law problem. In fact, most separating and divorcing couples never go to court.

Instead, families come to an agreement on their own, often through mediation or with the help of services available to help people resolve issues outside the courtroom. Mediation is an approach to solving problems in which a third party (a mediator) helps people with family law problems reach a resolution without going to court. A mediator is a person who is specially trained to help people resolve conflict.

Among the services available to help people resolve family issues without having to go to court are:

- **Family justice counsellors:** At Family Justice Centres, family justice counsellors are available to provide information, conduct mediations, and assist with writing separation agreements. Family justice counsellors can assist with family issues such as guardianship, parenting arrangements, contact and support. They cannot assist with getting a divorce order or division of property.
- **Family advice lawyers:** At some Family Justice Centres, the counsellors can refer you to family advice lawyers provided by the Legal Services Society for parents with low incomes.
- **Family LawLINE:** If you are a person with a low income and a family law problem, you may be eligible for brief over-the-phone "next step" advice through the Family LawLINE about family law issues such as parenting, child and spousal support, property division, family agreements, and adoption.
- **Family mediators:** Most family mediators are professionals in private practice who assist couples in trying to resolve their family issues by agreement. Some family mediators are also family law lawyers. They almost always charge for their services.



For help with challenges in caring for children, see "I am having challenges with my children and don't want the Ministry to remove them" in this Guide.

First steps

1. Decide if the situation you are facing is one that can be safely and fairly resolved without involving lawyers and the courts. If the other party has dominated, harassed or abused you or your children, or has denied you the parenting time that you are entitled to, it may be difficult to resolve your problems fairly without going to court. It is best to speak with a lawyer, advocate or family counsellor for advice on whether your problem is one that can probably be resolved out of court.
2. To meet with a family justice counsellor, contact a Family Justice Centre and make an appointment to speak with a counsellor. Some Family Justice Centres have specialists in child support called child support officers. You can ask your family justice counsellor if a child support officer can be involved in your case.
3. Call the Family LawLINE to see if you qualify for "next step" advice from a LawLINE lawyer (contact details are in the Resource List).

4. To find a mediator in your area, look in the Yellow Pages or on the Mediate BC website (click on the "Directory of Family Mediators" link).

What happens next

If you meet with a family justice counsellor or a family mediator, they will discuss your options. They can contact your ex to see if he or she agrees to resolve your issues out of court. If so, the counsellor or mediator will communicate with both of you separately or together to help you reach an agreement. If it appears that you cannot resolve your matter outside of court, a family justice counsellor may assist you in preparing court documents or refer you to a lawyer or an advocate. Family mediators may assist in drafting agreements, but are unlikely to assist you with other court documents.

The Family LawLINE can give you advice about how you can proceed with your case and may refer you to other services, but will not represent you in a mediation or in court. Family LawLINE services are provided through brief phone calls.



If you and your ex have resolved all the other issues between you, and you are only seeking a straightforward divorce, there are a number of publications to help you do this. (See below under "Where to get help".) However, if you and your ex are still discussing how to divide your property (house, money, vehicles, furniture, etc.), you should definitely speak with a lawyer. Division of family property is a complicated area of the law.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Mediate BC.
- Family Justice Centres to make an appointment with a family justice counsellor to discuss guardianship, parenting time, contact with a child, or support, or to arrange a mediation.
- The Family Law in BC website, for forms, self-help materials and other legal information about family legal issues.
- The Clicklaw Wikibook *JP Boyd on Family Law* and in particular the chapter "Resolving Family Law Problems out of Court."
- The Clicklaw common questions "Our marriage is over; do we have to go to court?"^[1] and "How can mediation help me with a divorce agreement?"^[2].

Before talking with a family justice counsellor, mediator, or lawyer, complete the form Preparing for Your Interview included in this Guide. Make sure you have the dates of birth of your spouse and children, your date of marriage or cohabitation (if applicable), your date of separation, information about your income and property and those of your ex, and some notes on the issues that concern you.

✓ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1006>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1105>

I just separated from the other parent of my children

If you and the other parent of your children have separated, you need to make decisions about who will have *parental responsibility* for the children, which includes things like:

- making day-to-day decisions affecting the children,
- having day-to-day care of the children,
- making decisions about where the children will live, and
- making decisions about the children's education and extra-curricular activities.

You will also need to decide if the other parent will have *parenting time* or *contact* with the children, and how you will handle *support* (regular financial support for the children and, if necessary, you or the other parent).

First steps

1. Ensure that you and your children are safe. This may mean leaving the family home for awhile and staying with friends or staying in a transition house. To find a local transition house, try a Google search for "transition house" plus your community — e.g., "transition house victoria bc." Alternatively, look in the Yellow Pages under "Crisis Centres," or contact VictimLINK. The local police station can also give you information about transition houses and other victim services.
2. Consider whether you need a *safety plan*. A safety plan outlines steps you can take to protect yourself and your children. Having a safety plan means you know how to get help if your partner is abusing you. It is a good idea to ask a friend, advocate, or victim service worker to help you make a safety plan. For information on making a safety plan, see "Live Safe — End Abuse: Safety Planning ^[1]."
3. If you are afraid of the other parent, one option is to go to the police station and ask to have help in obtaining a *peace bond*. A peace bond is an order of the court that can last up to a year, requiring the other parent to stay away from you and the children unless you consent to contact. Another way to protect yourself is to go to Family Court and ask for a *protection order*. For more information on seeking a peace bond or a protection order, see "Live Safe — End Abuse: Protection Orders ^[2]."
4. If you need a lawyer but cannot afford one on your own, see if you qualify for legal aid representation. If you don't qualify for legal aid representation, or if you think you can resolve your issues through mediation, you may wish to contact a Family Justice Centre. Counsellors at Family Justice Centres can provide information, mediation and assistance with applications involving guardianship, parenting time, and support in Family Court. However, they have no jurisdiction to help with divorce or division of family property and debts.
5. If you want to apply for a court order dealing with who the children will live with, parenting time, or financial support, you can apply to Family Court. Family Court forms and self-help information are available online at the Family Law in BC website. Click on the shortcut "Self-help guides," scroll down to "Family orders" and click on the appropriate link. If you feel the situation is urgent, you may ask the judge to make the order "without notice," meaning that the court will make its order without your ex-partner having a chance to be heard or being notified in advance that

you are seeking an order. Without notice orders are always interim (short-term) and your ex-partner will eventually have a chance to speak to the judge before a final order is made.

What happens next

If you qualify for legal aid representation, a lawyer will be appointed to represent you in your case and lead you through the court process.

If you apply for a court order, you will have to arrange to serve your ex with a copy of the application and notice of the court date, unless it is dangerous or impractical to do so. A court date will be set by the court once your ex files a reply.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation to see if you qualify for legal aid.
- Family Law in BC website, for forms, self-help materials and other legal information about family legal issues.
- The Clicklaw Wikibook *JP Boyd on Family Law* and in particular the chapter "Separation & Divorce."
- Family duty counsel (Provincial or Supreme), for some assistance on the day you have to appear in court.
- Family Justice Centres, to make an appointment with a family justice counsellor to discuss guardianship, parenting time, and support.
- Family LawLINE.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/2411>

[2] <http://www.clicklaw.bc.ca/resource/2414>

My partner is abusing me and my kids

Both the criminal law process and family law process can be used to deal with relationship violence and abuse. There are also a number of services in most BC communities, such as transition houses, victim assistance programs and counselling services, to help victims of violence.

First steps

1. Make sure that you and your children are safe. This may mean leaving the family home for awhile and staying with friends or staying in a transition house. (Look in the Yellow Pages under "Crisis Centres" or call VictimLINK. The local police station can also give you information about transition houses and other victim services.)
2. If the abuse involves physical or sexual violence, consider reporting it to the police. Staff at local transition houses and victim services groups can support you in doing this. If you want the abuser to stay away from you, you can ask the police to ask a judge for a *no contact order* to prevent or limit the abuser from having contact with you or your children. Ask the police to give you contact information for a victim services worker.
3. If you need a lawyer but cannot afford one on your own, see if you qualify for legal aid representation. If you qualify, the Legal Services Society will appoint a lawyer to advise you and represent you in Family Court. Victims are not usually entitled to representation by lawyers in criminal court.
4. You or your lawyer can make an application to the Family Court or BC Supreme Court for an order preventing or limiting the abuser from having contact with you and/or your children. You can take this step instead of or in addition to reporting the abuse to the police. Follow the process described under "I just separated from the other parent of my children" in this Guide.

What happens next

Criminal Court

If a criminal charge has been laid, the abuser will be given a date to appear in Provincial Criminal Court. At this *first appearance*, the abuser (called "the accused" in court) can ask for a copy of both the charge and the report from the police to the *Crown Counsel*. (The Crown Counsel is the lawyer who prosecutes the case against the abuser on behalf of the government.) You do not need to have your own lawyer in Criminal Court. You are considered a witness and you should speak with the Crown Counsel before court so they know whether or not you want the judge to order that the accused can have contact with you or your children until the case is completed. For more information on what happens after criminal charges have been laid, see "I've been charged with a criminal offence and have to go to court" in this Guide.

Family Court

If you have completed an Application to Obtain an Order ^[1] and asked the judge for a "without notice" order (an immediate court appearance without the abuser in attendance), you will be given a time and date to be in court. At court, the judge will ask you why you want no contact from the abuser. If the judge agrees with you, he or she will make the order until a court date in the future. Be aware that after the without notice order is pronounced, the Family Court will send a copy to your ex.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- BC Society of Transition Houses and VictimLINK.
- Legal aid representation, to see if you qualify for legal aid.
- Family Law in BC website, for forms, self-help materials and other legal information about spousal abuse.
- Family LawLINE.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "A woman is being abused by her partner. What legal help can she get?" ^[2].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✔ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.ag.gov.bc.ca/courts/forms/pfa/pfa003.pdf>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1023>

My ex is not paying child support

Any parent — married or unmarried — of a dependant child has a responsibility to provide *child support* (financial support) for that child. The usual amount that he or she should pay is set out in the Child Support Guidelines. The amount depends on how many children there are and what the payor parent earns.

If you HAVE a court order

First steps

1. If you are on social assistance, speak with your financial worker. If you agree, the Ministry of Social Development (or Aboriginal Affairs and Northern Development Canada, if you live on an Indian reserve) will collect child support for you.
2. If you are not on social assistance, you can enrol with the Family Maintenance Enforcement Program, which will take steps, including further court action, to enforce the order for you. The Family Maintenance Enforcement Program, also called FMEP, is free, and probably the simplest way to collect on a child support order from a reluctant payor.
3. You may qualify for legal aid representation. If you are approved for legal aid representation, a legal aid lawyer can help you collect child support.
4. If you don't qualify for legal aid representation, you may wish to contact a Family Justice Centre. Counsellors at Family Justice Centres can provide information, mediation and assistance with applications involving child or spousal support in Family Court.

What happens next

Once you have registered with the Family Maintenance Enforcement Program, one of its workers will contact the other parent to see if he or she will agree to make voluntary payments. If that doesn't work, FMEP can take a number of steps against the other parent, such as garnishing pay cheques or bank accounts, intercepting Employment Insurance payments and income tax refunds, and arranging for withholding driver's licenses or passports.

If you DON'T have a court order

First steps

1. If you need a lawyer but cannot afford one on your own, see if you qualify for legal aid representation. If you qualify, the Legal Services Society will appoint a lawyer to advise you and represent you in court.
2. Whether or not you qualify for legal aid representation or a lawyer through the Ministry of Social Development, you may wish to contact a Family Justice Centre. Counsellors at Family Justice Centres can provide information, mediation and assistance with applications involving child or spousal support in Family Court.
3. If you want to apply for child support in Family Court, complete an Application to Obtain an Order ^[1]. You can get an Application to Obtain an Order from any Provincial Court registry. Family Court forms and self-help information are also available online at the Family Law in BC website. Click on "Self-help guides," scroll down to "Family orders" and click on the appropriate link. If you feel the situation is urgent, you may ask that the order be "without notice," meaning that the court will make its order without your ex-partner having a chance to be heard or being notified in advance. Without notice orders are always interim (short-term) and your ex-partner will eventually have a chance to speak to the judge before a final order is made.

What happens next

Once you have filed an Application to Obtain an Order asking for child support, the other parent will be required to file a Reply and a Financial Statement (or a *statement of finances* for FMEP matters). A date will be set for a hearing by the Family Court registry.

If the other party doesn't file a Reply or Financial Statement, the judge may order him or her to do so or accept your evidence of what he or she is earning, without your ex's participation.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- Family Maintenance Enforcement Program, to enrol with the program for free.
- Family Law in BC website, for forms, self-help materials and other legal information about child and spousal support.
- Family duty counsel (Provincial or Supreme), for some assistance on the day you have to appear in court.
- Family Justice Centres, to make an appointment with a family justice counsellor to discuss support.
- Family LawLINE.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "My ex stopped paying child support when he moved out of province ^[2]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✔ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.ag.gov.bc.ca/courts/forms/pfa/pfa003.pdf>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1009>

I am having challenges with my children and don't want the Ministry to remove them

If you are having challenges raising your kids or other children under your care, you can sometimes get help without the Ministry of Children and Family Development removing the children from your home.

First steps

1. See if there are any marriage, family, child or individual counsellors in or near your community. You could look in the Yellow Pages or ask a lawyer or advocate, or someone at the Ministry of Children and Family Development.
2. Before involving the Ministry of Children and Family Development, you should probably speak with a lawyer or advocate. (See "Where to get help" below to find a lawyer or advocate to speak with.)



In dealing with the Ministry of Children and Family Development, keep in mind that the Ministry has the authority to remove children from your home if they believe they are "in need of protection." On the other hand, the Ministry has access to many resources (often at little or no cost to you) that may help you overcome the challenge with your children.

What happens next

You (and probably your children) will be asked to meet with the resource person who will assist you. Be prepared to provide as much information about your children as you can, such as dates of birth, school level and grades, medication and medical history. If you have chosen to work with the Ministry, they may suggest a variety of approaches, depending on the nature and seriousness of your problem. They may:

- Refer you to a *community resource*. The Ministry may open a file and want to track your progress with the resource.
- Provide you with *family support services*. In some cases, the Ministry will ask you to sign a *family support service agreement* which enables them to arrange counselling, parenting support, up to six days a month of *respite care*, and other support in your home. A family support worker will probably be assigned to your case. A family support service agreement can be for a period of six months, and then renewed after that.
- If you are facing a crisis that means you are temporarily unable to care for the children in your home (even with the supports mentioned above), the Ministry may ask you to sign a *voluntary care agreement* and place your children in foster care for a period of up to 14 days. If the crisis continues longer than 14 days, the Ministry will open a *protection file*. If you think this may happen to you, you should speak with a lawyer or advocate or apply for legal aid.
- If your child has a permanent or long-term disability, the Ministry may put you in touch with their Community Living Department and have you sign a *special needs agreement*, through which they can provide respite care and in-home supports. The first special needs agreement can be for a period of six months, and renewed after that. You will be asked to pay something for the care provided, based on your income.



If you or the children in your care are Aboriginal, the responsibility for the safety and welfare of the children may have been delegated to a Delegated Aboriginal Agency in your area. To find out if this is the case, contact the nearest office of the Ministry of Children and Family Development (see the Blue Pages of your phone book for the local number or call Service BC at 1-800-663-7867).

