

2014

Family Violence & Abuse



This booklet is for English as a second language (ESL) students using the Law-Related ESL Lessons to learn about family violence and abuse. This booklet and the online resources provide information on forms of abuse, legal protection options and the criminal court process in an easy to understand format.



**PEOPLE'S
LAW SCHOOL**

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IF YOU NEED LEGAL ADVICE YOU SHOULD TALK TO A LEGAL PROFESSIONAL.

FREE

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Glossary of terms

Abuser	A person who commits abuse.
Bail	A court order that releases an accused from jail until their trial date. The must obey certain conditions and return to court on a specific date.
Breach	To disobey an order made by a judge.
Crown counsel	Independent lawyers with the prosecution service. Crown counsel do not represent the government, police or victims of crime. Rather, they work on behalf of the public.
Defense lawyer	Lawyer who represents a person facing criminal charges.
Family law protection order	Protection order made under the BC Family Law Act. It protects you and your children from violence and abuse by other family members.

Glossary continues on page 11.

Terms used in this glossary are **underlined** on their first instance of use.

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Overview of family violence and abuse

This section focuses on what abuse is, provides examples, and includes information about how abuse affects children who witness it.

What is abuse?

There are many forms of abuse, ranging from threats and emotional abuse to physical or sexual assault.

Typically, **abusers** use threats and violence to control another family member. Abusers aim to make their victim feel afraid, alone, humiliated and ashamed. Sometimes abusers blame the abuse on the victims themselves. In some cases, the abuse continues even after the abuser has left the family home.

Family violence and abuse is wrong. It is against the law to physically abuse, threaten or harass someone.

Abuse is not a private family matter or less of a crime because a family member commits it.

Everyone has the right to be free from violence and abuse.

Some forms of abuse are crimes

Assault, sexual assault, and criminal harassment are crimes under the Criminal Code of Canada. If someone commits these crimes, they can go to prison.

A person experiencing any sort of abuse needs help and support. See the Help, services and more information section in this booklet.

Different forms of abuse

Here are some examples of different forms of abuse:

Emotional or verbal abuse

This is when the abuser:

- embarrasses or insults you,
- calls you bad names,
- yells at you,
- constantly compares you to others, or
- blames you for things that go wrong.

In some instances the abuser will not let you see your family and friends or may use your children to emotionally abuse you.

Abusers may use your children to:

- send you hurtful messages,
- “spy” on your activities, or
- scare, intimidate or harass you by threatening to take or harm the children.

Abusers may use psychological harassment to control you. They may follow you, read your e-mails, listen to your phone messages or control your important documents such as a passport.

Financial abuse

Financial abuse is when the abuser takes your money or doesn't let you have any money. The abuser may demand or expect to control your bank accounts or credit cards.

Physical abuse

Physical abuse is when the abuser threatens or hurts you with a weapon or any object. Physical abuse includes choking, biting, slapping, pushing, spitting, punching, or kicking.

It is the crime of assault when the abuser:

- hits you,
- physically hurts you, or
- threatens to hit or harm you.

Sexual abuse

Sexual abuse is when the abuser forces you to have sex when you don't want to. Sexual abuse is also when someone forces you to perform sexual acts that hurt you, make you uncomfortable or put you at risk for unwanted pregnancy or sexually transmitted diseases.

In Canada, a spouse or partner cannot force you to have sex. If a spouse or partner does this, it is the crime of sexual assault.

It is sexual assault when the abuser:

- forces you into sexual activity you don't consent to, including unwanted kissing, fondling and sexual contact, or
- rapes you or uses a weapon to force you into sexual activity.

Cycle of abuse

Family violence happens in all cultures, in any community, at every age and in every income group. Abuse might start with emotional and verbal abuse. It can build up to assault.

Afterwards, the abuser may promise it will never happen again. The abuser may act sorry, caring and loving but the tension returns and the abuse continues — usually over and over again. This is called the cycle of abuse.

Counselling to help deal with the cycle of abuse is available for free throughout BC. For help or more information check out the Help, services and more information section in this booklet.

Children who witness abuse

Family violence and abuse has a negative effect on children. It can affect them whether they see and hear it directly, or whether they find out about it later.

