

Dating & New Relationships

in Alberta



You are never too old to fall in love! However, if you are older, single, and seeking new companionship, you may have many questions. The world of dating is different than it used to be. You may now have family members and assets to think about and protect. This booklet provides information about legal issues you might have in a new relationship.



You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019

DISCLAIMER

The contents of this booklet are provided as general information only. It is not legal advice. If you have a legal problem, you should consult a lawyer.

The information contained in this booklet was correct at the time it was produced. Be aware that there may have been subsequent changes which make the information outdated at the time you are reading it. The Legal Resource Centre of Alberta Ltd. will not be responsible for any loss arising from reliance on or action taken (or not taken) as a result of this information.

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The Legal Resource Centre of Alberta Ltd., operating as the Centre for Public Legal Education Alberta, is a non-profit organization whose mission is to help people understand the law as it affects their everyday lives. We develop plain language booklets, presentations, and other learning materials to help people recognize and respond to their legal rights and responsibilities. We have a variety of programs, and provide legal information and referrals on many legal topics. For more information, please visit www.cplea.ca.



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Safety Tips

Unfortunately, not everyone has good intentions when it comes to dating. You should be cautious of fraudsters who could use your trust and wish for companionship as a way to get close to you and then try to scam you financially. This possibility should not stop you from dating but you should keep it in mind and protect yourself as best as you can.

General Safety Tips

Here are some things you can do to protect yourself if you start dating:

Personal Information

- Do not reveal too much personal information until you get to know the person. If you give someone your full name and home phone number, it may be easy for that person to find out where you live.
- Consider using a cell phone for talking to your new friend. Cell phones are more difficult to connect to your home address.

Personal Safety

- Consider going out on your first few dates with a group of friends. There is safety in numbers, and your friends may notice something about your new friend that you miss.
- Arrange to meet in a public place, such as a café.
- Do not offer to pick the person up in your car, and do not arrange to have them pick you up at your home.
- Tell a trusted friend where you are going, as well as details about the person you are meeting. Arrange to call that friend when you get home.

Financial Safety

- Do not tell your new friend about your finances.
- Do not agree to lend the person money.
- Be wary if the person tries to talk you into investing in a business.

Internet Dating Safety Tips

There are many online chat rooms and dating sites. Each has its own rules and characteristics.

Some safety tips include:

- If you are not very experienced at using the Internet, you may want to take a computer course to increase your skill level.
- Use one of the more popular, well-established websites. Research to find out which sites match your goals. Some sites are for arranging quick hook-ups while others help people find long-term relationships.
- The more popular dating websites offer their own safety tips. You should read these carefully to make sure you understand how to use the site properly and safely.
- Do not use your real name or give your address, workplace, phone number, or any other information that could identify you. Do not give out personal information to anyone you connect with on the site until you get to know them better.
- If you decide to talk on the phone with someone you meet online, never give out your home phone number. Instead, give a cell phone number or use Skype or something similar. If someone has your home number, then that person may be able to find out your address.

Managing Family Expectations

Seeing a parent start to date can be very upsetting for adult children, and some may react negatively. Dealing with this issue early on can help to prevent problems, including legal ones.

Consider talking to your children about any issues as they come up. Try to keep the lines of communication open. See if you can understand what your child's concerns are, and try to explain how you see things.

If you need help, you can talk to someone you trust or seek out the help of a professional mediator.

Protecting your Money and Property

You likely have money, property and other assets that you want to protect if you start dating again.

Dating someone for a long time does not give your friend any rights to property that is in your name only. However, this could change if you move in together. See page 9 for more information about living together.

Joint Accounts

Some couples keep some of their money in their own separate personal accounts and use a joint account to keep money to pay household bills and for joint purchases.

If a joint account is set up so that only one signature is needed to make withdrawals, then any person with signing authority can withdraw all of the money in the account without getting permission from the other account holder(s). They may not have the legal right to keep the money forever, but simply taking it could be very inconvenient for the other person.

There are two types of joint bank accounts. The main difference is what happens to the money in the account when one of the account holders dies. Which type of account you have depends on the forms you sign when the account is set up.

1. **Joint tenancy with right of survivorship:** This is the most common type of joint account. The account holders each have an equal right to use and control all of the money in the account. If one of the account holders dies, their share immediately goes to the other person (or people) named on the account.
2. **Joint account with tenancy in common:** This type of account is much less common. Each person named on the account owns a specific share of the money in the account. The shares do not have to be equal. If an account holder dies, their share passes to the beneficiaries they have named in their Will (or if there is no Will, then according to Alberta's *Wills and Succession Act*). Dealing with a deceased's money in this type of account could take much longer and be more costly than the first type of account.

