

Leaving an abusive relationship... if you are not a Canadian citizen

This resource features information for anyone who is not a Canadian citizen and has experienced or is at-risk of family violence. This includes anyone who is being sponsored by their spouse or partner (“family class sponsorships”) or is a foreign national dating someone in Canada.



Immigration law in Canada is complicated. It is easy to make a serious mistake. It is important that you seek help from a lawyer if you have concerns about your immigration status. Contact your local legal clinic or call Legal Aid Alberta at 1-866-845-3425 to see if you are eligible for low-cost legal help.

What is abuse?

Abuse can be physical, sexual, psychological, or financial. Some examples of abuse are included below:

Physical abuse includes:

- Hitting, punching, slapping, choking, burning, pushing or shoving in a way that could cause injury
- Confining you or refusing to let you contact friends and family
- Forcing you to take drugs or drink alcohol or do something illegal

Sexual abuse includes:

- Forcing or threatening you to take part in unwanted sexual activity
- Using physical force, weapons, or objects in sexual acts without your consent
- Involving other people in sexual activity without your consent
- Involving or suggesting the involvement in sexual activity of a child or of someone who is unable to give valid consent for a reason such as illness, the influence of alcohol or drugs, or intimidation or pressure

Thank you to Community Legal Education Ontario (<http://www.cleo.on.ca>) for allowing us to adapt, with permission, their publication Family violence when a woman is sponsored by a spouse or partner.

Psychological abuse includes:

- a pattern of controlling behaviour, such as bullying, humiliating, threatening, yelling, blaming, shaming, ridiculing, disrespecting, or criticizing you
- controlling what you can do or not do
- threatening to commit suicide
- threatening to cause death or injury
- threatening to hurt or remove your children
- using personal beliefs such as the abuser's interpretation of religious or cultural beliefs to manipulate, dominate, or control you

Financial abuse is aimed at keeping a woman dependent on her sponsor and can include:

- Stealing your money
- Controlling your finances or refusing to share money
- Preventing you from working or going to school
- Causing you to lose your job - for example, by making you miss work

Neglect means not providing things needed to survive, such as food, clothing, medical care, or shelter, or causing a risk of serious harm by not doing something.

If I am not a Canadian citizen, will I have to leave Canada if I leave my abusive spouse or partner?

It depends on your immigration status.

If you are a permanent resident...

In most cases, if you are a **permanent resident**, you cannot lose your immigration status or be forced to leave Canada because you leave an abusive relationship. This is true even if your abusive spouse or partner sponsored your application for permanent residence.

However, immigration authorities may start an investigation if your sponsor tells them:

- Your relationship was not genuine OR
- You did not include required information or included false information in your application for immigration.

This could lead to the loss of your permanent resident status. If you are concerned about this possibility, you should get legal advice.

© June 2016, Legal Resource Centre of Alberta Ltd. (operating as the Centre for Public Legal Education Alberta), Edmonton, Alberta. You should not rely on this information sheet for legal advice. Visit www.cplea.ca or www.willownet.ca for more information.

If you have conditional permanent resident status...

You may have been granted **conditional permanent resident status** if:

- You and your sponsor do not have a child in common OR
- Your marriage or relationship has existed for two years or less

Conditional permanent resident status lasts for two years and during that time, you are expected to live with your sponsor. If you leave during those two years, you risk losing your status and being forced to leave Canada. However, if you leave because your sponsor is abusing you, Citizenship and Immigration Canada (CIC) could set aside the two-year condition on your permanent resident status and allow you to stay.

To get CIC to set aside the two-year condition, you will need to show that:

1. You and your sponsor lived together as a couple prior to you leaving
 - You will need to show evidence you lived together, such as:
 - » joint bank account or credit card statements
 - » joint rent receipts or home ownership
 - » mail addressed to you and your sponsor at the same address
 - » insurance policies or drivers' licenses that show you and your sponsor had the same address
 - You will need to show evidence you lived as a couple until you left, such as:
 - » Sharing a bedroom
 - » Taking part in social activities
 - » Being seen as a couple by friends, family members, schools, child care centres, doctors, or other people, organizations, or service providers
2. The abuse or neglect was the reason for you leaving. The abuse or neglect could have been directed to you, your child or sponsor's children, or someone else who usually lives in the household and is your family member or your sponsor's family member.
 - You will need to show evidence of abuse or neglect, such as:
 - » Police reports
 - » Court documents showing criminal charges were laid in relation to the abuse
 - » Medical or psychologist reports
 - » Photographs of injuries
 - » E-mail messages, text messages, voicemails showing abuse