Research shows that children living in an abusive home environment may act out at school or at home. The child may have trouble making friends, become sick more easily, and can grow up thinking abuse is normal.

Counselling and support is available for free to help children. Look for the "Children Who Witness Abuse" at the BC Ministry of Justice website under "Violence Against Women Counselling Outreach" programs.



Help for the abuser

Culture and family history play a large part in shaping our behaviour, including how we ask for help when abuse or family violence happens.

Someone who is an abuser or who is afraid they may become one, may not know where to get help. Often, a family member who is abused doesn't want anyone to know what the abuser did.

Both abusers and their victims may be afraid that getting help will bring shame to the family. They do not want to get other people involved.

It is important for abusers as well as victims to get help so that the family can be safe. To get help, contact VictimLink BC at 1.800.563.0808 and ask to be referred to a victim services worker who speaks your language and is familiar with your culture. You can talk to the victim services worker in confidence.

Keeping your family safe

This section describes what you can do to protect yourself if you are in immediate danger, what you can do when it is not an emergency, the services that can help, and how to develop a safety plan.

If you are in immediate danger

If you are in immediate danger dial 911. You have the right to expect help from the police. If your community does not have 911 service call your local police emergency phone.

When the police come, they will talk to you and the abuser separately. The police will decide if there is enough evidence to prove a crime was committed.

If there is evidence that the abuser harmed you, threatened you, or is likely to harm you, the police may arrest the abuser. If there is not enough evidence, the police may apply for a **protection order** for you, or suggest you apply for one yourself.

Being arrested is not the same as being charged with a crime. Police have to make a report to **Crown counsel** who decide if the abuser will be charged.

If you feel unsafe

If you are afraid for your safety ask the police to take you and your children to a transition house, the home of a relative or friend or a safe house.

Call VictimLink BC and tell them what happened. You can ask to be referred to a victim services worker who can help you in your own language.

Ask the police about a **peace bond** or call a lawyer. If you cannot afford a lawyer, call legal aid and tell them that it is an emergency. A lawyer can help you get a **parenting order** and a protection order. Read the section Legal protection against family violence in page 7 of this booklet for more information about protection orders.

What if my sponsor is the abuser?

If you are sponsoring your abuser, get legal advice as soon as possible.

If you have permanent resident status or conditional permanent resident status and you leave your spouse, you can stay in Canada. You will not be deported or have to leave. If you do not have full permanent residence status or you are a refugee claimant, get legal help right away.

What if I am sponsoring the abuser?

If you are sponsoring your abuser, get legal advice as soon as possible.

If you are not in immediate danger

If you are experiencing abuse but you are not in immediate danger, you can:

- Call VictimLink BC at 1.800.563.0808. You can ask to be referred to a victim service worker who can give you confidential help in your own language.
- If you or your children have been injured, go to a hospital or medical clinic as soon as possible.
- Tell someone you trust what happened.
- Allow a friend or family member to provide help and support.

- Talk to a lawyer about protecting yourself and your children.
- Call the police non-emergency number and make a report.

Find out about services

Victim Services Programs are available across BC and provide free information, referrals, emotional support, safety planning and practical help to victims of crime.

To find a victim service program in your area, contact VictimLink BC at 1.800.563.0808. Ask for a referral to a program in your community where people speak your language and are familiar with your culture.

Counselling services

Counselling and other services provide help and practical support for victims of family violence and abuse in a safe, supportive environment. To find counselling services in your area, call VictimLink BC at 1.800.563.0808, or visit the BC Ministry of Justice website on “Violence Against Women Counselling and Outreach” programs.

Transition and safe houses

These are safe places you can go to if you are being abused. These houses are open 24 hours a day and are free.

The staff provide legal information and emotional support. They can help you understand your options, such as how to continue to stay safe.

When you go to a safe house or transition house, the abuser will not know where you are. You can take your children with you.

There are three types of housing:

- **Transition houses** provide safe, temporary shelter with support services. They are open 24 hours a day, 7 days a week.
- **Safe houses** provide safe, temporary short-term shelter and support services.
- **Second-stage houses** help women who have left abusive relationships make plans for the future. Women and their children usually stay in a second-stage house for 6-18 months.