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to apply for legal aid.
- Family Law in BC website, for forms, self-help materials and other legal information about child protection and removal.
- PovNet, for the "Find An Advocate" feature on their website.
- Family duty counsel, for some assistance on the day you have to appear in court.
- Family LawLINE.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "What about child protection for Aboriginal people?"^[1]
- The Legal Services Society publication "Parents' Rights, Kids' Rights: A Parent's Guide to Child Protection Law in BC"^[2].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1051>

[2] <http://www.clicklaw.bc.ca/resource/1060>

The Ministry has taken my kids

The Ministry of Children and Family Development or a delegated agency has the authority to remove children from their home if they are "in need of protection" because they believe that a child has been abused or neglected, or is likely to be abused or neglected. If the Ministry removes the child or children, the matter is taken to Family Court until it is resolved.



If the Ministry has begun an investigation, you can ask for legal advice *before* the child is removed from the home (see the steps below).

First steps

1. If you need a lawyer but cannot afford one on your own, apply for legal aid representation. If you qualify, the Legal Services Society will appoint a lawyer to advise you and represent you in court.
2. If you don't have a lawyer, consider getting some legal advice. Child protection is a very emotional issue and difficult to face without legal advice and support. See if there is an advocate in your community who can help. PovNet has a "Find an Advocate" feature on their website. As well, duty counsel can provide advice services.
3. Contact the Ministry worker who removed your child, and see if you can negotiate for either the return of your child or contact with your child while in Ministry care. Take a friend or advocate with you when you speak to the worker. Make sure you have a lawyer review any agreement before you sign it.
4. Within seven days of removing the child, the Ministry must go to Family Court and explain to a judge why the child was removed and what their plans are for the child until the matter is resolved. Attend this hearing. Even if you can't convince the judge to return the child right away, you can ask the judge for contact with the child. There is usually a duty counsel lawyer in Family Court who can assist you on the day of court. If your matter is called before you've had the chance to speak to duty counsel, tell the judge that you'd like to do so before proceeding.

What happens next

At the first court appearance, the judge will set a date for a *presentation hearing*. At this hearing, you will have a chance to convince the judge why the child should be returned to you. The judge may decide to make a *supervision order* (returning the child to you under supervision of the Ministry) or a *custody order* (leaving the child in the care of the Ministry) until a *protection hearing* is held.

A protection hearing must begin within 45 days from the end of the presentation hearing. Before or after the start of the protection hearing, you will probably be asked to attend a *case conference* (a meeting with a judge and the Ministry to see if you can reach an agreement about the child's care). If there is no agreement, the judge will hold a protection hearing. At the end of it, the judge may order that the child be returned to a parent or other person, or remain in the custody of the Ministry for a period of time, or (in rare and serious cases) remain in the custody of the Ministry on a continuing basis.



The Ministry of Children and Family Development now offers a number of structured meetings — such as integrated case management meetings, partnership planning conferences, family group conferences and mediation — aimed at resolving child welfare cases outside of court. Even though legal aid does not usually cover the cost of your lawyer to attend these meetings, it is a good idea to have an advocate or other support person attend with you. If a meeting does result in an agreement, try to have a lawyer review it before you sign it.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to apply for legal aid.
- Family Law in BC website, for forms, self-help materials and other legal information about child protection and removal.
- PovNet, for the "Find An Advocate" feature on their website.
- Family duty counsel (Provincial or Supreme), for some assistance on the day you have to appear in court.
- Family LawLINE.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "What about child protection for Aboriginal people ^[1]?"
- The Legal Services Society publication "Parents' Rights, Kids' Rights: A Parent's Guide to Child Protection Law in BC ^[2]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Annie Kaderly, March 2013.

References

[1] <http://www.clicklaw.bc.ca/question/commonquestion/1051>

[2] <http://www.clicklaw.bc.ca/resource/1060>

Housing

Housing Problems

Here are the first steps and some useful resources for people in BC facing housing problems such as:

- My landlord wants to evict me.

My landlord wants to evict me

If you rent your home from someone else, you are probably covered by the *Residential Tenancy Act*. If so, your landlord needs to have a good reason to evict you, such as if you damage his or her property, seriously disturb your neighbours or don't pay your rent. The landlord can also ask you to leave if he or she is doing major renovations or getting a close relative to move into your place.

The landlord must give you written notice before you can be evicted:

- *10 days* in advance if you haven't paid your rent on time.
- *One month* in advance if there is *cause*, such as:
 - repeatedly paying your rent late (three times would be considered "repeated"),
 - subletting your place without the landlord's consent,
 - damaging the place beyond reasonable wear and tear,
 - jeopardizing safety,
 - unreasonably disturbing your neighbours,
 - breaking a material term in your tenancy agreement and ignoring a written warning from your landlord, or
 - you or your guests putting your landlord's property at risk or using it for an illegal purpose (the landlord may get an order for shorter notice if you have been involved in illegal activity).
- *Two months* in advance if the landlord is doing major renovations or a close family member moves in. Close family members include the landlord's parents, children or spouse, or the parents or children of the landlord's spouse.

First steps

1. If you are being evicted for not paying your rent, you can pay it within *five days* of receiving the eviction notice. If you do this, the notice of eviction will be cancelled, unless the landlord is claiming that you have repeatedly been late in paying your rent.
2. Otherwise, if you believe the landlord does not have good reason to evict you, get and complete a Tenant's Application for Dispute Resolution ^[1], available from the Residential Tenancy Branch or most Service BC (Government Agent) offices.
3. Send the completed application or take it in to a Residential Tenancy Branch office or Service BC (Government Agent) office together with a filing fee of \$50. For a 10 day notice, you have *five days* to apply for dispute resolution. For a one month notice, you have *10 days*. For a two month notice, you have *15 days*. If you can't afford the \$50 filing fee, you can apply at the office to have the fee waived. See the Residential Tenancy Branch's Application to Waive

Filing Fee ^[2] to see the documents you may need to provide with that application.

What happens next

Residential Tenancy Branch staff will look at your application. After the application has been approved and you have paid your \$50, you will receive *hearing documents*. You need to serve a copy of these documents on your landlord.

At the hearing with an *arbitrator*, the landlord will have to give evidence of why he or she wants to evict you. You will then be given the chance to say why you shouldn't be evicted. The arbitrator will make a decision about whether or not you can stay in your place.

If you don't like the decision, you can apply to review it by completing an Application for Review Consideration ^[3] and paying a \$25 filing fee. However, there will only be a review if:

- you missed the original hearing, or
- you have new evidence that was not available at the time of the original hearing, or
- the decision was obtained by fraud.

Otherwise, only a Supreme Court judge can review an arbitrator's decision. You will need advice from a lawyer to do this.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Tenant Resource & Advisory Centre (TRAC).
- Residential Tenancy Branch.
- PovNet, for contact and website information for tenancy advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "My landlord is threatening to evict me ^[4]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.



The above information does not apply if you are evicted from your home on an Indian reserve. If this happens to you, you should speak with a lawyer.

✓ The above was last reviewed for legal accuracy by Andrew Sakamoto, March 2013.

References

- [1] <http://www.rto.gov.bc.ca/documents/RTB-12-T.pdf>
- [2] <http://www.rto.gov.bc.ca/documents/RTB-17.pdf>
- [3] <http://www.rto.gov.bc.ca/documents/RTB-2.pdf>
- [4] <http://www.clicklaw.bc.ca/question/commonquestion/1082>

Human Rights

Human Rights Problems

Here are the first steps and some useful resources for people in BC facing human rights problems such as:

- I am being discriminated against or sexually harassed.

I am being discriminated against or sexually harassed

The law prohibits discrimination in housing, the workplace and the provision of services, where the discrimination is based on grounds such as race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital or family status, disability or criminal record. Some types of discrimination are excused if the discrimination is reasonable and necessary.

First steps

1. If the discrimination happened in the workplace, get a copy of your employer's personnel policies. Most employers have a policy and procedure for dealing with harassment and employee grievances. It is usually best to follow the procedure in these internal policies first.
2. If you can't resolve your complaint quickly using your employer's policies, you can make a human rights complaint to either the BC Human Rights Tribunal (if you have a provincially regulated employer) or to the Canadian Human Rights Commission (if you have a federally regulated employer). Most employers are provincially regulated, but some — like the federal government, chartered banks, Indian bands and tribal councils, and national airlines and railways — are federally regulated. To find out if you are dealing with a federally regulated body, contact the Canadian Human Rights Commission ^[1].
3. To make a complaint against a provincially regulated body, call the BC Human Rights Tribunal at 1-888-440-8844 or fill out the online complaint form at their website page "File a Complaint ^[2]." Complaint forms are also available at most Service BC (Government Agent) offices. Complaints must be filed within six months of the discriminatory act.
4. To make a complaint against a federally regulated body, call the Canadian Human Rights Commission ^[1] at 1-888-214-1090. You can also contact ^[3] the Commission by fax or email. Complaints must be filed within one year of the discriminatory act.

What happens next

Once you make a complaint, a representative of the Tribunal or Commission will contact you. They will work with you and the discriminating party (respondent) to see if the problem can be resolved through mediation. If not, the matter may go to a hearing before a human rights tribunal.

If your complaint goes to a human rights tribunal, you (or your lawyer) will give your evidence of discrimination and call any witnesses to it. The employer (or its lawyer) can cross-examine you and your witnesses and then call witnesses of its own. You or your lawyer will be able to cross-examine these witnesses. The tribunal member will decide whether you have proved the discrimination, and can order the employer to stop the discriminating behaviour, or to pay you compensation for the harm done to you, or both.



Although the above information talks about discrimination or sexual harassment in employment, the same process applies to discrimination in housing and the provision of services as well.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- BC Human Rights Coalition: The Coalition runs workshops to help people file their complaints, and also represents human rights complainants in the early stages of the process. You must apply for representation within 30 days of your complaint being accepted by the BC Human Rights Tribunal.
- Community Legal Assistance Society: CLAS lawyers represent human rights complainants in hearings before the BC Human Rights Tribunal.
- PovNet, for contact and website information for human rights advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I've been discriminated against"^[4].

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Kaity Cooper, March 2013.

References

[1] <http://www.chrc-ccdp.ca/>

[2] <http://www.bchrt.bc.ca/process/complaint.htm>

[3] <http://www.chrc-ccdp.ca/eng/content/contact-us>

[4] <http://www.clicklaw.bc.ca/question/commonquestion/1093>

Immigration Law

Immigration Law Problems

Here are the first steps and some useful resources for people in BC facing immigration-related problems such as:

- I want to claim refugee status in Canada.
- I'm a permanent resident and have been charged with a criminal offence.
- My husband sponsored me and we have now separated.

I want to claim refugee status in Canada

You can make a claim for refugee status at a Canadian border or airport, or from within Canada. To be found to be a refugee, you must meet the definition of either a "Convention refugee" or a "person in need of protection."

Convention refugees are people outside their country of nationality or residence who are unable or unwilling to return to that country because of a "well-founded fear of persecution." This means they have a good reason to believe they are in danger and that the authorities in their country will not or cannot protect them. They may fear that they will be harmed because of their race, religion, political opinion, nationality, or membership in a particular social group (such as women or people of a particular sexual orientation).

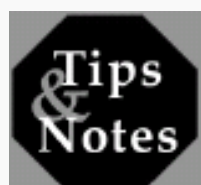
Persons in need of protection are people who, if returned to their home country or country where they normally live, would face:

- a danger of torture,
- a risk to their life, or
- a risk of cruel and unusual treatment or punishment.

To prove that you are a person at risk if returned to your country, you must show all of the following:

- you are not able to get state protection from your country,
- the risk is specific towards you or your family,
- you face the risk in every part of your country,
- the risk is not the result of punishment for a crime you committed, unless the punishment violates international standards, and
- the risk is not because of lack of adequate medical care.

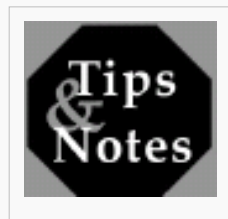
Refugee claims are decided by the Immigration and Refugee Board of Canada.



If you are detained, ask to speak to immigration duty counsel or call the Legal aid immigration line at 604-601-6076 or 1-888-601-6076. Duty counsel are lawyers paid by Legal Services Society to assist people in detention at the Canada Border Services Agency's enforcement centre in Vancouver. Duty counsel provide detainees with advice regarding procedures and their legal rights, and may appear on their behalf at detention hearings.

First steps

1. Before you start a refugee claim, you should try to get help from a lawyer or settlement agency:
 - If you cannot afford a lawyer on your own, apply for legal aid. See legal aid representation in the Resource List for information about applying for legal aid or call the Legal aid immigration line at 604-601-6076 or 1-888-601-6076. To qualify for legal aid you must be financially eligible and your refugee claim must have merit.
 - If you do not qualify for legal aid, contact an immigrant settlement agency.
 - Other options for getting legal help include contacting the Law Students' Legal Advice Program if you live in the Lower Mainland, or retaining a lawyer or immigration consultant privately.
2. If you are at an airport or at a Canadian border crossing, start your refugee claim by telling a Canadian Border Services Agency officer that you want to make a refugee claim. You will be interviewed by the Canada Border Services Agency and asked to complete immigration forms and provide identity documents.
3. If you are already in Canada, go to a Citizenship and Immigration Canada office to start your claim. To find a list of offices, see Citizenship and Immigration Canada in the Resource List of this Guide. Go to the reception counter and explain that you want to make a refugee claim. You will be asked to fill out immigration forms and provide identity documents.
4. Once your immigration forms are complete, you will be interviewed by an immigration officer. The interview could take place when you first make your claim or you might get an appointment to return for an interview. At your interview, the officer will assess whether you are eligible to make a refugee claim. If you are eligible, your case will be referred to the Immigration and Refugee Board of Canada and you will be given a date for your hearing.



You should complete the immigration forms and answer questions at your interview with the immigration officer carefully and truthfully. The information you provide will be used at your refugee hearing. Keep a copy of the forms for your records.

What happens next

The next step is to prepare for your refugee hearing before the Refugee Protection Division of the Immigration and Refugee Board. Your refugee hearing will be within 30 to 60 days of your being found eligible to make a claim; the timing will depend on the country you are from and whether you made your claim at a port of entry.

At your hearing, a member of the Board will determine whether or not you are a Convention refugee or a person in need of protection. It is up to you to convince the Board that you are at risk if you return to your country. Gather identity documents, police reports, medical records, human rights reports on country conditions and other information to show that your story is true.

If you are found not to be a Convention refugee or person in need of protection, you may be able to apply to the Refugee Appeal Division or the Federal Court of Canada to have the decision in your case reviewed.

After a period of time following a negative decision on your refugee claim from the Immigration and Refugee Board, you may be eligible to apply for a Pre-Removal Risk Assessment. The period of time is 12 months or 36 months depending on the country you are from.



Not all people are eligible to make a refugee claim in Canada. For example, people who are *not eligible* include people who have made a refugee claim in Canada in the past, people who came to Canada from or through a designated safe third country where they could have claimed refugee protection, people who are not admissible to Canada on security grounds, or people who are not admissible to Canada because of criminal activity or human rights violations.

