

## Coming to an Agreement Together

## Settling Issues out of Court

The purpose of this series of fact sheets is to explain the different processes you might consider to settle your family law issues out of court. This particular fact sheet offers information about **coming to an agreement together without using a lawyer**.



There are several options for coming to an agreement and only a few of them involve the court system. Whether you need to settle custody and access, support, or division of marital property, the best way to deal with family law issues is typically outside of the courtroom.

If possible, start by talking about your issues and trying to work out your differences. Even if you can only agree on some issues, this will save you time and money if you do have to go to court.

### Can we come to an agreement together without using a lawyer?

Yes, you can come to an agreement together without a lawyer. However, before you begin to negotiate an agreement, you should become informed and explore the possible outcomes.

Visit the Family Law NB website ([www.familylawnb.ca](http://www.familylawnb.ca)) where you

will find many resources on family law including a fact sheet on **Family Law Services in New Brunswick**. Consider talking to a lawyer about how the law applies to your specific situation.

Once you know more about your legal rights and obligations, you will be better prepared to negotiate an agreement with your former partner on each issue. If you would like the court to be able to enforce the agreement, it should be in writing, signed, witnessed and you should both have **independent legal advice**.

### What is independent legal advice?

Seeing your own lawyer before signing a separation agreement is called getting **independent legal advice**. If you do not get independent legal advice, you may not be aware of all of your rights and a court may not be able to

enforce your agreement. Your lawyer will explain how the agreement may affect you. If your lawyer advises you not to sign, that is not just a suggestion. It is a serious warning.



The same lawyer cannot advise both people involved.

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To learn more about Separation Agreements, see the pamphlet "Domestic Contracts" at [www.familylawnb.ca](http://www.familylawnb.ca).

Justice Canada ([www.justice.gc.ca](http://www.justice.gc.ca)) offers resources on 'parenting plans' such as:

- **Making Plans: A guide to parenting arrangements after separation or divorce,**
- **Parenting Plan Checklist** which highlights issues to consider, and
- **Parenting Plan Tool** which provides sample wording and clauses.

## What types of agreements can we make to settle our family law matters?

### Separation Agreements:

This is usually a written mutual agreement between spouses or former common-law partners who are separated. It is signed by both partners after getting independent legal advice.

The agreement can deal with issues such as spousal support, division of property, custody and child support. Separation agreements can be filed with the court for the purpose of enforcement of support. Anything you agree to about property, financial assets or support is not final or binding until a written agreement is signed. Do not sign the agreement unless you think it is fair to you and the children. If you sign it, you will probably have to live with it.

The court will usually accept a separation agreement unless it discovers that:

- one party was forced to sign the agreement;
- one party tried to defraud the other by making false statements or hiding assets;
- the agreement does not make appropriate provisions for child support; or
- the parties did not consult separate lawyers (get independent legal advice).

### Parental Agreements:

This is when parents agree on the time each will spend with the children and parenting strategies. Some aspects of a parental agreement may be included in a separation agreement.

Parental agreements can be very general, or they can be detailed

written agreements. They may even be verbal agreements based on routines that develop without much discussion. Routine is difficult to change through the courts as it becomes 'status quo.' Usually, the more conflict there is between parents, the more important it is to have a written parenting plan.



This is general information about the law and laws change from time to time. Anyone requiring advice on their specific situation should consult a lawyer. If you have questions on your options call the toll-free **Family Law Information Line** at:

**1-888-236-2444**

[info@familylawnb.ca](mailto:info@familylawnb.ca)



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