If you and your children need to leave the family home because of abuse, call VictimLink BC at 1.800.563.0808 to find out about transition houses or safe houses in your community. A list of transition houses, safe houses and second-stage housing is available on the BC Housing website.

Develop a safety plan

A safety plan is the steps you can take to protect yourself and your children. It is difficult to think clearly in an emergency. If you make plans before a crisis, you will be prepared and know how to get help in an emergency. When you have a safety plan, you have some control over your life and your decisions.

You can develop your own safety plan or get free help from a victim services worker.

Your safety plan might include:

- where you and your children would go if you had to leave,
- keeping important papers, such as birth certificates, passports and immigration papers in a safe place, and
- putting some money and a set of your house and car keys in a safe place.

Your plan may include:

- packing and leaving a suitcase with a trusted friend,

- teaching your children to call 911 or the police for help,
- choosing a code word for your children and friends, so they will know when you are in danger and can call for help, and
- talking to a lawyer regarding decisions about parenting and property.

For more on safety planning, see the Help, services and more information section in this booklet.

What if I plan to leave the relationship?

If you are planning to leave the relationship think about where you will live and how you will stay safe. You may want to get help from a victim services worker, settlement worker, trusted friend or lawyer.

If you leave and you want the children to stay with you, take them with you when you leave. Talk to a lawyer about getting a parenting order right away. You will also need to take important documents and belongings for yourself and your children such as your BC Services Card/Care Card or passport. Talk to a victim services support worker about what papers you should take with you.

What about the home?

If you had to leave the family home and want to return to live there without the abuser, you may need legal advice. You may also need a **family law protection order**, a parenting order, and an order that gives you the right to live in the family home.

If you do not wish to return to the family home, be aware that property division laws are complicated and there are important time limits. You will need legal advice to explore your options.

What can I do about money?

You may be entitled to the Canada Child Tax Benefit, Universal Child Care Benefits, BC Family Bonus, child support and possibly spousal support. If you are not getting these benefits talk to a lawyer, victim services worker or settlement worker who can offer assistance on how to apply. You should also consider talking to staff at a Family Justice Centre about child and spousal support.

Financial help may be available through income assistance, also referred to as welfare.

If you do not have enough money for your basic needs, contact the income assistance office in your area at 1.866.866.0800. If you need money for food, shelter or medical needs, tell the worker that you need an “immediate needs assessment”.

A welfare, victim services worker or settlement worker can help you to learn more about the benefits that may be available. It is best to let them know you are leaving an abusive relationship.

If you do not have permanent residence status and need financial help, talk to a lawyer or settlement worker. If you already receive financial assistance as a refugee or refugee claimant, these payments will not be cancelled because you have left an abusive relationship.

Legal protection against family violence

This section is about protection orders, what they are, how to get one, and what to do if an abuser disobeys the order.

What is a protection order?

If someone has threatened you, been violent towards you, or caused you to fear for your or your children’s safety, you can apply for

a protection order. There are two kinds of protection orders in BC, peace bonds and family law protection orders. You can apply for either or both. Both are described later in this booklet.

You do not have to prove that you have been harmed, only that you have a reasonable fear of the abuser.

In a protection order, the judge sets conditions the abuser must follow. There is usually a condition that prohibits your abuser from contacting you or allows limited contact only. It is important to have a copy of the order with you at all times.

Disobeying the order is a crime. The abuser can be arrested and charged with a criminal offence.



What can I do if my abuser does not follow the protection order?

If your abuser does not follow the protection order call 911 immediately. If your community doesn't have 911 service call the local police emergency phone number.

Tell the police what happened. Be sure to tell them that you have a protection order. The police will be able to confirm that you have an order, even if you don't have a copy of it when you call.

What is the protection order registry?

The **protection order registry** keeps a record of all protection orders issued by BC courts. This means

that when you call the police about the abuser, the police can confirm that you have an order, what it says, and if it still applies. They can then enforce the protection order right away. Make sure your protection order is registered.

You can call VictimLink BC at 1.800.563.0808 (no charge, 24 hours a day) to make sure your protection order is registered and that the information on is correct. If your contact details change, call to update the protection order.