Where to get help

See the Resource List of this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- Citizenship and Immigration Canada, which has information for Refugee Claims in Canada ^[1], explaining who can apply for refugee status from inside Canada, how to apply, and what happens next.
- WelcomeBC Settlement Services Map to find agencies that provide services to immigrants and refugee claimants.
- The Law Students' Legal Advice Program immigration clinics, if you live in the Lower Mainland.
- "Refugee Hearing Preparation: A Guide for Refugee Claimants ^[2]," from Kinbrace Community Society, explains how to prepare for a refugee hearing.
- An online tool, Refugee Claim Process ^[3], is provided by the Vancouver Refugee Services Alliance.
- Clicklaw for more resources listed under the common question "We want to start a refugee claim in Canada ^[4]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Rochelle Appleby, January 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/2096>

[2] <http://www.clicklaw.bc.ca/resource/2490>

[3] http://www.vrsa.ca/refugee_claim_process.php?id=1

[4] <http://www.clicklaw.bc.ca/question/commonquestion/1060>

I'm a permanent resident and have been charged with a criminal offence

When persons who are not Canadian citizens are charged with criminal offences, this information is passed on to immigration officials. If you are a permanent resident in Canada (that is, you have a permanent resident card or a Record of Landing Document), you could lose your permanent resident status and could be deported to your country of origin if you are convicted of a *serious crime*.

A crime is serious if:

- the maximum sentence you could get is 10 or more years in prison (even if you get a shorter sentence), or
- the sentence that you do get is more than six months in prison.



If you are a permanent resident, it is a good idea to apply for Canadian citizenship as soon as you meet the requirements. Once you become a citizen you cannot be removed from Canada no matter how serious the criminal conviction. If you are in Canada on a temporary status (such as a student or temporary worker), a criminal conviction can seriously affect your status and may affect your right to remain in Canada.

First steps

1. As a permanent resident who has been charged with a criminal offence, it is important to consult with a lawyer who has experience in criminal law and immigration law. If you cannot afford to hire a lawyer on your own, apply for legal aid. See legal aid representation in the Resource List for information about applying for legal aid. To qualify for legal aid you must be financially eligible and there must be a risk of jail or deportation if convicted of the charge.
2. If you are detained because of the criminal charge, contact criminal duty counsel. If you are detained because of immigration proceedings, contact immigration duty counsel. See duty counsel in the Resource List for more information.

What happens next

You will have to deal with the criminal charge in court, either by pleading guilty or going to trial. See the section "I've been charged with a criminal (or youth) offence" for more information.

If you plead guilty or are convicted at trial, immigration officials can prepare a report and refer your case to the Immigration Division of the Immigration and Refugee Board for an *admissibility hearing*.

The Immigration Division does not look to the facts of the case or any mitigating factors. The Immigration Division's role is to determine whether the crime you have been convicted of is "serious" according to the definition above.

If the admissibility hearing results in a *removal order*, you can appeal the order to the Immigration Appeal Division. However, if your sentence is for more than two years, you lose your right to appeal to the Immigration Appeal Division.

If you appeal, the Immigration Appeal Division decides whether a removal order can be set aside on *humanitarian and compassionate grounds*. The Immigration Appeal Division considers many factors, including the facts surrounding the criminal offence, the sentence you received, the amount of time you have lived in Canada, the effect your removal will have on you and close family members, your connections to Canada, and any evidence of rehabilitation.

If you are successful on your appeal, your removal order may be cancelled or stayed for a certain number of years. A stay of removal allows you to remain in Canada as long as you do not breach the conditions of the stay.

Where to get help

See the Resource List of this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- WelcomeBC Settlement Services Map to find agencies that provide services to immigrants and refugee claimants.
- The *Law Students' Legal Advice Program Manual* chapter on "Immigration Law ^[1]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Rochelle Appleby, January 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1738>

My husband sponsored me and we have now separated

Canadian citizens and permanent residents who live in Canada can apply to *sponsor* (bring) certain family members to live with them in Canada. Where your spouse sponsored you and you later separate, your right to remain in Canada depends in part on the timing of your sponsorship application.

If you are a permanent resident, you have the right to remain in Canada if your sponsorship application was approved by Citizenship and Immigration Canada and received before October 25, 2012. If you have separated from your spouse, they cannot ask immigration officials to remove you from Canada.

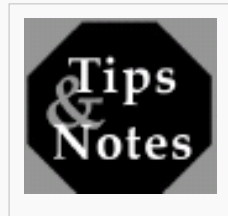
If you are a permanent resident and your sponsorship application was received by Citizenship and Immigration Canada after October 25, 2012, your permanent resident status is conditional — you must cohabit with your sponsor for two years from the day you received your permanent resident status in Canada. The only exceptions are where the sponsor dies or in cases of abuse or neglect. This rule does not apply if you have children together.

If you are not a permanent resident and want to remain in Canada, you may either:

- apply for *refugee status* (see the section "I want to claim refugee status in Canada"), or
- apply for permanent resident status based on *humanitarian and compassionate* considerations.

First steps

1. You should try to get help from a lawyer or a settlement or community agency:
 - If you cannot afford a lawyer on your own, apply for legal aid. See legal aid representation in the Resource List for information about applying for legal aid. To qualify for legal aid you must be financially eligible and your case must have a reasonable chance of success.
 - If you do not qualify for legal aid, contact an immigrant settlement agency; see the publication "Sponsorship Breakdown ^[1]" for a listing of community workers and settlement agencies, or try the WelcomeBC Settlement Services Map.
 - Another option to consider is contacting the YWCA Single Mothers Without Legal Status In Canada Project ^[2].
 - Other options for getting legal help include contacting the Law Students' Legal Advice Program or retaining a lawyer or immigration consultant privately.
2. If you have a child, you should also obtain legal advice regarding the custody of your child. See "I just separated from the other parent of my children" in this Guide.
3. If you fear returning to your country of nationality, you may want to seek legal advice about applying for refugee status. See the section "I want to claim refugee status in Canada."
4. If you were sponsored by your husband and the sponsorship application is not completed at the time of the separation, and you wish to apply to stay in Canada, you should obtain legal advice. Your sponsorship application may be converted by Citizenship and Immigration Canada to an application to remain in Canada on humanitarian or compassionate grounds (an "H&C application") or you may have to make a new H&C application.



Unless you already have a work permit, you are not entitled to work in Canada while an H&C application is under consideration until you have been "approved in principle." Obtaining income assistance may have a negative impact on an H&C application.

What happens next

When you complete an H&C application, you must show Citizenship and Immigration Canada that you can become established in Canada on your own or that your removal to your country will cause you or your children unusual or undeserved hardship. It is important to provide information concerning the strength of your connections to Canada, the impact leaving Canada will have on you and your children, how you have supported yourself in Canada, whether you were the victim of domestic violence, and the hardship you will face if returned to your home country. It is very helpful to obtain letters of support and other documents to support your application.

H&C applications take a long time to process, typically between one and half and two years.

If your application is denied, you may be removed from Canada. Prior to removal you may receive an application for a Pre-Removal Risk Assessment (PRRA). At this stage Canada Border Services Agency will consider whether you are at risk of torture, death or persecution if removed from Canada.

It may be possible to review a negative H&C decision or a negative PRRA decision to the Federal Court of Canada.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- WelcomeBC Settlement Services Map to find agencies that provide services to immigrants and refugee claimants.
- The Clicklaw common question "A friend was sponsored to come to Canada but the sponsor left her. What can she do?"^[3]

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Rochelle Appleby, January 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1073>

[2] http://www.ywcavan.org/content/Mothers_Without_Legal_Status_Project/702

[3] <http://www.clicklaw.bc.ca/question/commonquestion/1062>

Mental Health

Mental Health Law Problems

Here are the first steps and some useful resources for people in BC facing mental health problems such as:

- A relative has been held against their will in a mental health facility.

A relative has been held against their will in a mental health facility

A person may be detained against their will in a mental health facility for up to 48 hours if a physician examines the person and signs a certificate. The certificate must say that the person is suffering from a mental disorder and needs treatment, care, supervision and control by a mental health facility to prevent that person's substantial mental or physical deterioration or for the protection of that person or others.

If a second physician signs a similar certificate, the person may be detained against their will for up to one month.

First steps

1. If you have a relative who has been involuntarily detained in a mental health facility, you should immediately call the facility — usually a hospital in your area. If you don't know which facility it is, contact your local Health Authority (see the BC Health Authorities listing ^[1] on the Ministry of Health website, or the Blue Pages of the phone book). Let the facility know what support you are able to provide to your relative, and ask if and when they are planning to release them.
2. As soon as is practicable, your relative should be notified of their rights under the *Mental Health Act*. They should be given a Form 13, Notification to Involuntary Patient of Rights under the Mental Health Act ^[2]. Your relative has the right to know the reasons for their detention. They have the right to have a copy of their medical certificate(s) unless the facility believes this information will cause serious harm to your relative or cause harm to others. Completion of the second medical certificate gives the facility the right to give treatment to your relative — including medication — even if your relative does not wish this.
3. If your relative continues to be detained against their will for more than 48 hours, they — or you on their behalf — may request a hearing by a mental health Review Panel. The Review Panel is free of charge. This is an independent panel of three people, who will decide if the criteria for certification still exist. You, or your relative, may apply for the Review Panel by completing a Form 7, Application for Review Panel Hearing ^[3].
4. Your relative is entitled to be represented by a lawyer or mental health advocate at a Review Panel hearing. If they can't afford a lawyer on their own, you should see if they qualify for legal aid. See legal aid representation in the Resource List for information about applying for legal aid. You, or your relative, can also get information and sometimes representation at a Review Panel hearing through the Community Legal Assistance Society's Mental Health Law Program by calling 604-685-3425.

What happens next

Your relative's lawyer or advocate will prepare your relative for the Review Panel. If you would like to speak to the Review Panel, you may be a witness at it, or you may write a letter or speak to the panel via telephone. Speak with your relative's lawyer or advocate about this possibility. You can help your relative by offering to provide support to them if they are discharged, and making this known to the Review Panel. Remember that the Review Panel wants to be sure that your relative's mental or physical condition will not substantially deteriorate and that your relative will not cause harm to themselves or others if discharged.

Review Panels are generally held in private. The panel will decide if the criteria for certification still exist. If so, your relative will be detained for a further period. If not, your relative will be discharged.

If your relative or you do not agree with the decision of a Review Panel, you can ask for a review of the decision by a Supreme Court judge. You will need advice from a lawyer if you want to do this.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Community Legal Assistance Society's Mental Health Program.
- Mental Health Act Forms ^[4] may be found at the Ministry of Health website.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "What rights do people have around treatment for mental illness?" ^[5].

✓ The above was last reviewed for legal accuracy by Lisa Ferguson, February 2013.

References

[1] <http://www.health.gov.bc.ca/socsec/>

[2] <https://www.health.gov.bc.ca/exforms/mhdforms/HLTH3513.pdf>

[3] <https://www.health.gov.bc.ca/exforms/mhdforms/HLTH3507.pdf>

[4] <https://www.health.gov.bc.ca/exforms/mh.html>

[5] <http://www.clicklaw.bc.ca/question/commonquestion/1043>

Suing and Being Sued

Suing and Being Sued

Many legal disputes between individuals are resolved by one party *suing* the other. Clients in BC may have the following legal questions or problems relating to lawsuits:

- I am being sued—what should I expect?
- I need to take someone to court—what's the process?

I am being sued—what should I expect?

A lawsuit for loss or damages caused to another person or another person's property is known as a *civil claim*. If you are being sued in a civil claim, you will receive court papers: a Notice of Claim if you are being sued in Small Claims Court or a Notice of Civil Claim if you are being sued in BC Supreme Court. Different forms are used in family disputes.

Lawsuits in Small Claims Court are limited to claims of up to \$25,000. There is no money limit to claims in BC Supreme Court.

Small Claims Court

First steps

If you receive a Small Claims Court Notice of Claim and you don't agree with it:

1. Complete the Reply ^[1] that should have been served on you with the Notice of Claim. In your Reply, say why you don't agree with the claim. If you don't get a blank Reply with the Notice of Claim, you can get one at any Provincial Court registry. Small Claims forms are also available online from the Ministry of Justice website ^[2].
2. Drop off the Reply or mail it to the Small Claims registry named on the Notice of Claim within 14 days of receiving the Notice of Claim. The cost for filing a Reply is \$26 for a claim of up to \$3,000 and \$50 for a claim over \$3,000.

What happens next

In Small Claims Court, you will receive a Notice of Settlement Conference. A settlement conference is an opportunity for you and the claimant to meet with a judge to see if you can agree to resolve the claim. The judge at a settlement conference is only there to help the parties agree on a settlement. He or she cannot impose an agreement.

If the settlement conference doesn't resolve the case, you will be given a Notice of Trial. At trial, the claimant will present his or her case, and you will be given a chance to present your case. The trial judge will then decide who wins.



Small Claims Court now offers *mediation* of many kinds of cases. If yours is one of these cases, a trained independent person will meet with you and the other parties in your case to see if you can agree on a way of resolving it. Ask someone at the court registry where you file your documents if there could be mediation in your case.

Supreme Court

First steps

If you receive a Supreme Court Notice of Civil Claim:

1. Obtain and complete a Response to Civil Claim' ^[3] form. Supreme Court forms are available online through the Clicklaw website "Laws, Cases & Rules ^[4]" page; click on "BC Supreme Court Civil Forms." You are looking for Form 2.
2. Drop off the Response to Civil Claim at (or fax or mail it to) the Supreme Court registry named on the Notice to Civil Claim, within 21 days of when you were served with the Notice of Civil Claim. It will cost \$25 to file a Response to Civil Claim.

What happens next

In Supreme Court, the process is more complex than in Small Claims Court. During the next stage of a Supreme Court proceeding, known as *discovery*, the parties exchange documents and may cross-examine each other outside of court. Finally, if the case is not resolved, it will proceed to *trial*.

In Supreme Court the parties are responsible for scheduling steps in the proceeding themselves, including examinations for discovery, pre-trial procedures such as a case management conference, as well as the trial.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Small Claims Court website for information on Small Claims procedures and representing yourself in Small Claims Court.
- Clicklaw's "Court Forms & Guides ^[5]" page, which features a flow chart to find the court rules, forms and self-help guides needed when going to court.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- Clicklaw common question "I'm being sued in small claims court ^[6]" for further resources.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by John Bilawich, February 2013.

References

- [1] <http://www.ag.gov.bc.ca/courts/forms/scl/scl002.pdf>
- [2] http://www.ag.gov.bc.ca/courts/small_claims/info/forms.htm
- [3] http://www.ag.gov.bc.ca/courts/forms/sup_civil/2.pdf
- [4] <http://www.clicklaw.bc.ca/content/lawscases>
- [5] <http://www.clicklaw.bc.ca/content/forms>
- [6] <http://www.clicklaw.bc.ca/question/commonquestion/1102>

I need to take someone to court—what's the process?

There are a number of reasons that you may want to sue someone. They may owe you money, they may have damaged your property or your reputation, or they may have injured you on purpose, by accident or through improper treatment.

You can sue a person for a debt or damages (compensation for harm) for up to \$25,000 in Small Claims Court. You can sue in BC Supreme Court for any amount.

The Small Claims Court has no jurisdiction to deal with a claim of defamation (libel or slander). These claims must be made in the BC Supreme Court.

First steps

1. Decide whether you want to sue in Small Claims Court or BC Supreme Court. Ensure you are within the limitation period for doing so.
2. Complete a Small Claims Court Notice of Claim ^[1] or Supreme Court Notice of Civil Claim ^[2]. Small Claims forms are available online from the Ministry of Justice website ^[3]. Supreme Court forms can be accessed through the "Laws, Cases & Rules ^[4]" page on Clicklaw; click on "BC Supreme Court Civil Forms". Include the important facts related to your claim.
3. Take the documents to the appropriate court registry, file them (there is a fee) and have them stamped.
4. Serve a copy of the documents on the defendant. The usual way is to get a friend or a "process server" to give the documents to the defendant in person. The court registry can tell you about other ways you can serve documents.



