



# Divorce and Family Violence

Family violence occurs when a person abuses someone in their family. It can happen to anyone—both children and adults.

Family violence can be words, acts or even not giving someone the care they need. It may be a single incident, or a recurring pattern of behaviour.

Family violence can also happen before, during or after a couple separates. People are often at higher risk of family violence soon after a separation.

**If you or someone you know is in immediate danger, call 9-1-1 or your local police.**

Changes to the *Divorce Act* will take effect on March 1, 2021. Some of these are changes intended to help parents, judges and others make safe and appropriate arrangements when there has been family violence.

## Family violence under the new *Divorce Act*

Family violence can take many forms and can harm people whether they

- directly experience it themselves
- see or hear it
- know it is happening

Under the new *Divorce Act*, family violence is any behaviour that is

- violent, or
- threatening, or
- a pattern of coercive and controlling behaviour, or
- behaviour that causes a family member to fear for their safety or the safety of another person

While many types of abuse are criminal offences, some non-criminal behaviours are still considered family violence under the *Divorce Act*.

Children can experience family violence in different ways, such as

- having violence and abuse directed at them
- seeing or hearing someone being violent towards a family member
- seeing a family member scared or injured

All of this is considered to be family violence and child abuse under the new *Divorce Act*.

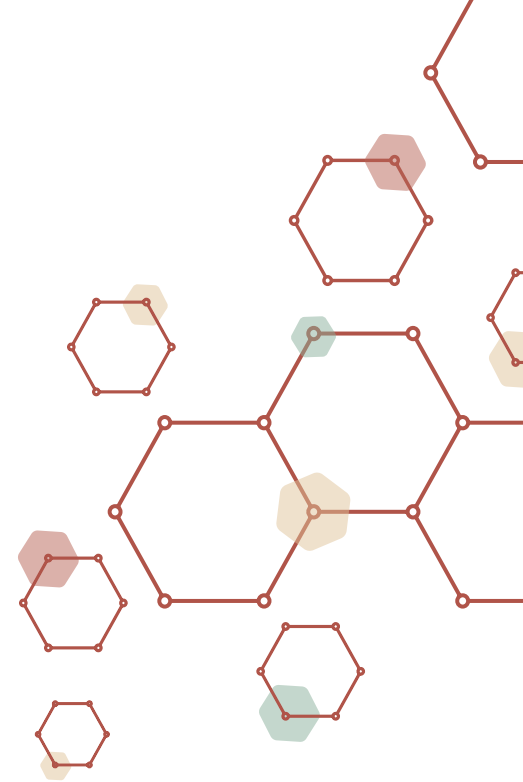
## Examples of family violence

Here are some examples of family violence under the new *Divorce Act*:

<b>Physical abuse</b>
Punching, slapping, kicking, shoving, dragging, choking, hair-pulling, biting, stabbing, locking someone in a confined space, holding or tying someone down
<b>Sexual abuse</b>
Touching someone sexually without their consent, forcing someone to have sex or to perform a sexual act, making someone watch pornography, touching a child sexually, encouraging a child to touch themselves sexually
<b>Threats to kill or injure another person</b>
Threatening to slap or punch someone, threatening to shoot someone
<b>Harassment and stalking</b>
Calling, emailing or texting someone over and over, following or watching someone's home or workplace, monitoring someone through apps, software or video cameras, tracking someone's activities on social media

\*When people act to protect themselves or someone else, their actions are not considered family violence.

<b>Failure to provide the necessities of life</b>
Not providing children with food, not letting someone get the medical care they need, taking away someone's wheelchair
<b>Psychological abuse</b>
Always yelling, criticizing or insulting someone; controlling someone's time, actions, clothes, hairstyle, not letting someone see friends or family, not letting someone practice their religion or culture, sharing intimate pictures of a person without their consent or threatening to do so, threatening a person with contacting immigration authorities to have them removed from the country
<b>Financial abuse</b>
Forcing someone to work or not letting them work, blocking someone from accessing their bank account, withholding money from someone or controlling how they spend it, incurring debts in someone's name without their knowledge
<b>Threats to kill or harm an animal or damage property</b>
Threatening to harm the family's pet, threatening to burn down the family home
<b>Actually killing or harming an animal or damaging property</b>



### Coercive and controlling family violence

Coercive and controlling family violence is a pattern of abusive behaviour people use to control or dominate another family member. The controlling family member might use a combination of emotional, psychological, sexual, financial or other forms of abuse, such as choosing a partner's clothing, controlling their money, or not letting them work or see friends. This abuse is also often combined with physical violence.

Coercive and controlling family violence is very dangerous. People who commit this type of abuse often continue or escalate the family violence after separation or divorce.



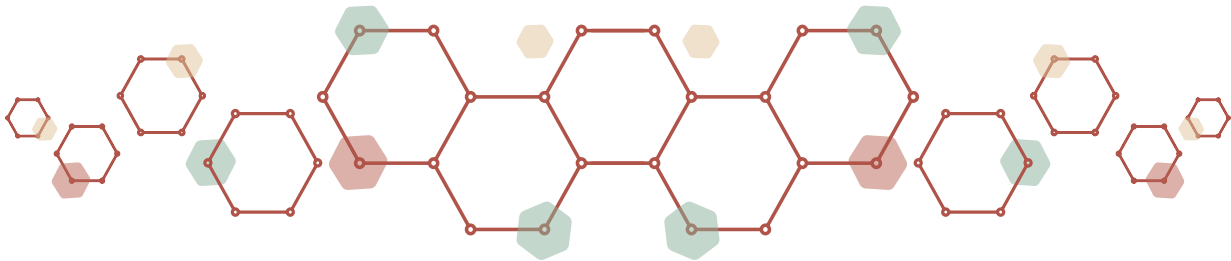
## Family violence and parenting arrangements for children

Children who live with family violence are at risk for both short- and long-term harm.