What is a peace bond?

You can get a peace bond against anyone who causes you to fear for your safety. The peace bond tells the person named that he or she must "be of good behaviour and keep the peace." This means that the person must not harass or threaten you.

The peace bond usually says that the person cannot contact you. If they do, they are breaking the law. A peace bond lasts for up to one year. You may be able to apply for another one after a year.

What does a peace bond do?

A peace bond can protect you from anyone, including your spouse or ex-spouse. It can protect you, your children, and your property. It can also protect your new spouse or partner. A peace bond can be enforced by the police anywhere in Canada.

How do I get a peace bond?

Call your local police or RCMP and tell them that you need a peace bond. The legal name of a peace bond is an "810 recognizance". Tell the officer why you are afraid or in danger. The police officer can prepare the peace bond or you can apply yourself. If you apply yourself, it is a good idea to get legal advice first. There is no fee to apply for a peace bond.

What is a family law protection order?

A family law protection order can protect you from a family member, which includes:

- your spouse, your child’s parent or guardian, or a relative who lives with them, and
- a relative of yours who lives with you.

A family law protection order can protect:

- you, your children, and other family members who live with you, and
- any other children living in your home, the home of your current spouse or partner, or the home of your child’s parent or guardian.

A family law protection order lasts until the end date on the order. If the judge does not set an end date, the order lasts one year. This order can be enforced by a police officer anywhere in BC.

If you move out of BC you may be able to register your order with the courts in your new location, or you may have to apply for a new order.

How do I get a family law protection order?

You can apply for a protection order by yourself, but it is a good idea to talk to a lawyer first. Apply for a protection order in either the Provincial Court or Supreme Court. There is no fee in Provincial Court, but there is a fee in Supreme Court.

For more information about peace bonds and family law protection orders check the online resources on the Legal Services Society website. Details are in the Help, services and more information section of this booklet.

Criminal court process

This section describes what happens when an abuser is charged with a criminal offence. It explains the legal process and who can provide support during this difficult process.

How it starts

After the police investigate, they give their report to Crown counsel who act for the whole community. Crown counsel’s job is to decide whether to charge someone and to present the case against the accused person in court. Only Crown counsel can decide whether or not to charge someone. A person who is charged with a crime is referred to as “the accused” until the judge decides whether he or she is guilty or not.

If your abuser is going through a criminal court process, it is a good idea to have support. Ask a victim services worker or trusted friend to go with you to interviews with the police or Crown counsel, and to court.

The first court appearance

At the first court appearance, the accused can plead guilty or not guilty. If the plea is guilty, there will not be a trial. Instead, either that day or on a later day, the judge will decide the sentence. If the plea is not guilty, there will be a trial at a later date.

If the accused was in jail before the first court date, the judge may let him or her out on bail until the trial starts. The judge will order the accused to follow the bail conditions, such as not contacting you, also known as a no contact order.

It is important that you know when the accused gets out of jail and what the bail conditions are.

Ask for a copy of the bail conditions and no contact order from Crown counsel. Keep these with you at all times. If you need help with this, ask a victim services worker or call VictimLink BC toll free at 1.800.563.0808.

If the accused disobeys or **breaches** the bail conditions or the no contact order, call the police. The accused can be arrested and charged with breach of bail or breach of an order.

What is my role?

Do I have to go court?

You do not have to go to the first court date or any other, unless you want to or if you receive a **subpoena** to appear as a **witness**. If you receive a subpoena you must go to the trial to answer questions about what happened.

For more information about being a witness in court, speak to a victim services worker.

Victim impact statement

Crown counsel may ask you to fill out a **victim impact statement** to explain how the assault or harassment has affected you and your children. This is used to recommend to the judge the kind of sentence your partner should get if convicted.

If Crown counsel does not talk to you about a victim impact statement, ask a victim services worker about it.

What happens in court?

At a trial, Crown counsel presents evidence to show that the criminal offence happened, which means you may be called as a witness. You will be asked your name and address.

If you do not want to give your address out loud in court, tell Crown counsel before the trial begins.

The **defense lawyer** may question you. This is called being cross-examined. Usually, the accused testifies, but not always. After the judge has listened to both Crown counsel and the defense lawyer, he or she makes a decision.