- For more information, read our resource **Gathering Evidence of Abuse**—available for free at <http://www.cplea.ca/publications/> or <http://www.willownet.ca>.
3. The abuse or neglect was caused by your sponsor or a family member of your sponsor (even if he or she did not live with you and your sponsor)
- You will need to show evidence that it was your sponsor or family member of your sponsor who caused the abuse or neglect, such as:
 - » Police reports
 - » Witness statements
 - » Court documents showing criminal charges were laid in relation to the abuse

It is a very good idea to get legal advice to help you collect evidence and to represent you in your dealings with the CIC.

If your sponsorship application is in process...

If you and your sponsor make an application together for permanent residency and it is processed in Canada, it is sometimes called an **inland spousal sponsorship**. This type of application falls under the **Spouse or Common-law Partner in Canada class**. These applications can take a long time to process.

During the application process, if your spouse or partner withdraws the sponsorship or you leave the relationship, you will no longer be eligible for permanent resident status under the Spouse or Common-law Partner in Canada class and may be forced to leave Canada.

If you fall under this category and you have left or want to leave your abusive relationship, get legal advice right away. You may be able to apply to stay in Canada on humanitarian and compassionate (H&C) grounds. For more information on H&C applications, talk to a lawyer and visit the information page from Ontario's Your Legal Rights at <http://yourlegalrights.on.ca/legal-topic/immigration-and-refugee-law/humanitarian-and-compassionate-grounds>.

Other types of status or no status

If you are living in an abusive relationship and you have no immigration status or a temporary immigration status (work or study permit, visitor, refugee claimant), you should get legal advice if you want to leave your relationship and stay in Canada. If you are unsure of your immigration status, you should also seek legal advice.

It is important to know that your abusive spouse or partner cannot have you deported from Canada if you leave the relationship or report the abuse. Only government immigration authorities can make the decision to deport you.

Getting legal help

If you or your children are experiencing abuse or are at-risk of abuse, you should get legal advice right away to help you decide what to do. There may be legal issues affecting your situation that you are not aware of. For example, if you are from a country that Canada is not sending people back to because of the human rights situation, you likely will not be forced to return to your home country.

You will likely need to speak to a family lawyer if you decide to leave your relationship, especially if you have children. In some situations, if there is a court order under family law that deals with your children, your removal from Canada might go against the order. For more information, read our **Families and the Law: Domestic Violence Series**, available for free at <http://www.cplea.ca/publications/> or <http://www.willownet.ca>.

You should be aware if you do not have immigration status in Canada or your temporary status has expired and you contact police, they may decide to contact immigration authorities. The police database will show if there is an immigration warrant in your name.

There are many places you can get legal help in Alberta:

- **Lawyer Referral Service** (1-800-661-1095) is operated by the Law Society of Alberta and will provide you with the names of three lawyers in your area who may be able to help you. These lawyers will provide a free half hour consultation, but will charge for their services beyond this.
- **Legal Aid Alberta** provides legal representation to Albertans living with low incomes—call 1-866-845-3425 to find out if you're eligible for representation.
- **Community and student legal clinics** are located throughout Alberta. They provide clients living with low incomes with brief legal advice and sometimes legal representation. For a full list of legal clinics in Alberta, visit http://www.pbla.ca/gethelp/item.5602-Help_for_Individuals.

Thank you to Community Legal Education Ontario (<http://www.cleo.on.ca>) for allowing us to adapt, with permission, their publication **Family violence when a woman is sponsored by a spouse or partner** - available online at <http://www.cleo.on.ca/en/publications/famvio>.



Centre for Public Legal
Education Alberta
800, 10050 112 Street
Edmonton, Alberta T5K 2J1
Tel 780 451 8764
www.cplea.ca
www.willownet.ca

© June 2016,
Legal Resource Centre of
Alberta Ltd. (operating
as the Centre for Public
Legal Education Alberta)

Funding provided by

Alberta **LAW**
FOUNDATION

You should not rely on this information sheet for legal advice.