Debt

You are only responsible for the debt of your new partner if:

- it is joint debt (for example, where you jointly enter into contracts, loans, lines of credit, mortgages or credit cards);
- you co-sign a loan for your partner;
- the debt is in your name; or
- you sign a contract with a lender agreeing to pay back a loan if your partner can not (this is known as a guarantee).

If none of these things apply and your partner has debt in their name alone, you are not directly responsible to pay it back. However, if property that you own jointly has been used as collateral (security) for a loan in your partner's name and your partner defaults on that loan, then the lender may take steps to seize and sell that jointly-owned property. If your partner declares bankruptcy, you may be left with the sole responsibility for any joint debts.

Benefits and Pensions

Work Pensions

Whether or not your new partner is entitled to a share of your work pension if your relationship ends depends on:

- whether or not your pension payments have already started;
- whether you were together during any time that contributions were made to the pension;
- the exact nature of your relationship (just dating, adult interdependent partners, married);
- the existence and content of any court orders related to your pension (for example, if you divorced your first spouse, there may be a court order about your pension); and
- the exact terms of the pension plan.

To find the exact effect of your new relationship on your pension, consult the pension administrator and your lawyer.

Canada Pension Plan (CPP) Benefits

If your new relationship ends you or your spouse or partner can only apply to receive an equal share of the retirement pensions you both earned during the years you were married or common law. The amounts depend on how long you lived together and the contributions you both made to the CPP during that time. If your respective CPPs were earned during a time that you were not together, you will not be able to split those pensions. Federal laws that set out the rules about splitting CPP define “common-law partner” as a person who has lived in a conjugal relationship with a partner (regardless of gender) for at least one year.

If you are collecting a CPP survivor’s pension because your former spouse or common law partner died, it will continue even if you remarry. A CPP pension includes the survivor’s pension and is based on earnings that were made in the past. This means that the pension was already earned and no change in current income can change that.

Other Benefits

Benefits that are based on household income level will change. Benefits that are based on past earnings or events do not change. Before moving in with or marrying your new partner, be sure to contact the social agencies from which you receive funds or assistance. They can answer your specific questions.

Living Together

Adult Interdependent Relationships

The term “common law” describes partners who are not legally married and living together, with or without children. The Canadian government recognizes “common law” relationships for income tax purposes, but the Alberta government does not.

In Alberta, the *Adult Interdependent Relationships Act* creates a specific type of relationship, called an **adult interdependent relationship** (AIR). This term is used instead of common law.

What is an adult interdependent relationship?

An adult interdependent relationship can exist in three situations:

1. Two people have signed an Adult Interdependent Partner Agreement. (If two people are related by blood or adoption, they must sign this agreement to be considered adult interdependent partners.)
2. Two people have lived together in a relationship of interdependence for three years or more.
3. Two people live together in a relationship of interdependence and have a child together, by birth or adoption.

A “relationship of interdependence” exists where two people:

- share one another's lives; and
- are emotionally committed to one another; and
- function as an economic and domestic unit.

An **adult interdependent relationship** is a term unique to Alberta for relationships outside of marriage and governed by Alberta's *Adult Interdependent Relationships Act*.

An **Adult Interdependent Partner Agreement** must be in a specific format set out by law.

The form of the agreement can be found by visiting http://www.qp.alberta.ca/Laws_Online.cfm, and searching for “Adult Interdependent Partner Agreement Regulation.”

You can view the agreement in PDF or HTML formats.

To decide if two people “function as an economic and domestic unit”, the Act says that all of the circumstances of the relationship must be looked at. The Act also lists some specific factors that the court will consider. The factors are:

- whether the couple has a conjugal (sexual) relationship;
- how exclusive the relationship is (for example, whether each person has conjugal relationships with others);
- how the couple usually acts and conducts themselves regarding household activities and living arrangements (for example, whether they share rooms or chores);
- the extent to which the couple portrays to others that they are an economic and domestic unit (for example, whether they introduce themselves to others as a ‘couple’);
- the extent to which the couple formalizes their legal obligations, intentions and responsibilities toward one another (for example, whether they have completed an Adult Interdependent Partner Agreement or made provision for each other in their Wills);
- the extent to which direct and indirect contributions have been made to each other or for their mutual well-being (for example, payments into joint bank accounts or providing health benefits for each other);
- the extent to which they financially depend on each other;
- how the couple cares for and supports any children;
- whether the couple has bought, owns, or uses property together.

These are all just factors a judge could take into account when deciding if two people are in an adult interdependent relationship. They are not absolute requirements. For example, an adult interdependent relationship does not have to be conjugal (sexual). It can be platonic (between friends or relatives), but it is more likely to be an adult interdependent relationship if it is conjugal.

The partners in an adult interdependent relationship are **adult interdependent partners** (AIPs).