If the accused is found **not guilty** the person will not be sentenced. If this decision concerns or frightens you, talk to a victim services worker about a safety plan and a protection order.

If the accused is found **guilty** the judge will decide on a sentence.

Sentencing

A conditional discharge means the judge sets conditions that the person must follow. If conditions are followed, the person will not have a criminal record.

A suspended sentence means the judge puts the person on **probation** with conditions. Even if the person follows the conditions, they will have criminal records.

If the person does not follow the conditions, he or she can be brought back to court to be sentenced for breaching probation. It is a crime to breach the conditions of probation.

Jail

If the assault was severe or the accused has committed criminal offences before they may be sent to jail. The person charged might be allowed to serve the jail sentence on weekends, so that they do not lose their job.

A jail sentence might be followed by probation, during which time all conditions must be obeyed. If your partner goes to jail, talk with the victim services worker about what happens next.

Glossary continued

No contact order	An order in which a judge orders a person to stay away from another person.
Parenting order	Under the Family Law Act (in either Provincial Court or Supreme Court), a court order dealing with guardianship, parenting time, allocation of parenting responsibilities, or contact with a child. Under the Divorce Act in Supreme Court, a court order dealing with custody and access.
Peace bond	Protection order made by a judge under the Criminal Code of Canada in criminal court. See page 8 of this booklet for more details.
Probation	A sentence, or portion of a sentence in which the offender is released into the community under the supervision of a probation officer and must follow certain conditions such as being of good behaviour, abstaining from alcohol, not contacting the victim, etc.
Protection order	Order made by a judge in court that is meant to protect one person from another.

Protection order registry	A computer database of protection orders issued by BC courts.
Subpoena	A document the court gives to a person which demands that they come to court to be a witness in a trial.
Sentence	The punishment a person receives after being found guilty of or pleading guilty to a crime. For example, fines, community supervision or time in prison (also called a correctional centre or penitentiary).
Victim of crime	A person who has been directly or indirectly affected by a crime.
Victim impact statement	A written description by a victim of how the crime has affected them, including the physical, financial and emotional effects of the crime. The judge considers the information in the victim impact statement when he or she decides the sentence.
Witness	A person who gives evidence at any step in a legal proceeding.

Help, services and more information

Access Pro Bono Society of BC: provides free legal clinics where you can meet with a lawyer for half an hour at no charge, if you qualify. In some cases, a lawyer might agree to represent you in court.

Greater Vancouver: 604.878.7400. Toll Free in BC: 1.877.762-6664. www.accessprobono.ca

Battered Women's Support Services: offers support groups, advocacy, counselling and other support services.

Greater Vancouver: 604.687.1867. Toll Free in BC: 1.855.687.1868.

www.bwss.org

BC Housing: has listings for the transition houses, safe homes, and second-stage housing is available.

Greater Vancouver: 604.433.1711. Toll Free in BC: 1.866.465.6873.

www.bchousing.org

BC/Yukon Society of Transition Houses: offers safe temporary shelter to women and children experiencing family violence and abuse. Offers group and individual counselling for children and youth who witness family conflicts and violence.

Greater Vancouver: 604.669.6943. Toll Free in BC: 1.800.661.1040.

www.bcsth.ca

Clicklaw: provides searchable access to key legal information. Search "Solve Problems".

www.clicklaw.bc.ca

Court Orientation, Preparation, and Accompaniment: a section of the Ministry of Justice website that provides information about going to court as a witness. It includes information about victim impact statements, and court orientation.

www.pssg.gov.bc.ca/victimservices/court/index.htm

Dial-A-Law: online and telephone scripts about the law. To read or listen on the Internet, go to the Dial-A-Law website and select topics such as family law.

www.cbabc.org/For-the-Public/Dial-A-Law

Domestic ViolenceBC.ca: this government website has information on how to get help through VictimLinkBC, how to find a transition house or safe home, and how to get legal help.

www.domesticviolencebc.ca

Family Justice Centres: offers information about parenting orders, protection orders, emotional support, short-term counselling, referrals to emergency and community services.