In June 2013, a new *Limitation Act* came into force. The new Act simplified the time limits for filing civil lawsuits. Instead of a variety of basic limitation periods that were based on the type of legal action, there is now a single two-year basic limitation period for all civil claims. Exceptions to this are civil claims that enforce a monetary judgment, exempted claims and actions that have limitation periods set by other statutes. The new Act also introduced a 15-year ultimate limitation period. The new Act's limitation periods apply to claims arising from acts or omissions that occur and are discovered on or after June 1, 2013.

What happens next

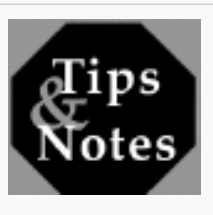
Small Claims Court

The defendant will need to file a Reply and provide you with a copy. You and the defendant will then receive a Notice of Settlement Conference. A settlement conference is an opportunity for you and the defendant to meet with a judge to see if you can agree to resolve the claim. The judge at a settlement conference is only there to help see if the parties can agree on a settlement. He or she cannot impose an agreement.

If the settlement conference doesn't resolve the case, you will be given a Notice of Trial. At trial, you will present your case, and the defendant will be given a chance to present his or her case. The trial judge will then decide who wins.

Supreme Court

The defendant must file and provide you with a Response to Civil Claim in response to your Notice of Civil Claim. During the next stage of a Supreme Court proceeding, known as *discovery*, the parties exchange documents and may cross-examine each other outside of court. Finally, if the case is not resolved, it will proceed to *trial*. At trial, you will need to present your evidence through witnesses and the defendant will need to do the same. At the end of the trial, the judge (or in some cases, a jury) will decide who wins.



If the defendant does not file a Reply in Small Claims Court or a Response to Civil Claim in Supreme Court, you can apply to the court for a *default judgment* giving you all or part of your claim.

Where to get help

See the Resource List for a list of helpful resources. Your best bets are:

- Small Claims Court website for information on small claims procedures and representing yourself in Small Claims Court.
- Clicklaw's "Court Forms & Guides ^[5]" page, which features a flow chart to find the court rules, forms and self-help guides needed when going to court.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by John Bilawich, February 2013.

References

- [1] <http://www.ag.gov.bc.ca/courts/forms/sc1/sc1001.pdf>
- [2] http://www.ag.gov.bc.ca/courts/forms/sup_civil/1.pdf
- [3] http://www.ag.gov.bc.ca/courts/small_claims/info/forms.htm
- [4] <http://www.clicklaw.bc.ca/content/lawscases>
- [5] <http://www.clicklaw.bc.ca/content/forms>

Welfare and Disability

Welfare and Disability Problems

Here are the first steps and some useful resources for people in BC facing welfare and disability-related problems such as:

- I have no money for food or shelter.
- I have been denied or cut off welfare.
- I need to apply for disability benefits.
- I'm being investigated by the welfare Ministry.

I have no money for food or shelter

The Ministry of Social Development (MSD) is responsible for providing welfare support in BC, also known as social assistance benefits. The one exception is where the applicant lives on an Indian reserve. For people living on reserve, welfare programs are the responsibility of Aboriginal Affairs and Northern Development Canada (AANDC, formerly known as Indian and Northern Affairs Canada) and are administered by Indian bands and tribal councils.

Both MSD and AANDC can provide funds for shelter and support to people who qualify for regular welfare benefits, including disability benefits (see the section in this Guide "I need to apply for disability benefits"). In some cases, they can also provide *hardship benefits* for people who don't qualify for regular welfare benefits. Workers at MSD and Indian bands will also know about emergency shelters in the area.



If you live on an Indian reserve, call the Indian band office and ask to speak to the social development worker. This person can help with your application for welfare.

First steps

1. Applying for welfare in BC has two stages. You can start the first stage in three ways:
 - by going in person to an MSD office,
 - by calling the MSD Call Centre at 1-866-866-0800, and telling them that you want to apply for welfare, or
 - by completing the welfare application process online using the Self Serve Assessment Tool ^[1] (you must know your SIN number to apply online).
2. At this first stage, if you have an urgent need for shelter, food or medical attention, and cannot wait between three to five weeks to start receiving welfare benefits, then you need to tell the MSD worker. Ask for an *Immediate Needs Assessment*. If you are eligible for an Immediate Needs Assessment, MSD should complete a stage two interview with

you within one business day. If MSD can't schedule your stage two interview that quickly, it should make sure your immediate needs are met (for example, by giving you food vouchers, money or bus tickets if you need medical transportation, etc.), until your interview can be held.



As of early 2013, MSD offices and the Call Centre were experiencing significant backlogs, causing delays in Immediate Needs Assessments. If you are in serious need and are not getting a prompt response from MSD or the Call Centre, speak with an advocate.

What happens next

After finishing this first stage of the welfare application, most people have to spend three or five weeks looking for work, and provide MSD with proof of their work search. During those three to five weeks you do not receive any financial help from MSD. A five week work search applies if neither you nor your partner have received welfare in BC before. A three week work search applies if you or your partner have previously received welfare in BC. Once your work search is over, you move on to stage two of the welfare application process. Stage two is a detailed interview with MSD, in person or by phone, to see if you are eligible for income assistance or hardship benefits.

If you qualify for welfare, MSD should get funds to you shortly after your stage two interview. If you don't qualify for regular welfare, you may still qualify for a hardship benefit ^[2]. Some kinds of hardship benefits (but not all) must be repaid to MSD.



One exception to the requirement to do a three or five week work search before the stage two interview with MSD is if you have an urgent need for shelter, food or medical attention. There are other exceptions, like single parents with a child under three, or people leaving an abusive relationship. For a full list of people who do not have to do a three or five week work search, see the BC Employment and Assistance (BCEA) Application Policy ^[3].

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- The Legal Services Society publications *Your Welfare Rights: A Guide to BC Employment and Assistance* ^[4] and *Social Assistance on Reserve in British Columbia* ^[5].
- BC Employment and Assistance website for online orientation and further information.
- PovNet, for their "Find An Advocate ^[6]" feature for welfare advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I have to go on welfare. What do I need to know before I apply?" ^[7]. Clicklaw has many common questions on the topic "Pensions, benefits & welfare."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Alison Ward, January 2013.

References

- [1] <https://www.iaselfserve.gov.bc.ca/>
- [2] http://www.gov.bc.ca/meia/online_resource/hardship/
- [3] http://www.gov.bc.ca/meia/online_resource/application/bcea_stage1/policy.html
- [4] <http://www.clicklaw.bc.ca/resource/1082>
- [5] <http://www.clicklaw.bc.ca/resource/1964>
- [6] <http://www.povnet.org/find-an-advocate>
- [7] <http://www.clicklaw.bc.ca/question/commonquestion/1127>

I have been denied or cut off welfare

Most people get welfare through the provincial government Ministry of Social Development (MSD). However, people living on an Indian reserve get welfare through the Indian band or tribal council in the area they live. The process below is roughly the same on and off reserve.

If you have had a welfare benefit or supplement denied, cut off or reduced, you can ask for a reconsideration of that decision. You can also ask for a reconsideration if you have been denied a designation as a person entitled to disability benefits. If you are not satisfied with the result of the reconsideration, you may be able to appeal the reconsideration decision to an appeal tribunal.

First steps

1. Ask a Ministry worker why the benefit or supplement was denied, cut off or reduced. Get them to tell you what law or policy they based their decision on.
2. Ask a Ministry worker to prepare and provide you with a Request for Reconsideration form. Make sure that any evidence the Ministry used to make their decision is attached to the form.
3. Complete the Request for Reconsideration form and return it to the welfare office *within 20 business days*. In completing the form, focus on how the Ministry applied the welfare rules incorrectly.
4. If you need more time to gather documents or other evidence to support your reconsideration request, you may be able to get it. You must still give the Ministry your completed Request for Reconsideration form within 20 business days of the Ministry's decision. When you do that, you can ask the Ministry in writing for more time to provide other supporting information. The Ministry can give you an extension of as long as another 19 business days to do that.
5. If you are requesting reconsideration of a decision to cut off or reduce your welfare benefits or a supplement, you can ask the Ministry to give you a *reconsideration supplement* while the Ministry is reviewing your Request for Reconsideration. A reconsideration supplement means the Ministry would pay you welfare benefits or a supplement at the rate you used to get, until the Ministry has had time to make its reconsideration decision. If you lose your Request for Reconsideration, you will have to pay the reconsideration supplement back to the Ministry.



It is very important to make your best case when you are requesting a reconsideration. Supply as much information as you can, and attach copies of any documents or other evidence that supports your side of the story. If you have to appeal a decision after reconsideration, *you may be limited to the information you used* in your original Request for Reconsideration. It can be a good idea to get help from a welfare advocate. See the listing for PovNet in the Resource List of this Guide for contact and website information for welfare advocates in your area.

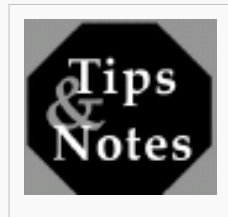
What happens next

You should receive a response to your reconsideration within a couple of weeks. If you don't, contact the Ministry and ask a worker to explain why there is a delay. If you are not satisfied with their explanation, ask to speak to a supervisor.

The reconsideration decision will say whether or not your benefit or supplement has been granted or refused. It should also specify the law or policy on which the reconsideration decision was based, and indicate whether you may appeal the decision to an *Appeal Tribunal*.

If you don't agree with the reconsideration decision:

1. Decide whether to appeal or simply reapply for the benefit or supplement. In some cases, it may be easier and quicker to reapply for the benefit with more evidence than you gave the first time. Welfare advocates can help you make this decision. (See PovNet for contact and website information for welfare advocates in your area.)
2. If you decide to appeal, get a copy of a Notice of Appeal to the Employment and Assistance Appeal Tribunal from the welfare office.
3. Complete the Notice of Appeal and return it to the welfare office *within seven business days* after you received the reconsideration decision.
4. If you are appealing a decision to cut off or reduce your welfare benefits or a supplement, you can ask the Ministry for an *appeal supplement* until the Tribunal makes its decision about your case. If you lose the appeal, you will have to repay the appeal supplement to the Ministry.



If you live on an Indian reserve, call the band office and ask to speak to the social development worker. This person can help with your application for emergency income assistance or hardship benefits, and tell you what to do if you want to appeal a decision.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- The Legal Services Society publications *Your Welfare Rights: A Guide to BC Employment and Assistance* ^[1] and *Social Assistance on Reserve in British Columbia* ^[2].
- BC Employment and Assistance website: click on "Reconsideration and Appeals."
- PovNet, for their "Find An Advocate" ^[3] feature for welfare advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common questions "If I don't get welfare this month I'll lose my housing" ^[4] and "I have an outstanding arrest warrant and I need welfare. What can I do?" ^[5]. Clicklaw has many common questions on the topic "Pensions, benefits & welfare."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Alison Ward, January 2013.

References

- [1] <http://www.clicklaw.bc.ca/resource/1082>
- [2] <http://www.clicklaw.bc.ca/resource/1964>
- [3] <http://www.povnet.org/find-an-advocate>
- [4] <http://www.clicklaw.bc.ca/question/commonquestion/1021>
- [5] <http://www.clicklaw.bc.ca/question/commonquestion/1106>

I need to apply for disability benefits

If you have disabilities and you are financially eligible, you may qualify for disability benefits. There are two main types of disability benefits: benefits for Persons with Disabilities (PWD), or benefits for Persons with Persistent Multiple Barriers to employment (PPMB).

To qualify for PWD benefits:

- you must be at least 18 years old,
- you must have a severe mental or physical impairment that is likely to last at least two years,
- your disability must directly and significantly restrict your ability to do specific daily activities (either continuously or for extended periods of time), and
- you must need significant help from another person to do specific daily activities, or else require help from an assistive device or assistance animal to perform those activities.

If you do not qualify for PWD benefits, you may still qualify for PPMB benefits. To qualify for PPMB benefits:

- you must have a medical condition (other than an addiction) that seriously affects your ability to look for, accept or continue employment, and
- your doctor must confirm that your medical condition has lasted for at least one year, or has occurred frequently in the past year, and is likely to last for at least another two years.

Please note that PPMB benefits are only available to people who have been on welfare for 12 out of the previous 15 months.



The criteria for PWD benefits are complicated. Try to get help from an advocate in filling out your application. A lot of people tend to minimize their disabilities. It is much better to put in a very thorough application, than to be turned down and have to appeal.

First steps

PWD benefits

1. Ask a ministry worker for an application for PWD benefits.
2. Complete the application carefully. It is more than 20 pages long and has three parts: Part 1 for you to complete, Part 2 for your doctor to complete, and Part 3 for an *assessor* to complete. The assessor can be your doctor, or an occupational therapist, physical therapist, social worker, registered psychologist, registered nurse, registered psychiatric nurse, chiropractor or nurse practitioner.

3. Mail your application to the address on the application.

PPMB benefits

1. Tell a ministry worker you want to apply for PPMB benefits. He or she will do an assessment of your non-medical barriers to employment (e.g., lack of education, literacy or work history) and give you a medical report form for your doctor to complete.
2. Your doctor must complete the application, including details about why your medical condition stops you from looking for, accepting or continuing to work.
3. Get the completed medical report form from your doctor and take it to your worker.

What happens next

A decision will be made and you will be advised of the decision. If you are not happy with the decision, you can ask for a reconsideration. See the section "I have been denied or cut off welfare," as the process is the same.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- The Legal Services Society publications *Your Welfare Rights: A Guide to BC Employment and Assistance* ^[1] and *Social Assistance on Reserve in British Columbia* ^[2].
- Advocacy Access Program, a service of the BC Coalition of People with Disabilities. Also try their Advocacy Access Help Sheet Series ^[3].
- PovNet, for their "Find An Advocate ^[4]" feature for welfare advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common question "I want to find out about getting BC disability benefits ^[5]." Clicklaw has many common questions on the topic "Pensions, benefits & welfare."



If you have contributed to the Canada Pension Plan through employment and have a disability that prevents you from working at any job on a regular basis, you may qualify for Canada Pension Plan disability benefits. To get more information or apply for CPP disability benefits, call Income Security Programs at 1-800-277-9914 or go to the CPP website ^[6].

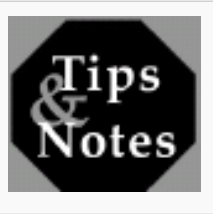
✓ The above was last reviewed for legal accuracy by Alison Ward, January 2013.

References

- [1] <http://www.clicklaw.bc.ca/resource/1082>
- [2] <http://www.clicklaw.bc.ca/resource/1964>
- [3] <http://www.clicklaw.bc.ca/global/search?k=Advocacy+Access+Help+Sheet+series>
- [4] <http://www.povnet.org/find-an-advocate>
- [5] <http://www.clicklaw.bc.ca/question/commonquestion/1054>
- [6] <http://www.servicecanada.gc.ca/eng/isp/cpp/disaben.shtml>

I'm being investigated by the welfare Ministry

If the Ministry of Social Development believes that you have received welfare benefits you shouldn't have, they may ask you to repay them. The same applies for the Administering Authority for welfare on an Indian reserve. This is called an overpayment. If they believe that you have received the benefit through fraud, they will investigate and may have you charged with an offence under the *Criminal Code* or provincial welfare laws. Fraud means receiving assistance as a result of providing information that you know is false or misleading.



Take any accusation of welfare fraud very seriously. There are serious consequences of being convicted of welfare fraud: either a ban from receiving welfare for one or two years, or even a ban *for life*. (The exception is that if you have dependent children or a spouse, your family's benefits will be reduced instead of cut off.)