What is the significance of being in an adult interdependent relationship?

Partners who are recognized as being in an adult interdependent relationship may gain the rights, benefits and responsibilities that come from other laws. Those rights, benefits and responsibilities are similar to – and, in most cases, the same as – those of married couples.

For example, Alberta's *Family Law Act* allows adult interdependent partners to apply for partner support where the relationship has broken down. An adult interdependent partner is also a “dependent” for the purposes of the *Wills and Succession Act*, meaning that a surviving partner can apply for maintenance and support from the estate if the deceased does not make adequate provisions for them in the Will or on intestacy (where the deceased dies without a Will).

For more information on AIRs, see the following CPLEA resources:

Living Together Booklet

<http://www.cplea.ca/LivingTogetherAIRS>

FAQs on Adult Interdependent Relationships

<https://www.law-faqs.org/alberta-faqs/family-law/adult-interdependent-relationships/>

Cohabitation Agreements

A good way to protect your property if you move in together is to have a co-habitation agreement. This agreement can include terms about:

- who is responsible for paying rent, household bills, holidays, and contributing to savings or holiday accounts;
- who owns what property,
- how property will be divided if you separate; and
- your support obligations if you separate.

You need a lawyer to write your cohabitation agreement. Your lawyer will explain how your agreement will affect your rights and responsibilities. Each partner will need to talk to their own lawyer before signing the agreement.

You can make a cohabitation agreement if you are already living together but there may be some complications if you already have joint property. Consult your lawyer.

Division of Property

If you and your partner buy something together, such as furniture or a car, you both own it. If you buy something on your own, you own it. Who owns what usually only becomes an issue if the relationship ends.

How property is divided when a relationship ends is complicated right now because the law will be changing on January 1, 2020. On that day, the *Matrimonial Property Act* becomes the *Family Property Act*.

Until December 31, 2019

How your property is divided depends on whether you have a cohabitation agreement.

If you have a valid, written cohabitation agreement that deals with property division, your property will be divided the way you both agreed to in the agreement.

If you do not have a cohabitation agreement, you can agree with your partner on how to divide the property. If you cannot agree and one partner does not think it would be fair to divide property based on who legally owns it, that partner can ask a court to order that property be divided some other way. This claim is based on the **law of unjust enrichment**. Remember, court proceedings take time and are expensive.

The law of unjust enrichment

This legal principle says that, without a valid reason, one person should not be made richer by contributions the other person made. It comes from past court decisions, rather than from legislation. It is based on fairness and figuring out contributions, which requires a lot of evidence. This can be extremely hard for longer relationships or situations where one partner paid for some things and the other partner paid for other things.

Beginning January 1, 2020

If you have a valid cohabitation agreement that deals with property division, your property will be divided the way you both agreed to in the agreement.

If you do not have a valid cohabitation agreement that deals with property division **and** you are not adult interdependent partners, then the law of unjust enrichment applies. (See the information in the previous section.)

If you do not have a valid, written cohabitation agreement that deals with property division **and** you are adult interdependent partners, then you will be treated the same way as married couples. There will be a legal presumption that property should be divided equally. If a couple lives together first and then gets married, this presumption will apply to all property bought from the time the relationship of interdependence began (not just from when the couple got married).

For more information on dividing property, see CPLEA's booklet in the Families and the Law series called **Property Division for Married and Unmarried Couples**

To create a cohabitation agreement, you should see a lawyer. If you do know any lawyers, you can call the **Law Society of Alberta's Lawyer Referral Service** at 1.800.661.1095

Estate Planning

Your existing Will, Enduring Power of Attorney or Personal Directive are likely still valid even if you enter into a new relationship (dating, marriage or adult interdependent relationship). You may have to change them if your new adult interdependent partner or spouse was a witness when you signed one or more of these documents:

- If your adult interdependent partner or spouse was not a witness to your Will or Personal Directive or Power of Attorney, then the document is still valid. It does not change because you enter into an adult interdependent relationship or get married.
- If your adult interdependent partner or spouse was a witness to your Personal Directive or Power of Attorney, then the document is no longer valid. You should make a new Personal Directive or Power of Attorney and have someone else witness it.
- If your adult interdependent partner or spouse was a witness to your Will, then the Will is still valid but any gifts to that person are invalid. If you want your partner or spouse to be a beneficiary of your estate, you should make a new Will and have someone else witness it.

For more information on planning for the future,
see the following CPLEA booklets:

Making a Will,
Making an Enduring Power of Attorney,
and **Making a Personal Directive.**

If you want your new partner or spouse to have something of yours when you die, you will likely want to update your Will. If you have an adult interdependent partner or spouse who depends on you for support, they could challenge your Will in court after your death if you leave them nothing.

