

10 things your family lawyer wished you knew before living together!



Thinking of living with your love? Family Lawyers Michelle Kinney and Christine Murray have 10 things they wished every one of their client's knew before they shackled up. This can save you money and grief in the (unlikely) event you separate in the future. And you and your beloved can strengthen your relationship by making your own legally binding relationship rules (...about money and property).

1) Family law is unique:

- a. Each province/territory has family laws. These vary in how they apply to unmarried folk. Married couples also are subject to the federal *Divorce Act*.
- b. Don't dabble. If you need family law help- use a lawyer who specializes.

2) Two years living together – what does it mean and why do you care:

- a. You are considered a spouse. The law applies to you with regard to property division and spousal support upon marriage or after two years of cohabitation.
- b. If you have a child together the law applies to you with respect to spousal support before two years.

3) Get a cohabitation agreement – do the heavy lifting on the front end:

- a. You can opt out of the law and make your own arrangements for property division and spousal support by agreement (best written, signed witnessed). DO THIS!

4) Property division and debt division:

- a. General rule: Keep what was "yours" (pre-relationship, gifts, settlements and inheritances) and share what accrues during the relationship (debts, property and increase in value of excluded property).
- b. What happens during the relationship stays in the relationship- consider what you accept and allow during your relationship- family law is generally forward looking, and unless you have a cohabitation agreement, the legal framework will apply to you.

5) Spousal Support:

- a. May be obligated to pay spousal support or be entitled to receive spousal support if there is a need for support, to compensate a spouse or if there is an agreement for support. Can contract out of these obligations- but it must be "fair enough".



10 things your family lawyer wished you knew before living together!



6) Parenting:

- a. Generally, parents are guardians (unless they have not lived with the child). Guardians have parental responsibilities and parenting time. Non-guardians have "contact". Step-parents are not guardians and do not have parental rights.
- b. Parenting arrangements must be made only in the best interests of the children. There is no presumptions of what is in the child's best interest respecting shared parenting, responsibility or equal time.
- c. Kids have a say- but it is "voice, not choice" generally.

7) Child support:

- a. Parents are obligated to pay child support (can't opt out); step-parents may be obligated to pay child support after living with a step-child for one year.

8) Family Violence:

- a. Broad definition includes, physical, sexual and emotional or psychological abuse. Taken into account in parenting, and for interim living arrangements upon separation.
- b. Protection orders and conduct orders can be obtained.

9) Assisted reproduction 101:

- a. **Sexual intercourse and parentage:** That's a daddy not a donor: where a child is conceived through sexual intercourse the biological parents are the child's legal parents.
- b. **Who is a parent where assisted reproduction is used – general rule:** When creating families with assisted reproduction intention to parent trumps genetic connection.
 - i. Donor (sperm or egg) is not a parent
 - ii. Parents are the birth parent and their partner (ie same sex female couple)
 - iii. Surrogate is not a parent; intended parents are the parents – must be a written agreement prior to conception and another after birth
 - iv. Multiple parent families are a-ok! (in certain circumstances only)

10) What happens if your relationship doesn't work out:

- a. Date of separation- consider texting or emailing to confirm
- b. Do nothing rash- i.e. don't clear out the bank account
- c. Be your best self- remember text messages and emails can be evidence in court
- d. No fault system- affairs, abuse, etc do not change your rights and responsibilities
- e. Get legal advice