First steps

1. If you are being investigated by the Ministry, contact an advocate for help. (See the listing for PovNet in the Resource List of this Guide for contact and website information for welfare advocates in your area.)
2. If you are being investigated and think you may be charged with welfare fraud, immediately contact a lawyer for advice. Many criminal lawyers will provide some advice at no charge. Use the internet to search for criminal lawyers in your area or see the Yellow Pages. It is almost always advisable that you don't discuss the accusation with a Ministry investigator before you have spoken with a lawyer.
3. If you are charged with welfare fraud under the *Criminal Code* or the provincial welfare law, look at the section in this Guide "I've been charged with a criminal (or youth) offence and have to go to court." Make sure that you apply for legal aid, for a criminal lawyer to represent you.



Many criminal lawyers are not aware that welfare benefits are affected if you are convicted of fraud in relation to welfare benefits. Make sure you or your welfare advocate tell your lawyer this information. Give your lawyer a copy of the publications about fraud charges and social assistance described below under "Where to get help."

What happens next

The Ministry will continue their investigation and will probably want to speak with you. This can be tricky. You have to provide certain information to the Ministry in order to continue receiving benefits, but it is generally not a good idea to discuss anything with them that could lead to a criminal charge and conviction. Be guided by legal advice, and speak with a welfare advocate about what information you need to provide to the Ministry in order to continue receiving benefits.

Where to get help

See the Resource List of this Guide for a list of helpful resources. Your best bets are:

- Legal aid representation, to see if you qualify for legal aid.
- Criminal duty counsel, to see if you qualify for assistance if you have to appear in court.
- PovNet, including their Find An Advocate ^[1] feature for welfare advocates near you.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Legal Services Society publications: "What You Need to Know About Fraud Charges and Social Assistance ^[2]," and "Criminal Charges and Social Assistance ^[3]."

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ **The above was last reviewed for legal accuracy by Alison Ward, January 2013.**

References

[1] <http://www.povnet.org/find-an-advocate>

[2] <http://www.clicklaw.bc.ca/resource/1962>

[3] http://www.lss.bc.ca/assets/lawyers/practiceResources/criminaChargesSocialAssistance_Lawyer.pdf

Wills and Estates

Wills and Estates Problems

Here are the first steps and some useful resources for people in BC facing wills and estates-related problems such as:

- I want to write a will.
- I am the executor or administrator of an estate.
- I want to help a friend or relative manage their affairs.

I want to write a will

A will is a legal document that takes effect upon your death. The main purpose of a will is to say who will get your property (land and personal possessions) when you die. If you are the sole guardian of a child or children, a will can be used to name a new guardian at the time of your death.

A will should also appoint an executor — a person who will ensure your debts are paid, your property is protected and your wishes are carried out.

First steps

1. Make a list of your property (land, vehicles and other possessions).
2. Decide who you want as an executor of the will. You should also consider naming an alternate in case your first choice is unable to act as executor or complete the job.
3. Speak to a lawyer or get a self-help guide. A good one is the *Wills Guide for British Columbia* from the Self-Counsel Press. It is available at most Service BC (Government Agent) offices and many bookstores and public libraries. The People's Law School has an excellent online booklet, "Writing Your Will ^[1]".



The law about wills and estates can be quite complicated, so it is always best to get advice from a lawyer or notary about your will. However, if you can't get advice from a lawyer, it is better to write a will using a self-help guide than to not have a will at all.

What happens next

Your will needs to be witnessed by two adults who are neither beneficiaries nor spouses of beneficiaries of your will. You must sign your will at its end in front of two witnesses, who must be present at the same time. The witnesses must also sign your will as witnesses in front of you and in front of each other.

You need to store the original in a place where it will be safe. It is a good idea to let your executor know where you will be storing your will. You may also wish to give your executor a copy of it.

Finally, you should file a Wills Notice ^[2] with the BC Vital Statistics Agency. The form can be picked up at most Service BC (Government Agent) offices or completed online at Vital Statistics Agency Application Forms ^[3]; scroll down to "Wills" and click on "Application for Filing a Wills Notice." The fee is \$17. When you die, your executor is required to do a search for any wills notices in the Vital Statistics Registry.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Vital Statistics Agency.
- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Legal Services Society publication "Writing Your Own Will: A Guide for First Nations People Living On Reserve ^[4]" and the Clicklaw common question "Is a will different for people who live on reserve? ^[5]" for additional resources about wills for Aboriginal people.
- Clicklaw for more resources under the common question "How do I make a will? ^[6]"

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.



The law about wills is somewhat different if you are a registered Indian ordinarily resident on an Indian reserve. You can write a *holographic will* (one that does not require witnesses); however this will may not be legal if you do not reside on reserve at the time of your death. There are also restrictions under the *Indian Act* about to whom you can leave your land on reserve. The procedure for probating a will or administering an estate is also different. An Aboriginal Affairs and Northern Development Canada Estates Officer can provide information about estates on reserve. Toll-free: 1-888-917-9977.

✓ The above was last reviewed for legal accuracy by Stan Rule, February 2013.

References

- [1] <http://www.clicklaw.bc.ca/resource/1020>
- [2] http://www.vs.gov.bc.ca/forms/vsa531_fill.pdf
- [3] <http://www.vs.gov.bc.ca/forms/>
- [4] <http://www.clicklaw.bc.ca/resource/2515>
- [5] <http://www.clicklaw.bc.ca/question/commonquestion/1114>
- [6] <http://clicklaw.bc.ca/question/commonquestion/1147>

I am the executor or administrator of an estate

If a person dies with a will, they normally appoint an *executor* to pay their debts and protect and distribute their property.

If a person dies *intestate* (without a will), someone — usually a family member — has to apply to be the *administrator* of the estate. This administrator then distributes the estate to the next-of-kin according to rules in the *Estate Administration Act*.

First steps

1. If you are the executor of a will or likely to be the administrator of an estate, the only step usually required before the funeral is to make sure the deceased's property is safe and secure.
2. Locate the deceased's will.
3. Notify creditors and others (e.g., utilities) of the death.



The law about estates is somewhat different if the deceased was a registered Indian ordinarily resident on an Indian reserve at the time of his or her death. Administration is handled through Aboriginal Affairs and Northern Development Canada. An AANDC Estates Officer can provide information about estates on reserve. Toll-free: 1-888-917-9977.

What happens next

If there was a will, the executor may apply to the BC Supreme Court for a *grant of probate*. If there is no will, someone (usually the next-of-kin) will have to apply to the BC Supreme Court for *letters of administration*. The person to whom letters of administration are granted is called the administrator.

To apply for probate the executor must send copies of the will to beneficiaries and certain other family members, with a notice that the executor intends to apply for probate. Someone who is applying for administration must give notice of the application to those who are entitled to a share of the estate, and may need to get a consent to the application from others who would also be able to apply as well as from creditors.

Certain affidavits must be completed and filed in court, together with the original will if there is one. The affidavits will include an inventory of the assets and the debts of the person who died.

Once a grant of probate or letters of administration has been issued by the Supreme Court of BC, the executor or administrator will have full authority to deal with the estate assets. He or she must pay the debts of the person who died. He or she must also file tax returns in respect of that person, and apply for a clearance certificate from Canada Revenue Agency. He or she then distributes the estate to the beneficiaries.

There are waiting periods before he or she can distribute the estate. If there is no will, the administrator must wait at least one year from the date of death before distributing the estate. The executor must wait six months from the date of probate if the person who died left a spouse or children.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Access Pro Bono, Lawyer Referral Service, and private bar lawyers.
- The Clicklaw common questions "I am the executor of my mother's will and am doing the work myself ^[1]," "I'm applying for probate; where can I find the forms required? ^[2]" and "Is a will different for people who live on reserve? ^[3]" for further resources.

The Self-Counsel Press ^[4] also has excellent publications on administering estates, including the *BC Probate Kit*. This publication is available at most bookstores and most Service BC (Government Agent) offices.

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Stan Rule, February 2013.

References

- [1] <http://www.clicklaw.bc.ca/question/commonquestion/1003>
[2] <http://www.clicklaw.bc.ca/question/commonquestion/1112>
[3] <http://www.clicklaw.bc.ca/question/commonquestion/1114>
[4] <http://www.self-counsel.com/ca/>

I want to help a friend or relative manage their affairs

There are now a number of options for assisting people who have trouble dealing with their financial and personal affairs. Some of these options are:

- **Power of attorney:** A power of attorney is a document you (the *donor*) can sign to give someone else the power to conduct your financial affairs. You have to be mentally capable to give a power of attorney, but you can make the power *enduring*, so that it is still in effect if you later lose your mental capacity.
- **Representation agreement:** A representation agreement is a document prepared for a person (the donor) who, though they may be mentally incapable of making a contract or managing their health care, can still trust another person and communicate their desire for that person (their *representative*) to make decisions on their behalf. A representation agreement can authorize a representative to make some or all of a wide variety of decisions on behalf of the donor, such as:
 - routine financial decisions,
 - health and personal care decisions,
 - hiring legal counsel,
 - overriding the donor's refusal of help or medical treatment, and
 - making arrangements for the donor's minor children.
- **Committeeship:** Where a person is not mentally capable of managing his or her affairs, a family member or the Public Trustee can apply to the Supreme Court of BC for an order declaring the person to be mentally incapable and appointing a *committee* with the authority to handle financial affairs for them. Once a committee is appointed, the person has no further say about the affairs over which the committee has authority.

First steps

Power of attorney

1. Identify an *attorney*. This should be someone you trust with your money (for example, a spouse, friend or immediate family member). The word *attorney* as used here does not mean and does not have to be a lawyer.
2. Get legal advice or at least review the resources described below:
 - You will want to consider whether to do a *general* power of attorney, or one limited to specific tasks.
 - You will also want to consider whether the power should be *enduring* (continuing even if you become mentally incapable).
3. Draft and sign the power of attorney and have it witnessed. Make a number of certified copies. A lawyer or notary public can certify copies.

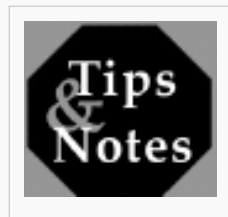
If you own real estate, and you wish to give your attorney the power to sell or mortgage your real estate for you, you must sign the power of attorney in front of a lawyer or notary public in the form required by the Land Title Office.

More information on powers of attorney can be found in the People's Law School publication "Power of Attorney ^[1]."

Representation agreement

1. The person wanting a representation agreement needs to identify a representative. This needs to be someone they trust, not only with their money, but with other decisions they may wish to include in their representation agreement.
2. Speak with legal or health care professionals for advice on the contents of a representation agreement.
3. Draft and sign the representation agreement and have it witnessed. Make a number of certified copies. A lawyer or notary public can certify copies.

Self-help kits for representation agreements can be purchased for \$75 from Nidus Personal Planning Resource Centre and Registry.



You must be at least 19 years of age to make a representation agreement in British Columbia. You must also be at least 19 to make a will, unless you are or have been married or you are an active member of the armed forces or a mariner at sea.

Committeeship

1. Discuss with the person's family doctor to decide if committeeship is necessary.
2. Have the person examined by two medical doctors, who must then swear an affidavit (in front of a lawyer or notary public) saying that the person is mentally incapable and provide the reason for the incapacity.
3. Complete an affidavit describing the assets, income, expenses and liabilities of the incapable person and a list of his or her next-of-kin. These documents need to be filed with the application for committeeship in the BC Supreme Court registry and copies of them served on the incapable person and the Public Trustee.
4. Make the application in court.



You can also apply for committeehip of a mentally incapable person's personal and medical decisions. This application and the responsibilities that come with it can be complex. You may wish to speak with a lawyer before proceeding.

What happens next

Once the power of attorney, representation agreement or committeehip is in place, the attorney, representative or committee — as the case may be — will have the legal authority described in the document and must act in the utmost good faith in the best interests of the donor.

A donor with mental competency can withdraw a power of attorney or representation agreement. A committeehip can only be withdrawn by court order.

Where to get help

See the Resource List in this Guide for a list of helpful resources. Your best bets are:

- Public Guardian and Trustee. See their publications, including "It's Your Choice: A Guide to Making a Representation Agreement."
- Nidus Personal Planning Resource Centre and Registry.
- Access Pro Bono, Lawyer Referral Service, private bar lawyers.
- The Clicklaw common questions "How can I help a person who cannot manage their own affairs?"^[2] and "What is a 'living will' and is one available in BC?"^[3]

Before meeting with a lawyer or advocate, complete the form Preparing for Your Interview included in this Guide. Make sure you bring copies of all documents relating to your case.

✓ The above was last reviewed for legal accuracy by Stan Rule, February 2013.

References

[1] <http://www.clicklaw.bc.ca/resource/1019>

[2] <http://www.clicklaw.bc.ca/question/commonquestion/1044>

[3] <http://www.clicklaw.bc.ca/question/commonquestion/1145>

Part 2: Legal Resource List

Resource List for Legal Help for British Columbians

Here is an alphabetical list of the best sources of legal information, assistance, advice and representation for low-income clients in British Columbia.

Contact information for government services is available through:

Provincial	Service BC ^[1]	Phone: Lower Mainland: 604-660-2421 Victoria: 250-387-6121 Elsewhere in BC: 1-800-663-7867	Telecommunications Device for the Deaf (TDD): Lower Mainland: 604-775-0303 Elsewhere in BC: 1-800-661-8773
Federal	Service Canada ^[2]	Phone: 1-800-622-6232	Telecommunications Device for the Deaf (TDD): 1-800-926-9105

For a list of toll-free phone numbers for law-related help in BC, see Find Someone to Talk With ^[3] on Clicklaw.

This Guide refers to many websites for further legal information. To find a free public access computer, try visiting your local public library (listed below), a local Service BC office (listed below), a local college or university library, or a Courthouse Library (listed below), if you have one. You may be able to get some assistance with finding your information from these locations also.

Access Pro Bono

Access Pro Bono operates free legal clinics in a number of communities throughout BC. Clients who meet the financial means test (see website for details) can receive 30 minutes of free legal advice and sometimes additional appointments. Access Pro Bono lawyers generally do not appear in court or tribunals but they can give advice, make calls, and assist with documents.

Website	accessprobono.ca ^[4]
Phone	1-604-878-7400 Toll-free: 1-877-762-6664
Find on Clicklaw	Access Pro Bono on Clicklaw HelpMap ^[5]

AdminLawBC.ca

AdminLawBC.ca describes administrative tribunals — the specialized government agencies, boards and commissions that provide resolution of disputes involving government laws and how they are applied. They can hear complaints about decisions made by government agencies related to such topics as minimum wage, Employment Insurance, safety standards, telephone service rates, or rules of conduct of doctors and other professionals. The site also features a BC Administrative Law Directory which lists information and many of the decisions of over 100 federal and provincial tribunals.

Website	adminlawbc.ca [6]
Phone	No phone service available

Advocacy Access Program

The **Advocacy Access Program** is a service of the BC Coalition of People with Disabilities that provides information, assistance, advice, and occasional representation for people with disability-related issues such as welfare benefits for people with disabilities, Canada Pension Plan disability benefits, and the Registered Disability Savings Plan.

Website: Click on " Advocacy Access [7]" and then " Advocacy Access Publications [8]" for a number of fact sheets about disability-related money and income support issues.

Website	bccpd.bc.ca [9]
Phone	1-604-872-1278 Toll-free: 1-800-663-1278 TTY: 1-604-875-8835
Find on Clicklaw	Advocacy Access Program on Clicklaw HelpMap [10]

Bankruptcy BC

The **Bankruptcy BC** website has a number of links that provide information on the bankruptcy process, as well as contact information for bankruptcy trustees in communities throughout BC.

