

**BEFORE THE U-HAUL**  
**10 FAMILY LAW TIPS FOR QUEERS**  
**(and non-queers) IN BC**

July 25, Saltspring Pride

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**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).

**4) Property division and debt division:**

- a. General rule: Keep what was “yours” (pre-relationship, gifts and inheritances) and share what accrues during the relationship (debts, property and increase in value of excluded property).

**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.

**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”. No presumptions of what is in the child’s best interest respecting shared parenting, responsibility or equal time. Parenting arrangements are to be made only in the best interests of the children.



- 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. Includes, physical, sexual and emotional or psychological abuse.
- 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

**Note:**

- 1) This is not legal advice;
- 2) If you want specific legal advice you should consult a lawyer!

