

Resources

See our other family violence materials (available in print and online) *Family Violence, Peace Bonds and Family Violence, Sexual Assault, Being a Witness in a family violence case, Child Discipline, and Elder Abuse*.

Victims' Services support victims of crime by providing information, support, and assistance as a case moves through the criminal justice system.

Head office: 1-888-470-0773

Dartmouth: 902-424-3307

Kentville: 1-800-565-1805

New Glasgow: 1-800-565-7912

Sydney: 1-800-565-0071

To apply for an Emergency Protection, call the Justice of The Peace Centre (1-866-816-6555).

Transition Houses provide residential and outreach services to abused women and their children. Call the Transition House Association of Nova Scotia (THANS) at 902-429-7287 or visit www.thans.ca.

Women's Centers provide a variety of services, such as advocacy, accompaniment, referrals, and information. There are eight Women's centers in Nova Scotia:

Tri-County, Yarmouth-902-742-0085

Antigonish Women's Resource Centre 902-863-6221

Sydney Every Woman's Centre 902-567-1212

Sheet Harbour-Lea Place 902-855-2668

New Glasgow-Pictou County Women's Centre 902-755-4647

Lunenburg-Second Story Women's Centre 902-543-1315

Cornwallis-The Women's Place Resource Centre 902-584-7195

Truro-Central Nova Women's Centre 902-895-4295

For an overview of issues and resources for abused women, see this guidebook (available online at the Nova Scotia Advisory Council on the status of women) www.gov.ns.ca/staw/pubs2006/MakingChanges4rev_2006.pdf. You can order a hard-copy by calling the Advisory Council tool free at 1-800-565-8662. Also: Visit our website to see "Safely on Your Way: Child Custody and Access Information for Women Leaving Abusive Relationships and Their Service Providers."

LEGALinformation
SOCIETY OF NOVA SCOTIA
Start Here. Learn More™

5523B Young Street,
Halifax, Nova Scotia, B3K 1Z7
www.legalinfo.org

Tel: Administration, publications and
Speakers' Bureau 902-454-2198

Tel: Legal Information Line and
Lawyer Referral Service 455-3135 or 1
-800-665-9779

Tel: Dial-a-law 1-902-420-1888
ISBN: 0-88648-381-6

1st Edition, March 2009

The Legal Information Society of Nova Scotia is a registered charity. If and when the time is right, please consider making a donation or bequest to enable LISNS to continue its work.

Created with the support from the
Department of Justice Canada.

Aussi disponible en Français

Family Violence/ Domestic Abuse

WHAT YOU NEED TO KNOW



The information in this brochure is mainly for adults who are being abused by a family member.

This brochure provides general information only. It is not meant to replace legal advice from a lawyer.

What is Abuse?

Physical – for example, slapping, choking or punching

Threats – to harm you or your property

Mental or emotional – constant criticism or insults

Sexual – any sexual activity without your consent such as kissing, forcing you to have sex or oral sex

Financial – refusing to give you money for groceries, not paying bills

Social – not letting you see your family or friends or embarrassing you in public.

Is abuse always a criminal offence?

No. Abuse is a criminal offence when it is assault as defined by the Criminal Code of Canada. This definition includes physical assault, sexual assault, and threats. There are different levels of assault depending on the violence used.

Simple assault (or "common assault") Examples: You are slapped, pushed, or threatened.

Assault with a weapon (or "assault causing bodily harm") Examples: You are beaten with an object like a bat or a coat hanger. Your bones are broken. You have obvious physical injuries.

Aggravated Assault Examples: Your life is put at risk. You are wounded, maimed, or disfigured. You have scars.

LEGALinformation
SOCIETY OF NOVA SCOTIA
Start Here. Learn More™

YOU HAVE QUESTIONS.
WE HAVE ANSWERS.



What can I do if I am being abused?

This will depend on your personal situation. Here are some options:

Talk to somebody you can trust.

You need to tell somebody. You might tell a friend, other family member, your doctor, your minister or other cleric, or call a transition house. If you are a child you might also tell a teacher, a friend's parent or someone at your school's health centre. There are also other suggestions in the Resources section at the end of this pamphlet.

See a doctor.

Visit your doctor or a hospital emergency room if you are injured. The doctor can record details of any injuries.

Leave.

If you decide to leave, you may be able to stay with family or friends, rent a new place, or go to a Transition house or other shelter. At the time, or as soon after as possible, talk to a lawyer about your rights to children and property.