Greater Vancouver: 604.660.2421. Victoria: 250.387.6121. Toll Free in BC: 1.800.663.7867.

www.justicebc.ca/en/fam/help/fjc/index.html

Family LawLINE : telephone advice line staffed by lawyers paid by legal aid.

Greater Vancouver: 604.408.2172. Toll Free in BC: 1.866.577.2525.

http://www.lss.bc.ca/legal_aid/FamilyLawLINE.php

Justice Access Centre: if you live in Vancouver, Victoria or Nanaimo, a Justice Access Centre (JAC) can provide legal information and help you find out about free legal advice.

Greater Vancouver: 604.660.2084. Toll free: 1.800.663.7867 and ask to be put through to 604.660.2084.

Victoria: 250.356.7012. Toll free outside Victoria: 1.800.663.7867 and ask to be connected to 250.356.7012.

Nanaimo: 250.741.5447 or 1.800.578.8511.

www.ag.gov.bc.ca/justice-access-centre/index.htm

JusticeBC: JusticeBC has clear basic information about British Columbia's justice system. The section on family law includes how to get help in cases of family violence.

www.justicebc.ca/en/fam/

JP Boyd on Family Law: this wikibook from Courthouse Libraries BC provides practical, in-depth coverage of family law and divorce law in British Columbia.

http://wiki.clicklaw.bc.ca/index.php/JP_Boyd_on_Family_Law

Lawyer Referral Service : this service gives you the name of a local lawyer. You call the lawyer to request a meeting. Cost is \$25 plus taxes for up to a half-hour meeting. If you need more help, ask what the lawyer charges per hour and request an estimate of the total cost.

Greater Vancouver: 604.687.3221. Toll Free in BC: 1.800.663.1919.

www.cbabc.org/For-the-Public/Lawyer-Referral-Service

Legal aid - Legal Services Society (LSS): provides a range of free services including legal information, legal advice, and a lawyer to represent you in serious family problems if you qualify.

Greater Vancouver: 604.687.3221. Toll Free in BC: 1.800.663.1919.

www.familylaw.lss.bc.ca

http://legalaid.bc.ca/legal_aid/

Legal Services Society also publishes these booklets:

Living Together or Living Apart

<http://www.lss.bc.ca/publications/pub.php?pub=347>

Surviving Relationship Violence and Abuse:

<http://www.legalaid.bc.ca/publications/pub.php?pub=348>

For your Protection: Peace Bonds and Family Law Protection Orders:

<http://www.lss.bc.ca/publications/pub.php?pub=20>

Family Law in BC: a Legal Services Society website that provides a great deal of information on family law. Many of the resources are published in a variety of languages.

www.familylaw.bc.ca

Fact sheets in the following topics are available on the section about abuse and family violence at:

<http://www.familylaw.lss.bc.ca/resources/publications/subject.php?sub=4>

If your sponsor abuses you.

Parenting.

What to do about money.

Safety planning.

Protection orders.

Ministry of Justice services for information:

Violence Against Women Counselling and Outreach Programs:

www.pssg.gov.bc.ca/victimservices/help/counselling.htm

Stalking and criminal harassment: this information on the Ministry of Justice website explains how to recognize criminal harassment, ways to increase your safety, and actions you can take, including how to get protection orders.

www.pssg.gov.bc.ca/victimservices/affect-you/stalking.htm

VictimsInfo.ca: has resources and information to help victims of crime as well as witnesses to a crime. Provides information in six languages.

www.victiminfo.ca

VictimLinkBC and Access to Victim Service Workers: province-wide telephone help.

Free Toll: 1.800.563.0808.

www.victimlinkbc.ca

Vancouver and Lower Mainland Multicultural Family Support Services: free and confidential services for immigrant, visible minorities and refugee women who are experiencing family violence.

Greater Vancouver: 604.436.1025.

www.vlmfss.ca



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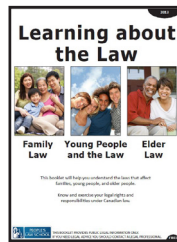
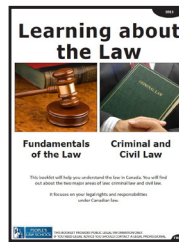
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