Even when the family violence is not directed at them, it is harmful for children to see or hear violence between other family members or to know that a family member is being abused.

Children who experience family violence can suffer physical and psychological harm. Family violence can change their brain development, potentially leading to the development of emotional, cognitive, behavioural and social problems that can last a long time.

In family law, all decisions about children are based on what is in the best interests of the child. The new *Divorce Act* has a list of factors for judges to consider when deciding what is in a child's best interests, and the most important factor is always a child's physical, emotional and psychological safety, security and well-being.



### Specific factors judges take into account

Judges must consider the impact of family violence on parenting arrangements for children when their parents divorce. This includes the ability and willingness of the person who committed the violence to care for the child and cooperate with the other parent.

The new *Divorce Act* lists factors that judges need to look at when considering the impact of family violence, such as

- the nature, seriousness and frequency of the abuse
- the risk of harm to the child
- whether the person engaging in the violence has taken any steps to prevent further violence and improve their parenting, such as completing a parenting course for people who have abused their children or partner

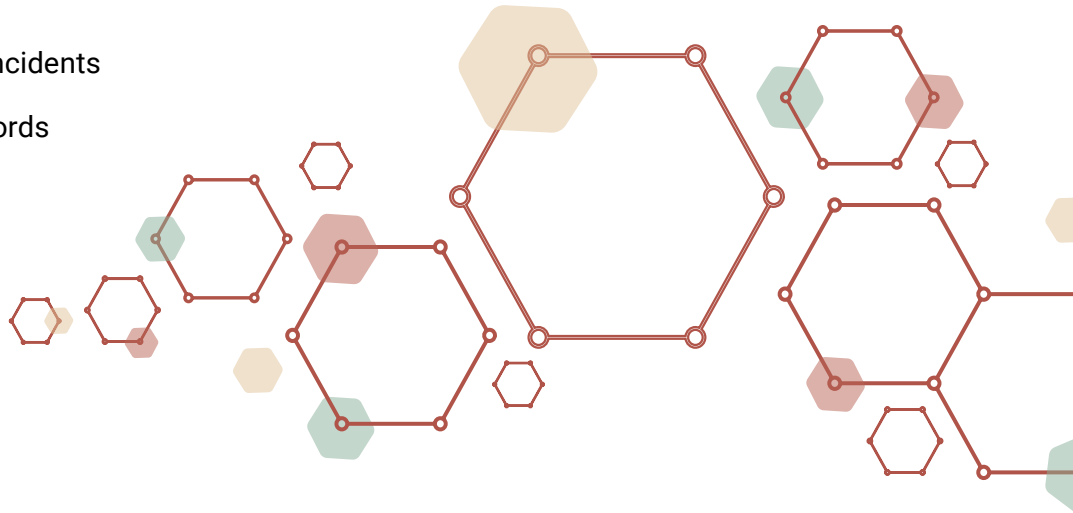
Judges must also consider any other court matters that are relevant to the safety, security and well-being of the child. This could include

- criminal convictions for assaulting a child
- child protection orders relating to a child
- criminal convictions for a crime against another family member

## Evidence of family violence

For a judge to take family violence into account, there must be proof of what happened. Coming up with evidence can be difficult because family violence often happens in private. Here are some examples of evidence:

- 9-1-1 calls
- written statements or testimony in court from people who have experienced, seen, or heard the violence, or who have seen the effects of the abuse
- photos of injuries
- recordings of abusive incidents
- hospital or medical records



## Families involved in different parts of the justice system

Families sometimes become involved with different courts at the same time. This is often true in cases of family violence, when the criminal justice system, the child protection system, and the family justice system may be involved.

These situations can be very challenging. For example, if a family court does not know about a criminal order saying there can be no contact between the parents, the judge might make a conflicting parenting order. This can make it hard or impossible to follow both orders and can create safety risks.

To help deal with this, the new *Divorce Act* says that judges have to take into account whether there are any current or pending civil protection, child protection, or criminal proceedings or orders related to the divorcing couple.

If you are divorced or divorcing and asking for a court order for parenting, child support or spousal support, you will need to tell the court about any criminal or child protection cases or orders that involve you or your former spouse, or about any restraining or protection orders against one of you.

## Getting help with family violence

**If you or someone you know is in immediate danger, call 9-1-1 or your local police.**

Many people and organizations can help you if you are dealing with family violence. For example, you can talk to a lawyer, doctor, social worker, or counsellor. You can also get help from victim services, community organizations, support groups, police, help lines, shelters or transition houses near you.

For more information about family violence and getting help, please see these resources on the Department of Justice Canada website:

- [Family Violence](#)
- [Get help with family violence](#)
- [Abuse is Wrong](#)
- [Abuse is Wrong in any Language](#)
- [Abuse Is Wrong In Any Culture: Inuit](#)
- [Abuse Is Wrong In Any Culture: for First Nations and Métis people](#)
- [Child Abuse is Wrong: What Can I Do?](#)
- [Find victim services near you](#)
- [Family Justice Services](#)