Website: Click on " Frequently Asked Questions [11]" for general information about bankruptcy, or " Find an Expert Near You [12]" to find a bankruptcy trustee in your area.

Website	bankruptcy-british-columbia.com [13]
Phone	No phone service available

BC Centre for Elder Advocacy and Support

The **BC Centre for Elder Advocacy and Support** (BC CEAS) is a non-profit organization helping older adults. They operate an Elder Law Clinic in Vancouver and a toll-free Seniors Advocacy and Information Line (SAIL) that provides information and referrals.

Website: Click on " Resources ^[14]" for videos, fact sheets and a training manual.

Website	bcceas.ca ^[15]
Phone	1-604-437-1940 Toll-free: 1-866-437-1940
Find on Clicklaw	BCCEAS on Clicklaw HelpMap ^[16]

BC Civil Liberties Association

The **BC Civil Liberties Association** works to maintain and extend civil liberties and human rights in Canada. In addition to public education and advocacy, the BCCLA engages in select legal actions, often involving the police or government and on the topic of civil liberties.

Website: Click on " Our Work ^[17]" for links to handbooks, guides and reports.

Website	bccla.org ^[18]
Phone	1-604-687-2919 Toll-free: 1-866-731-7507
Find on Clicklaw	BCCLA on Clicklaw ^[19]

BC Employment and Assistance

The BC Ministry of Social Development's **BC Employment and Assistance** program administers income assistance (welfare) benefits. Their website provides links to online orientation, work search guidelines and information on fraud and appeals.

Website	www.mhr.gov.bc.ca/BCEA.htm ^[20]
Phone	Toll free: 1-866-866-0800

BC Human Rights Coalition

The **BC Human Rights Coalition** offers education, advice, and representation before the BC Human Rights Tribunal on select human rights cases. The Coalition offers clinics to help you draft your human rights complaint. You can also apply for representation within 30 days of your complaint being accepted by the Human Rights Tribunal. There is no cost for this service.

Website: Click on " Our Services ^[21]" and then " Clinic Program ^[22]" for information on how to get advice or representation.

Website	bchrcoalition.org ^[23]
Phone	1-604-689-8474 Toll-free: 1-877-689-8474

BC Laws

The **BC Laws** website is maintained by the BC Queen's Printer and includes British Columbia statutes and regulations, orders in council, and regulations bulletins. It has a simple search function, and is current seven to 14 days after changes in legislation.

Website	bclaws.ca ^[24]
Phone	1-250-387-6409 Toll-free: 1-800-663-6105

BC Society of Transition Houses

The **BC Society of Transition Houses** offers support to the programs and services who work with women who have experienced violence. The programs and services the BCSTH supports include transition and safe houses, safe homes, children's and victims counseling, and violence prevention education.

Website: Click on " Members ^[25]" and then " Compendium ^[26]" to download a list of the BCSTH members' programs.

Website	bcsth.ca ^[27]
Phone	1-604-669-6943 Toll-free: 1-800-661-1040

CanLII

The **CanLII** website offers a well-designed and comprehensive database of legislation, regulations, and court cases from across Canada. The search function can be limited to a specific province or to a federal court, and notable cases can be found through the "most cited" feature. The site includes an ebook on *Wrongful Dismissal and Employment Law* in the Commentary section.

Website: Click on the "tips" for help in using the search.

Website	canlii.org ^[28]
Phone	No phone service available

Citizenship and Immigration Canada

Citizenship and Immigration Canada is the government department responsible for immigration and refugee matters in Canada.

Website: To find a Citizenship and Immigration Canada office, click on the link " Find an office ^[29]."

Website	cic.gc.ca ^[30]
Phone	Toll-free: 1-888-242-2100 (from within Canada)

Clicklaw

The **Clicklaw** website provides a window into plain language legal information and education resources designed for the public in BC from over 25 contributor organizations, as well as selected others. Clicklaw includes a HelpMap ^[31] to find those who can help with legal problems in communities across the province, and starting points for over 140 commonly asked legal questions ^[32].

Website: A " Court Forms & Guides ^[33]" page brings together court forms and step-by-step guides for both Provincial and Supreme Court.

Website	clicklaw.bc.ca ^[34]
Phone	No phone service available

Commission for Public Complaints Against the RCMP

The **Commission for Public Complaints Against the RCMP** is responsible for handling complaints against members of the RCMP. Staff provide information about the complaints process and some assistance with making a complaint.

Website: Click on " Make a Complaint ^[35]" to access an online complaint form.

Website	www.cpc-cpp.gc.ca ^[36]
Phone	Toll-free: 1-800-665-6878 TTY: 1-866-432-5837

Community Legal Assistance Society

The **Community Legal Assistance Society (CLAS)** provides primarily "test-case" advice and representation for people with disability, Employment Insurance, poverty and workers' compensation problems. Services are limited to cases that could advance the law or policy in these areas. CLAS also provides advice and representation at the BC Review Panel to persons detained under the *BC Mental Health Act*.

Website: Click on " Publications ^[37]" and " Judicial Review Publications ^[38]" for guides on representing yourself in a judicial review.

Website	clasbc.net ^[39]
Phone	1-604-685-3425 Toll-free: 1-888-685-6222
Find on Clicklaw	CLAS on Clicklaw HelpMap ^[40]

Consumer Protection BC

Consumer Protection BC is a watchdog for consumer complaints including unfair debt collection practices.

Website: Click on " Resolving Problems ^[41]" or " Enforcement ^[42]" for more information on the complaint process.

Website	consumerprotectionbc.ca ^[43]
Phone	Toll-free: 1-888-564-9963

Courthouse Libraries BC

Courthouse Libraries BC provides legal information to the legal community and the public in 30 locations throughout British Columbia. Resource libraries in Vancouver and Victoria and regional libraries in Kamloops, Kelowna, Nanaimo, New Westminster and Prince George provide research assistance to clients. The library hosts the portal website Clicklaw, which provides a one-stop window into legal information and education aimed at the public in BC, as well as Clicklaw Wikibooks, featuring free plain language legal publications that are born-wiki and can also be printed.

Website: On the homepage, under "Action Items," click on " Ask a Question ^[44]" for an email question form. Find a list of library locations on the " About Us - Our Libraries ^[45]" page.

Website	courthouselibrary.ca ^[46]
Phone	1-604-660-2841 Toll-free: 1-800-665-2570
Find on Clicklaw	Courthouse Libraries on Clicklaw HelpMap ^[47]

Courts of BC

The **Courts of BC** website from the provincial government provides information about Provincial and Supreme Courts, and the Court of Appeal. Links include recent judgments, contact information and resources for self-represented litigants (people going to court on their own).

Website	courts.gov.bc.ca ^[48]
Phone	No phone service available
Find on Clicklaw	Court Registries on Clicklaw HelpMap ^[49]

Credit Counselling Society of BC

The **Credit Counseling Society of BC** provides information and advice to clients on the topic of debt and insolvency. Clients can take advantage of free and confidential credit counseling and debt consolidation services as well as obtain practical advice on budgeting.

Website: Click on " Debt Help ^[50]" for debt and insolvency counseling options.

Website	nomoredebts.org ^[51]
Phone	Toll-free: 1-888-527-8999

Dial-A-Law

Dial-A-Law is a free service of the Canadian Bar Association, British Columbia Branch. Over the telephone, clients can listen to recordings of prepared scripts on a variety of law topics. Online, clients can read the same scripts.

Website	dialalaw.org ^[52]
Phone	1-604-687-4680 Toll-free: 1-800-565-5297
Find on Clicklaw	Dial-A-Law on Clicklaw HelpMap ^[53]

Duty Counsel

Duty counsel services include a variety of free advice services (and some limited representation) provided by the Legal Services Society for otherwise unrepresented clients facing immediate legal challenges. See the entry at the end of the Resource List for a detailed description of duty counsel services.

Website	legalaids.bc.ca ^[54]
Phone	Toll-free: 1-866-577-2525
Find on Clicklaw	LSS Services on Clicklaw HelpMap ^[55]

Elizabeth Fry Society of Greater Vancouver

The **Elizabeth Fry Society of Greater Vancouver** works with women and youth who are in conflict with the law. They operate a Shoplifters' Counselling Program as well as crime prevention seminars in the Lower Mainland.

Website	elizabethfry.com ^[56]
Phone	1-604-520-1166 Toll-free: 1-888-879-9593

Employment Standards Branch of BC

The **Employment Standards Branch** is a part of the BC Ministry of Jobs, Tourism and Skills Training and Responsible for Labour. The Branch provides extensive information on the rights of employees in provincially regulated workplaces. For federally regulated workplaces, see Employment Standards (Canada) in this Guide.

Website: Click on " Factsheets - Information on Common Topics ^[57]" or on " Guide to the Employment Standards Act ^[58]" for frequently asked questions and topic-specific information. See also the " Complaint Process Self-Help Kit ^[59]."

Website	labour.gov.bc.ca/esb ^[60]
Phone	Toll-free: 1-800-663-3316

Employment Standards (Canada)

The **Labour Program** of Human Resources and Skills Development Canada offers information about employment standards for federally regulated workplaces.

Website: Click on " Employment Standards Publications ^[61]" for resources on specific topics, like unjust dismissal. You can also view a " Payment Claim Kit ^[62]."

Website	hrsdc.gc.ca/eng/labour/ ^[63]
Phone	1-800-641-4049

Family Justice Centres

A BC government service, **Family Justice Centres** have counsellors who can provide information and assistance with family-related legal issues such as parenting arrangements, custody, access, guardianship, child and spousal support and no-contact orders. They cannot assist with strictly Supreme Court issues such as divorce or property division. Centres in Kelowna, Nanaimo, New Westminster and Vancouver provide legal advice through family advice lawyers. Nanaimo and Vancouver locations also offer expanded self-help services through the Justice Access Centres ^[64].

Website	www.justicebc.ca/en/fam/help/fjc ^[65]
Phone	1-800-663-7867
Find on Clicklaw	Family Justice Centres on Clicklaw HelpMap ^[66]

Family Law in BC

Family Law in BC is a Legal Services Society website that provides legal information on family law matters, including separation and divorce, child and spousal support, parenting and guardianship, child protections/removal, division of family property, and adoption.

Website: Click on " Self-help guides ^[67]" for help with procedures such as filing for divorce, " Court forms ^[68]" for links to family court forms, and " Who can help ^[69]" for options for assistance with family law problems.

Website	familylaw.lss.bc.ca ^[70]
Phone	No phone service available

Family LawLINE

Family LawLINE is a service provided by the Legal Services Society. Family LawLINE lawyers give free legal advice over the phone to people with low incomes who are experiencing family law issues, providing brief "next step" advice about family law issues such as parenting time or contact/access, guardianship/custody, child and spousal support, property division, family agreements, adoption, and court procedures.

Phone: Call between 9:30am and 3:00pm weekdays (2:30pm on Wednesdays).

Website	legalaid.bc.ca ^[71]
Phone	604-408-2172 Toll-free: 1-866-577-2525
Find on Clicklaw	Family LawLINE on Clicklaw HelpMap ^[72]

Family Maintenance Enforcement Program

The **Family Maintenance Enforcement Program** helps low-income families to obtain child support and spousal support orders from ex-partners, and to enforce them.

Website	fmep.gov.bc.ca ^[73]
Phone	Toll-free: 1-800-668-3637
Find on Clicklaw	FMEP on Clicklaw HelpMap ^[74]

Federal Court of Canada

The **Federal Court of Canada** is Canada's national trial court which hears legal disputes arising in the federal domain, including immigration, tax, admiralty, and customs.

Website: Click on " Are You a Self-Represented Litigant?" ^[75] for information about appearing before the Federal Court without a lawyer. Click on " Court Process and Procedures" ^[76] for information about Federal Court rules and forms.

Phone: Call Service Canada at 1-800-622-6232 (TDD 1-800-926-9105) and ask to be connected to the Federal Court Registry in Vancouver.

Website	www.fct-cf.gc.ca ^[77]
Phone	1-800-622-6232 TDD: 1-800-926-9105

Government Agent Offices

Government Agent offices are now known as Service BC. Please see Service BC.

Helpline for Children in BC

The **Helpline for Children** is a free 24-hour service for children, parents, or community members to call if they think a child (anyone under 19) will be or has been abused.

Website www.mcf.gov.bc.ca/getting_help/help.htm
[78]

Phone 310-1234 (no area code needed, toll-free)
TDD: 1-866-660-0505

Law Students' Legal Advice Program

The **Law Students' Legal Advice Program** website contains the *LSLAP Manual*, an excellent source of information about the law and legal procedure on a variety of topics. LSLAP also offers resources and advice through their legal clinics in the Lower Mainland.

Website: Click on " LSLAP Manual ^[79]" to access the chapters of the *LSLAP Manual*.

Website lslap.bc.ca [80]

Phone For appointments in the Lower Mainland: 1-604-822-5791

Find on Clicklaw LSLAP Clinics on HelpMap [81]

Lawyer Referral Service

The Canadian Bar Association BC Branch's **Lawyer Referral Service** provides referrals to lawyers in private practice who specialize in various areas of the law. For a fee of \$25 plus tax, a client is entitled to up to 30 minutes of consultation with a lawyer where the lawyer may provide information, assistance or summary advice about the client's legal issue.

Website cba.org/BC/Public_Media/main/lawyer_referral.aspx
[82]

Phone 604-687-3221
Toll-free: 1-800-663-1919

Legal Aid Representation

The Legal Services Society provides a variety of legal aid services, including **legal aid representation** (getting a lawyer to take your case for free). See the entry at the end of the Resource List for a detailed description of legal aid representation.

Website	legalaid.bc.ca ^[54]
Phone	Toll-free: 1-866-577-2525
Find on Clicklaw	Legal Aid Intake Offices on Clicklaw HelpMap ^[83]

Legal Services Society

The **Legal Services Society** (LSS) provides legal aid representation, duty counsel services, the Family LawLINE, the Family Law in BC website, and free legal information through variety of publications ^[84]. Among the publications they produce are *Gladue Primer* ^[85] and *Your Welfare Rights: A Guide to BC Employment and Assistance* ^[86]. In some communities, legal information outreach workers and Aboriginal community legal workers are also available to help you find appropriate services and information.

Website: Click on " Legal aid - Legal information ^[87]" for the information services available, and " Publications ^[84]" to access guides, booklets, and other publications.

Website	legalaid.bc.ca ^[88]
Phone	1-866-577-2525
Find on Clicklaw	LSS on Clicklaw HelpMap ^[89]

Mediate BC

Mediate BC provides information about mediation as a dispute resolution process and alternative to going to court. Services include a Court Mediation Program for Small Claims, Family Mediation, and Child Protection Mediation.

Website	mediatebc.com ^[90]
Phone	1-604-681-6050 Toll-free: 1-888-713-0433
Find on Clicklaw	Mediate BC on Clicklaw ^[91]

MOSAIC

MOSAIC (Multilingual Orientation Service Association for Immigrant Communities) has multilingual services that provide support and assistance to immigrants and refugees such as interpretation services, help with settlement and finding employment.

Website	mosaicbc.com ^[92]
Phone	1-604-254-9626
Find on Clicklaw	MOSAIC on Clicklaw HelpMap ^[93]

MOSAIC Multilingual Legal Publications

The **MOSAIC Multilingual Legal Publications** website is a program of MOSAIC, and offers publications on different legal topics in Arabic, Chinese (simplified and traditional), English, French, Korean, Persian, Punjabi, Spanish and Vietnamese.