You may want to change your Will but find that your children from another relationship do not want you to. If you are mentally competent, you do not need anyone's permission to change your Will unless it is a Mutual Will. A Mutual Will has a clause that specifically says that neither spouse will change the Will if they become widowed. Your Will won't have that clause unless you specifically directed your lawyer to include it when the Wills were prepared. If you have a mutual will and your former spouse has died, you should see a lawyer

If you have enough assets, there are several ways to organize your estate to make sure your new partner or spouse is taken care of when you die while also leaving your children an inheritance. Those options include:

1. leaving part of your estate to your children and part to your new spouse or partner; or
2. leaving some, or all, of your estate in a trust that would last for the lifetime of your new spouse or partner. Depending on how you set up the trust, you could choose to provide money for the spouse or partner to live on, while keeping the capital of the estate intact. On the death of your new spouse or partner, the capital would be divided among your children; or
3. transferring some assets to your children while you are still alive, unless you still need those assets yourself.

You should consult a lawyer to discuss all of the options and tax implications and to determine what is best in your particular situation. Be very open with your lawyer about your concerns, fears and goals. Often there are ways of addressing all of these issues, but only if you tell your lawyer about them.

Elder Abuse

Elder abuse is any action or lack of action done (or not done) on purpose that harms an older adult. The harm can be physical, emotional, sexual, psychological, financial, or some combination of these things. Neglecting an older adult by not doing something can be as abusive as actually hitting or hurting the older adult.

Senior's Abuse Support Line

780.454.8888
(24 Hours)

Alberta Family Violence Information Line

For resource information in your area.
Toll Free: 780.310.1818
(24 Hours)

Research shows that older people are more likely to be abused by someone they are close to rather than by a stranger. Often people are ashamed to speak out or ask for help if their partner or spouse is abusing them. Sometimes they think that no one will take the abuse seriously because it is happening in a relationship. **All abuse is wrong.**

If someone is abusing you, there are several things you can do to get help:

- If you feel safe doing so, talk to the abuser about your feelings.
- Talk to your doctor, counsellor, or someone in your faith community.
- Talk to a close friend or a family member.
- Leave the abusive situation and go somewhere safe, such as the home of a family member or friend, a shelter or a transition house, or a hotel.
- If you have been harmed or threatened, or you are afraid, call your local police, tribal police, or the RCMP. If it is an emergency, call 911.

If you believe someone is abusing your loved one:

- Talk to them. Let them know that you are available to help.
- Learn more about the topic and what you can do to help.

For more information about elder abuse, visit CPLEA's **Older Adult Knowledge Network** website at www.oaknet.ca or review the **Elder Abuse** booklet at <https://www.cplea.ca/ElderAbuse.pdf>

You are required by law to report any suspicion of abuse by staff in publicly-funded care facilities in Alberta. You can report your suspicions by calling:

- the **Protection for Persons in Care** reporting line at 1.888.357.9339 (available Monday to Friday from 8:15am to 4:30pm); or
- the local police.

Resources

Government & Court Services

Government of Alberta

Services and information for seniors

<https://www.alberta.ca/senior-supports.aspx>

Information about marriage and other life events

<https://www.alberta.ca/life-events.aspx>

Alberta Supports

Help accessing more than 30 programs and 120 community services.

Toll-free: 1.877.644.9992

Government of Canada

Health information for seniors

<https://www.canada.ca/en/health-canada/services/healthy-living/your-health/seniors.html>

Royal Canadian Mounted Police

Seniors Guidebook to Safety and Security

<http://www.rcmp-grc.gc.ca/en/seniors-guidebook-safety-and-security>

Resources for Seniors

Protection for Persons in Care (PPC)

Report abuse of adults receiving care or support from publicly funded service providers.

Toll-free: 1.888.357.9339

<http://bit.ly/2Zw9ZjZ>

Seniors Association of Greater Edmonton (SAGE)

780.423.5510

www.MySage.ca

Kerby Centre (Calgary)

403.265.0661

<https://www.kerbycentre.com/>

Golden Circle Senior Resource Centre (Calgary)

403.343.6074

www.goldencircle.ca

Older Adult Knowledge Network

Legal information on Canadian law for older adults.

www.oaknet.ca

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This booklet is one of many publications produced by the Centre for Public Legal Education Alberta. All publications can be viewed and downloaded for free by visiting www.cplea.ca/publications or **you may order pre-printed publications to be sent to you by visiting www.cplea.ca/store**

Other publications related to this topic that may interest you include:

- Making a Will
- Making a Personal Directive
- Making an Enduring Power of Attorney
- Being a Personal Representative
- Being an Agent
- Being an Attorney Under an Enduring Power of Attorney
- General Powers of Attorney
- *Adult Guardianship and Trusteeship Act*
- *Elder Abuse*

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You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019