Go to the police.

You can contact the police by calling 911 if you are assaulted or are in immediate danger, or by writing or calling the police to report the assault. Apply for an Emergency Protection Order or a Peace Bond.

What happens if I call the police?

In an emergency, the police will come to your home. Depending on what is happening, they could arrest your spouse or partner, and give him or her a warning. The police will arrest your spouse or partner if it is likely that the assault will continue, or happen again, if you've been hurt, or if your spouse has a weapon.

The police will take a written statement from all the parties involved, and any witnesses. The police will lay charges if there are grounds to believe your spouse committed an offence. They might lay charges even if you do not want them to.

The police will help you by giving you information about the help in your community and helping you get to a Transition House or other safe place. Following arrest, your spouse or partner may be released by the police if he or she signs an "undertaking," agreeing not to contact you in any way until the court has dealt with the situation. Under Nova Scotia law, the police must keep you informed about what happens to your spouse or partner if he or she is arrested for assault.

However, you may still have to take steps to stay safe if you think your spouse might contact you.

If you want the police to lay charges, and they do not, speak to a senior officer in charge or make a complaint to the city or town clerk or the Chief of Police. For the RCMP – Contact the Public Complaints Commission. You can lay charges yourself by going to the Provincial Court office and asking to see a Justice of the Peace (JP). The JP has to let you lay charges if you want to. If you lay charges, you will be responsible for taking the case through court, or you can hire a lawyer.

Can I withdraw the charges?

If you have laid the charges personally, you can withdraw them. If the police lay charges, only the Crown Attorney can withdraw them. The police must tell your spouse or partner that you cannot withdraw the charges.

Do I have to go to court?

If the police lay the charges, the Crown Attorney will present the evidence in court. He or she will probably summon you as a witness by sending you a subpoena (a piece of paper telling you to attend court). If you get a subpoena, you have to go to court or the judge might issue a warrant for your arrest. If you lay the charges and you do not come to court, the judge will dismiss the case. If you are scared to testify, talk to the police the Crown Attorney, Victims' Services, or a Transition House about your concerns.

If I decide to leave, can I take the children with me?

Until you have a custody order, both you and your spouse or partner have equal rights to have the children with you. Try to talk to a lawyer or a Transition House worker before you leave or as soon as possible after you leave. Whether or not you take the children with you, you will need to apply for custody of the children as quickly as possible.

Do not take your children out of the area you live in (the "jurisdiction") without talking to a lawyer – you could be charged with child abduction, even if you have a valid reason for leaving.

If you cannot take your children with you when you leave, you can still apply for custody or for access to your children. You can also apply to family court for support for you and your children.

What happens to our house?

Talk with a lawyer about your property rights, rights to support for yourself and the children, the division of other family assets such as RRSPs and pensions and family debts. Both spouses have a right to live in the matrimonial home. If you cannot agree about what happens to the house, you will have to go to court where a judge will decide. You cannot keep your spouse out of a matrimonial home without a court order (like a family court order, a peace bond, or an emergency protection order).

You can also talk to your lawyer about applying to the Nova Scotia Supreme Court or Supreme Court (Family Division) to get an "exclusive possession order." Your spouse has no right to enter a property you have rented

What will happen to my spouse (partner)?

If found guilty, he or she will be sentenced. Sentences depend upon the type of assault, previous convictions and other factors. He or she could be fined, sent to jail, be forced to make restitution, be placed on probation, or any combination of these penalties. He or she will usually also get a criminal record.



What can I take with me if I leave?

When you leave, you can take your personal items, such as clothes. If you take the children, you can take their personal items also. You should also take important documents such as court orders, marriage and birth certificates, etc. Ask your lawyer or Transition House what other documents you might need.

If you leave in an emergency, you might have to go back later to get these things. In this case, ask the police to go with you. It depends on the police officer. If the police come along, their role is to ensure that you and your spouse keep the peace—they cannot make decisions about who owns what. If you are married or in a Registered Domestic Partnership, you may have rights to family-owned property. If you are not married or in a Registered Domestic Partnership, you only have the right to remove anything that you owned before the relationship, or bought during the relationship.

Remember that the police cannot decide who owns what. If you call the police over disputed property, and you and your spouse or partner end up fighting over the property, the police could charge one or both of you with uttering threats or with assault.