Website: On homepage, click on "Publications by language" to navigate using languages other than English.

Website	mosaicbc.com/multilingual-legal-publications ^[94]
Phone	1-604-254-9626

Native Courtworkers

The **Native Courtworker and Counselling Association** provides information and assistance to Aboriginal people facing criminal or youth justice matters with the police and courts. Native courtworkers assist clients in preparing for court and will provide representation by speaking on behalf of clients on guilty pleas, and occasionally at trial.

Website: Click " About Us^[95]" and then " Our Team^[96]" for the contact information for different locations.

Website	nccabc.ca ^[97]
Phone	1-604-985-5355
Find on Clicklaw	NCCA on Clicklaw HelpMap ^[98]

Nidus Personal Planning Resource Centre and Registry

Nidus Personal Planning Resource Centre and Registry is a not-for-profit organization that provides tools for writing and registering personal planning documents in the event of mental incapacity due to illness, injury, or disability.

Website: Click on " Information^[99]" for fact sheets and forms for representation agreements and enduring powers of attorney.

Website	nidus.ca ^[100]
Phone	1-604-408-7414 Toll-free: 1-877-267-5552
Find on Clicklaw	Personal Planning Resource Centre and Registry on Clicklaw ^[101]

Ombudsman

The BC government's Office of the **Ombudsman** provides information and assistance in making complaints against provincially-regulated government agencies or employees.

Website: Click on " How to Make a Complaint ^[102]" for information about starting the complaint process.

Website	www.ombudsman.bc.ca ^[103]
Phone	Toll-free: 1-800-567-3247

Parole Board of Canada

The **Parole Board of Canada** is responsible for, among other things, granting record suspensions (formerly called pardons) for criminal convictions.

Website: Click on " Record Suspensions ^[104]" and then " Record Suspension Application Guide and Form ^[105]" in order to apply for a record suspension.

Website	pbc-clcc.gc.ca ^[106]
Phone	1-800-874-2652

People's Law School

The **People's Law School** offers legal educational material and events to people interested in learning more about the law. Among the publications they produce are " Being an Executor ^[107]," " Child Support in BC: Information for Parents ^[108]," " Power of Attorney ^[109]," " Working in BC ^[110]," and " Writing Your Will ^[111]."

Website	publiclegaled.bc.ca ^[112]
Phone	1-604-331-5400
Find on Clicklaw	People's Law School on Clicklaw ^[113]

Police Complaints Commissioner (BC)

The **Office of the Police Complaints Commissioner of BC** is responsible for handling complaints against officers of municipal or tribal police forces. Staff provides information about the complaints process and some assistance with making a complaint.

Website: Click on " How to File a Complaint ^[114]" to access an online complaint form.

Website	opcc.bc.ca ^[115]
Phone	Toll-free: 1-877-999-8707

PovNet

PovNet is a network of anti-poverty advocacy organizations that maintains information on legal issues and resources of interest to people living in poverty.

Website: Click on " Find An Advocate ^[116]" to find an advocacy organization near you, or " Online Resources ^[117]" for information on resources — legal and non-legal — for people living in poverty.

Website	povnet.org ^[118]
Phone	No phone service available
Find on Clicklaw	PovNet on Clicklaw HelpMap ^[119]

Private Bar Lawyers

As well as the Lawyer Referral Service, **lawyers in private practice** provide three main free or low-cost services. These are free initial consultations, contingency fee agreements, and pro bono services. See the entry Private Bar Lawyers at the end of the Resource List for an explanation of these services and a description about hiring private bar lawyers.

Public Guardian and Trustee

The BC government's **Public Guardian and Trustee** provides services concerning the estates of children, estates without trustees or administrators, and adults who require assistance with decision-making, including those who are not mentally competent.

Phone: Outside of the Lower Mainland, call Service BC at 1-800-663-7867 and ask to be connected with the Office of the Public Guardian and Trustee.

Website: Click on " Reports and Publications ^[120]" and scroll down to " Adult Guardianship ^[121]" for information on adult guardianship agreements.

Website	www.trustee.bc.ca ^[122]
Phone	1-604-660-4444

Public Libraries

Public libraries are located in over 243 communities throughout BC. Most have public access computer terminals and free access to QP LegalEze, a searchable database of BC legislation, current Bills and Hansard debates. Larger libraries have legal reference books and provincial statutes and regulations. Library staff can help you find legal information in their library or online. Local library phone numbers are listed in the Yellow Pages under "Libraries."

Website: The BC Libraries website provides a list of all public libraries and contact information.

Website	bclibraries.ca ^[123]
Phone	No phone service available

Residential Tenancy Branch

This **Residential Tenancy Branch** of the BC government administers the provincial *Residential Tenancy Act*. Staff provide information and some assistance to clients who are having problems with their landlords. The website has forms and good information about residential tenancy law and procedures.

Website: Click on the appropriate link under the headings, " Know Your Rights & Responsibilities ^[124]," " Resolving Issues ^[125]," " How to Apply for Dispute Resolution ^[126]," or " Completing the Dispute Resolution Process ^[127]."

Website	www.rto.gov.bc.ca [128]
Phone	1-604-660-1020 Victoria: 250-387-1602 Toll-free: 1-800-665-8779

Service BC

Service BC offices are the business offices of the provincial government in about 60 communities in British Columbia. They have written and online pamphlets and government forms as well as public access computer terminals. Service BC staff can help with issues involving the provincial government, and refer you to an appropriate service.

Website: To receive in-person support, click on the link " In Person ^[129]" to see a map of local Service BC offices.

Website	www.servicebc.gov.bc.ca [130]
Phone	1-604-660-2421 Toll-free: 1-800-663-7867 TDD: 1-800-661-8773

Service Canada

Service Canada is the main point of contact for information about federal government services. Staff can give contact information to make a complaint about a worker in a federal government ministry or agency. There are 60 offices in BC.

Website: Click on the appropriate link to find services by subject, or click on " Find a Service Canada Centre Near You ^[131]" (bottom of page, under Contact Us) for in-person service.

Website	servicecanada.gc.ca ^[132]
Phone	Toll-free: 1-800-O-Canada (1-800-622-6232)

Small Claims Court

Small Claims Court handles cases for amounts under \$25,000, and the court has registries in various communities in BC. The registries and the website provide information on procedure, rules, fees, filing, and forms.

Phone: Call Service BC at 1-800-663-7867 and ask for the Small Claims Court registry nearest you.

Website	www.ag.gov.bc.ca/courts/small_claims/index.htm [133]
Phone	No phone service available
Find on Clicklaw	Court Registries on Clicklaw HelpMap ^[49]

Supreme Court Self-help Centre

The **Supreme Court Self-Help Information Centre** has been absorbed into the Vancouver Justice Access Centre. However, their website continues to offer legal resources for people representing themselves in the BC Supreme Court.

Website: Click on "Supreme Court Self-help Resources" for materials that help in understanding the BC Supreme Court process.

Website supremecourtselfhelp.bc.ca
[134]

Phone No phone service available

Tenant Resource & Advisory Centre

The **Tenant Resource and Advisory Centre** provides legal information through its toll-free Tenant Infoline. Resources include print and online materials in many languages, workshops for tenants, and a few publications for landlords.

Website: Click on "Publications"^[135] and then "Tenant Survival Guide"^[136] for basic information on residential tenancy law in BC.

Website tenants.bc.ca^[137]

Phone 1-604-255-0546
Toll-free:
1-800-665-1185

**Find on
Clicklaw** TRAC on Clicklaw
HelpMap^[138]

Victims Info

The **Victims Info** website contains a broad range of information, videos and contact resources for victims and witnesses of crime. Topics include services for victims, reporting a crime, criminal charges, going to court, sentencing and more.

Website: Click on "About Court"^[139] for legal information and options for victims.

Website victimsinfo.ca^[140]

Phone No phone service
available

VictimLINK

VictimLINK is a phone service that provides information and referrals to all victims of crime, and crisis support to victims of family and sexual violence. They also provide information on the justice system, crime prevention, safety planning, protection order registry, and other resources. VictimLINK provides service in over 100 languages, including 17 North American aboriginal languages.

Website	victimlinkbc.ca ^[141]
Phone	Toll-free: 1-800-563-0808 TTY: 1-604-875-0885, to call collect, please call the Telus Relay Service at 711 Text: 1-604-836-6381
Find on Clicklaw	VictimLINK on Clicklaw HelpMap ^[142]

Vital Statistics Agency

The website of the **Vital Statistics Agency** of BC helps people register and order certificates that prove vital events like birth, death, change of name, and marriage. It also includes a wills registry to register the location of a will, or to search for a wills notice as part of the probate process.

Website	www.vs.gov.bc.ca ^[143]
Phone	1-250-952-2681 Toll-free: 1-888-876-1633

WelcomeBC Settlement Services Map

WelcomeBC Settlement Services Map is provided by the government of BC. It lists contact information for settlement service agencies around the province. Settlement agencies provide a wide range of services to immigration and refugee claimants.

Website: Click on " Live ^[144]" and then " Find a Settlement Service Agency Near You ^[145]" for the Settlement Services Map.

Website	welcomebc.ca ^[146]
Phone	No phone service available

Workers' Advisers

The BC government's **Workers' Advisers** provide information, assistance, advice and occasional representation to clients on workers' compensation issues. There are no financial eligibility requirements but services are limited.

Website: Click on " Contacts ^[147]" for the closest Workers' Advisers regional office.

Website	www.labour.gov.bc.ca/wab/location.htm [147]
Phone	No phone service available
Find on Clicklaw	Workers' Advisers on Clicklaw ^[148]

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Duty Counsel

Duty counsel are lawyers paid by the Legal Services Society (LSS) to help people with lower incomes with their criminal, family, and immigration law problems. You may qualify for help from duty counsel even if you don't qualify for a legal aid lawyer. Duty counsel services include the following.

Advice counsel telephone service

If you know someone in custody at a police lock-up who is awaiting a bail hearing, he or she can get legal advice over the phone during the evenings and on weekends and holidays. The Advice counsel telephone service ^[1] is available by calling 1-888-595-5677 (call no charge).

Brydges Line telephone service

If you are arrested, detained, or under active investigation by the police or another law enforcement agency for a criminal offence, and you are not yet charged, you can call 1-866-458-5500 to speak to a lawyer. Brydges Line telephone service ^[2] is a province-wide toll-free telephone service available 24 hours a day, 7 days a week.

Criminal duty counsel (Provincial Court)

If you can't get a legal aid lawyer and you're charged with a crime, you may be able to get help from duty counsel in Provincial Court. Duty counsel are lawyers who provide legal services to accused people both in and out of custody. Duty counsel can provide you with advice about:

- the charges against you,
- court procedures, and
- your legal rights (including the right to counsel and the right to apply for legal aid).

Duty counsel can also represent you at bail hearings and, if there is time, help you with a guilty plea. While you don't have to be financially eligible to get criminal duty counsel services, you must meet LSS coverage and financial eligibility requirements to receive ongoing representation. Show up early at court so you will have a chance to discuss your case with duty counsel before court. Bring any paperwork relating to your case.

Duty counsel is available at courthouses throughout the province. For duty counsel hours in your area, contact your local Courts of BC registry, which are located in the Blue Pages of your phone book under "Government of British Columbia - Court Services."



If you self-identify as Aboriginal you may be able to have your bail or sentencing hearing at the First Nations Court ^[3] in New Westminster or Kamloops. The First Nations Court has duty counsel who can help you apply to the court to have your case transferred there, and can give you legal advice on or before the day of court. He or she can also help you prepare your Gladue ^[4] report. For more information, call the First Nations Court duty counsel at 1-877-601-6066.

Family advice lawyers

If you're a parent with a low income experiencing separation or divorce, you may be eligible for up to three hours of free legal advice from a family advice lawyer (family duty counsel who provide advice). Family advice lawyers provide advice about parenting time or contact/access, guardianship/custody, child support, property division (limited advice), tentative settlement agreements, and court procedures.

These lawyers are available at:

- the Vancouver Justice Access Centre ^[5],
- the Nanaimo Justice Access Centre ^[5],
- the Family Justice Centre in Kelowna,
- the New Westminster Family Justice Centre, and
- courthouses in Kamloops, Prince George, Surrey, and Victoria.

These services are available by referral from a family justice counsellor or a child support officer. See the Family Justice Centres description in the Resource List for contact information.

Family duty counsel (Provincial Court)

Provincial Court duty counsel help lower income people with family law matters, including child protection issues (if the Ministry of Children and Family Development becomes involved with your family). Duty counsel can give you advice and speak on your behalf in court on simple matters. However, they won't take on your whole case and won't represent you at trial. They can also attend family case conferences at some courts.

Duty counsel are available by appointment or on a drop-in basis in Nanaimo, New Westminster, Port Coquitlam, Surrey, and Vancouver (although appointments are encouraged). At other locations, duty counsel services are on a drop-in basis. Bring any paperwork relating to your case. See "Provincial Court Family Duty Counsel ^[6]" for locations or find your local court registry in the Blue Pages of your phone book under "Government of British Columbia - Court Services."

Family duty counsel (Supreme Court)

If you are a person with a low income experiencing separation or divorce, you may be eligible for up to three hours of free legal advice from Supreme Court family duty counsel. Duty counsel are lawyers who can provide advice about parenting time or contact/access, guardianship/custody, child support, property (limited advice), tentative settlement agreements, and court procedures.

Duty counsel can also assist you in chambers (a courtroom where applications, but not trials, are heard) if the matter is simple, unopposed, or by consent. They can also attend judicial case conferences at some courts.

You should try to speak with Supreme Court duty counsel before going to court. Bring any paperwork relating to your case.

Duty counsel are available by appointment or on a drop-in basis in Vancouver. At other locations, duty counsel services are available on a drop-in basis. See "Supreme Court Family Duty Counsel ^[7]" for locations or find your local court registry in the Blue Pages of your phone book under "Government of British Columbia - Court Services."

Immigration duty counsel

LSS provides duty counsel for people in detention at the Canada Border Services Agency's enforcement centre in Vancouver. Duty counsel provide detainees with advice regarding procedures and their legal rights, and may appear on their behalf at detention hearings. Clients don't have to meet LSS financial eligibility requirements to receive these services.

References

- [1] <http://www.clicklaw.bc.ca/helpmap/service/1046>
- [2] <http://www.clicklaw.bc.ca/helpmap/service/1047>
- [3] <http://www.clicklaw.bc.ca/helpmap/service/1121>
- [4] <http://www.clicklaw.bc.ca/resource/2431>
- [5] <http://www.clicklaw.bc.ca/helpmap/service/1111>
- [6] <http://www.clicklaw.bc.ca/helpmap/service/1087>
- [7] <http://www.clicklaw.bc.ca/helpmap/service/1086>

Legal Aid Representation

The Legal Services Society (LSS) provides free legal aid representation (a lawyer to take your case) for financially eligible clients facing some types of criminal ^[1], serious family problems ^[2], child protection matters ^[3], mental health and prison issues ^[4], or immigration problems ^[5].

Website	legalaid.bc.ca ^[6]
Phone	Toll-free: 1-866-577-2525
Find on Clicklaw	Legal Aid Intake Offices on Clicklaw HelpMap ^[7]

Legal issues covered

The following legal issues are covered:

Criminal charges if, after you were convicted, you would:

- go to jail,
- face a conditional sentence that would severely limit your liberty,
- lose your way of earning a living, or
- face an immigration proceeding that could lead to deportation from Canada.

You can also get a lawyer to represent you if you:

- have a physical condition or disability or a mental or emotional illness that makes it impossible for you to represent yourself,
- are Aboriginal and the case affects your ability to follow a traditional livelihood of hunting and fishing, or
- are a youth charged with a federal offence (however if you are in the care of the Ministry of Children and Family Development, you must speak to your social worker to arrange for a lawyer).



If you self-identify as Aboriginal, you have Gladue rights^[8] under the *Criminal Code*. You may also be able to have your bail or sentencing hearing in the First Nations Court^[9] in New Westminster or Kamloops.

Serious family problems in the circumstances such as:

- you need an immediate court order to ensure your or your children's safety,
- to resolve a serious denial of parenting time or contact with/access to your children,
- when the other parent threatens to remove your children permanently from the province, or
- when you have guardianship or custody of your children and the other parent has contact or access, but he or she has unlawfully held your children and not allowed you to carry out your guardianship or custody responsibilities.

You may also be able to get a lawyer to represent you in other situations, depending on the available funding, your circumstances, and based on a merit test, including:

- to resolve serious legal issues in high conflict cases,
- when you have experienced court-related harassment (your ex-partner is using the legal system to harass you),
- when you have barriers to self-representation due to emotional abuse, psychological trauma, or mental illness, or
- when all other efforts to resolve the case have been exhausted and resolving the case will make a significant difference to you or your children.



The items above are not a complete list of all the situations covered. Coverage decisions are made on a discretionary basis.

Child protection cases where:

- the Ministry of Children and Family Development has taken or has threatened to take child(ren) away, or
- there are guardianship or custody and contact or access issues related to a child in the care of the Ministry for Children and Family Development (foster care).

Mental health hearings before a Mental Health Review Panel or the BC Review Board.

Prison issues for which the *Charter of Rights and Freedoms* provides the right to a lawyer.

Immigration proceedings for refugee claimants or clients facing removal from Canada.

Note: Whether any particular case is to be covered by legal aid is ultimately a decision made by LSS.

Eligibility

To get a legal aid lawyer to represent you, your legal problem must be covered by legal aid rules, and your net household income and assets must be at or below the financial guidelines.



Only a trained legal intake assistant can determine your financial eligibility for legal aid. The following information is not complete. To find out if you qualify for a legal aid lawyer, it's best to go into a legal aid office and apply^[10].

Income guidelines for legal aid eligibility

Household size	Net monthly income
1	\$1,480
2	\$2,070
3	\$2,670
4	\$3,260
5	\$3,850
6	\$4,450
7 or more	\$5,040

For more information, see "Do I qualify for legal representation?"^[11] on the LSS website.

Applying for legal aid representation

To apply for a legal aid lawyer or to get information or advice, go into a legal aid office or courthouse location, or call the LSS Call Centre^[12].

Applying in person

To apply in person, it's a good idea to phone your local legal aid office or check the LSS website to find out the office hours. See "Where to find legal aid services"^[13].

You will need to provide information about your case and proof of income, such as two recent pay stubs, a recent welfare stub, or a recent income tax return or bank records. You will also have to provide information about valuable assets such as a car or boat.

Applying by phone

If your area doesn't have a legal aid office or if you can't get to the legal aid office, you can apply over the phone:

Lower Mainland: 604-408-2172

Toll-free elsewhere in BC: 1-866-577-2525

Note that if you don't qualify for representation, you may still be financially eligible for advice services such as duty counsel. You don't have to be financially eligible to receive legal information ^[14] from LSS.

References

- [1] http://www.legalaid.bc.ca/legal_aid/criminalLaw.asp
- [2] http://www.legalaid.bc.ca/legal_aid/familyIssues.asp
- [3] http://www.legalaid.bc.ca/legal_aid/childProtection.asp
- [4] http://www.legalaid.bc.ca/legal_aid/mentalHealthAndPrison.asp
- [5] http://www.legalaid.bc.ca/legal_aid/immigrationProblems.asp
- [6] <http://www.legalaid.bc.ca>
- [7] <http://www.clicklaw.bc.ca/helpmap/service/1053>
- [8] <http://www.legalaid.bc.ca/aboriginal/legalRights.asp>
- [9] <http://www.legalaid.bc.ca/aboriginal/firstNationsCourt.asp>
- [10] http://legalaid.bc.ca/legal_aid/howToApply.asp
- [11] http://www.legalaid.bc.ca/legal_aid/doIQualifyRepresentation.asp
- [12] <http://www.legalaid.bc.ca/general/provincialCallCentre.asp>
- [13] http://www.legalaid.bc.ca/legal_aid/legalAidOffices.asp
- [14] http://www.legalaid.bc.ca/legal_aid/legalInformation.asp

Private Bar Lawyers

Free or low-cost services from lawyers in private practice

As well as the Lawyer Referral Service, lawyers in private practice provide three main free or low-cost services. These are:

- **Free initial consultations:** Many lawyers will provide up to 30 minutes of free advice to new clients. After the first interview, clients are expected to make financial arrangements for further services.
- **Contingency fee agreements:** When a client has a legal problem that may result in compensation at the conclusion of their case (for example, personal injury matters), many lawyers are prepared to provide advice and representation on a "contingency fee" (percentage fee) basis, where they do not collect their fees unless and until the case is resolved successfully for the client. However, clients are usually expected to pay the lawyer's disbursements (out-of-pocket expenses) along the way.
- **Pro bono services:** Law firms are encouraged to provide at least some pro bono (free-of-charge) services every year. The extent of these services may extend from advice to full representation.

Contacting a private bar lawyer

One of the best ways to find the names of lawyers in your area is through your local phone book. Many of the ads will state whether the firm offers "free initial consultations." Also, some lawyers will let you know if you can do some of the work yourself, to reduce costs.

Pro bono legal services are more difficult to find. However, many lawyers register their availability to do pro bono work with services such as Access Pro Bono.

Part 3: Preparing for Your Interview

Preparing for Your Interview

Whether you are receiving free legal advice or paying for legal assistance, it is to your advantage to be prepared to make the best use of the time you spend with your lawyer or advocate. Here are four steps to take before you see a lawyer or advocate:

1. Complete the form below before speaking with a lawyer or advocate. This form is available to download in word processing format ^[1]. Take the form with you to the interview.
2. In writing down what happened, put your story in chronological order, and include both the good information and the bad information; if you did something wrong, admit it to the lawyer.
3. Take all letters and documents about your legal problem with you to the interview.
4. Take some form of identification with you to the interview.

For more tips on preparing for the interview, see "A Guide to a Successful Interview with a Lawyer ^[2]" and the video produced by Access Pro Bono and Justice Education Society of BC, "Preparing to Meet with a Lawyer ^[3]."

Preparing for Your Interview Information Sheet

Information about you

What	Your information <i>(Write the information requested about you below)</i>
Name:	
Address:	
Postal code:	
Telephone:	
Date of birth:	
Social ins. no.:	

What happened?

<i>Write down what happened in order. Include dates, times, locations, names.</i>
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<i>Continue on more paper if necessary.</i>

Other people involved

Write down the names, telephone numbers and addresses of the other party and any witnesses.

No.	Name	Telephone no.	Address
1	e.g., <i>John Smith</i>	e.g., <i>604-666-6666</i>	e.g., <i>101 Main Street, Vancouver, BC</i>
2			
3			
4			
5			

Documents

List all of the documents you have relating to the incident. Use the following headings and *bring the documents to your meeting*:

No.	Date	Description of document	Received from	Addressed to
1	e.g., <i>January 10, 2013</i>	e.g., <i>Letter</i>	e.g., <i>John Smith</i>	e.g., <i>Jane Jones</i>
2				
3				
4				
5				
6				
7				
8				

9				
10				

References

[1] <http://blog.clicklaw.bc.ca/wp-content/uploads/2012/01/Information-Sheet-to-Prepare-for-Interview-with-a-Lawyer-or-Advocate.rtf>
[2] <http://accessprobono.ca/sites/default/files/A-Guide-to-a-Successful-Interview-with-a-Lawyer.pdf>
[3] <http://youtu.be/O7NFsBFaCww>

About

Legal Help Guide Contributors

Courthouse Libraries BC is very grateful for the efforts of the many contributors to the current edition of *Legal Help for British Columbians*.

Advisory committee

Cliff Thorstenson is a lawyer at the Nicola Valley Advocacy Centre in Merritt, British Columbia. A lawyer since 1987, Cliff practises mainly in the areas of aboriginal, criminal and poverty-related law. He has a wife and three adult children and has resided in the Nicola Valley for the past 20 years.

Cliff is the founding author of *Legal Help for British Columbians*, and has been instrumental in expanding the scope and reach of the Guide with each successive edition, including its transition into a Clicklaw Wikibook.

Glenn Gallins is Director of the Law Centre Clinical Law Program at the University of Victoria Law School. His teaching and research interests focus on clinical legal education, lawyering skills, and the application of social science research techniques to develop strategies to improve the delivery of legal services. He has been recognized with the University of Victoria Alumni Award for Excellence in Teaching, the Victoria Bar Association's Pamela Murray Award for his contributions to the local bar, and the University of Victoria Community Leadership Award, for his leadership in linking the university with the community for the greater benefit of the public.

Glenn serves on the advisory committee for the wikbook *Legal Help for British Columbians*.

Drew Jackson is Director, Client Services at Courthouse Libraries BC ^[1]. Combining backgrounds as a lawyer and a librarian, he is passionate about making legal information more accessible and understandable. He has been with Courthouse Libraries BC in various roles since 2006, including leading the development of Clicklaw ^[2], a website offering one-stop access to legal information, education and help aimed at the public in British Columbia. In his current role, he is responsible for the library's range of services that help the legal community and the public in BC find and use legal information.

Drew helped develop the Clicklaw Wikibooks platform, and served on the advisory committees for the wikibook titles *Legal Help for British Columbians* and *JP Boyd on Family Law*.

Janet Freeman is a Community Outreach Librarian at Courthouse Libraries BC and the coordinator of the library's LawMatters program, which assists BC public libraries in enhancing their legal information collections through financial assistance and training. She has worked in public libraries in Edmonton and Vancouver, as well as at Legal Services Society as a Legal Information Outreach Worker, Fieldworker and LawLine librarian. She is also a co-editor of the website Clicklaw ^[2] and provides legal reference service at the Vancouver Courthouse Library.

Janet coordinates the publication of the wikibook *Legal Help for British Columbians*.

Nate Russell is a legal community liaison with Courthouse Libraries BC. He practised civil and family law in BC prior to joining the library to develop legal information and training resources for lawyers and to better connect small firms and solo lawyers to the resources important to them. Nate acts as the managing editor and project coordinator for *JP Boyd on Family Law* and helped recruit contributors for *Legal Help for British Columbians*. He sits on and facilitates the advisory committee for *JP Boyd on Family Law*, and oversees and coordinates its editorial activities.

Contributors & reviewers

Rochelle Appleby is a lawyer who has worked primarily in the area of immigration and refugee law. She was a legal aid staff lawyer, managing lawyer of the Legal Services Society's Immigration and Refugee Law Clinic and a legal aid policy analyst. She also worked as a protection officer for the United Nations High Commissioner for Refugees. Rochelle currently focuses on legal policy development and the design and implementation of legal projects.

Rochelle wrote the immigration section of the wikibook *Legal Help for British Columbians*.

John Bilawich practises litigation with the Vancouver, BC firm Holmes & King^[3]. He is the 2011-2012 chair of the Vancouver Civil Litigation Section of the Canadian Bar Association, BC Branch. John is active within other core legal organizations in BC, such as the Trial Lawyers Association of BC and the Continuing Legal Education Society.

John helped review the section on civil litigation, titled *Suing and Being Sued*, of the wikibook *Legal Help for British Columbians*.

Pierre Bisbicis is a lawyer at Bisbicis Law Corporation, specializing in personal injury and Indian Residential School claims. Pierre is a member of the Law Society of British Columbia, the Canadian Bar Association and the Trial Lawyers Association of British Columbia. Pierre is also a former member of the Law Society of Upper Canada and the Ontario Trial Lawyers Association.

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Kaity helped review the human rights section of the wikibook *Legal Help for British Columbians*.

David Eby is a lawyer and former Executive Director of the BC Civil Liberties Association^[5], one of Canada's most active human and democratic rights organizations. An adjunct professor of law at the University of British Columbia, President of the Canadian HIV/AIDS Legal Network, and Research Associate with the Canadian Centre for Policy Alternatives, David was recognized with the BC Human Rights Coalition and UN Association of Canada's Renate Shearer Award for his contributions to the human rights field locally and internationally.

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Lisa Ferguson has worked for the Community Legal Assistance Society's^[4] Mental Health Law Program since 1991. Hired after graduating from Simon Fraser University with a degree in Criminology, Lisa's main area of responsibility is representing civilly committed individuals at Review Board hearings under the *Mental Health Act*.

Lisa helped review the mental health section of the wikibook *Legal Help for British Columbians*.

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Annie Kaderly is an associate with Aaron Gordon Daykin Nordlinger^[6]. Annie was called to the British Columbia Bar in 2006 and practices exclusively in the area of family law. She has been an executive member of the Canadian Bar Association BC (Vancouver) Family Law Subsection since 2007, and is currently the subsection's co-chair. Annie has presented at several CLE programs including the 2010 Family Law Boot Camp. She is a contributing author to publications including the CLE's *BC Family Practice Manual* and *Desk Order Divorce: An Annotated Guide*. Annie is the family law coordinator for the Access Pro Bono Society of British Columbia^[7].

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Andrew helped review the section on housing in the wikibook *Legal Help for British Columbians*.

Jim Sayre is a staff lawyer at the Community Legal Assistance Society ^[4] (CLAS), where he has done workers' compensation, Employment Insurance and other casework, law reform, and community education for the past 25 years. Jim organizes monthly meetings of advocates for injured workers and Employment Insurance claimants and facilitates PovNet's confidential email lists for WCB, EI, and employment law.

Jim helped review the employment law section of the wikibook *Legal Help for British Columbians*.

Alison Ward is a lawyer at the Community Legal Assistance Society ^[4] in Vancouver, where she runs a Law Foundation-funded program called the Community Advocate Support Line. She provides legal advice and support to community-based advocates in BC who assist clients with poverty law and family law problems. Alison was previously a staff lawyer at the Legal Services Society (1994 - 2010) where she practiced poverty law and family law.

Alison helped review the welfare and disability section of the wikibook *Legal Help for British Columbians*.

Contributors & reviewers to previous editions

Many thanks to contributors and reviewers for previous editions of *Legal Help for British Columbians*:

- **Allan Parker, QC** for his instrumental role in the development of the Guide and the transition of the Guide into a Clicklaw Wikibook.
- **Devyn Cousineau, Nicky Dunlop, Jennifer Godwin-Ellis and Len Marchand** for their contributions to the 2012 edition of the Guide.

Courthouse Libraries BC team

Brenda Rose, Clicklaw Program Coordinator at Courthouse Libraries BC, provided editorial guidance and support for *Legal Help for British Columbians*.

Kat Siddle, Content Development Specialist at Courthouse Libraries BC, provided support for contributors in updating the wiki version of *Legal Help for British Columbians*. **Mosa Wytenburg, Desy Wahyuni, Katherine Hyrcza, Bronwyn Guiton, and Kerry Taillefer** provided technical and editorial support.

Thanks also to **Jay Istvanffy** of Legal Services Society for editorial support.

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- [1] <http://www.courthouselibrary.ca>
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- [7] <http://www.accessprobono.ca>
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