

Separation

The basics on what you need to know if you're considering separation.

Separation is the ending of an intimate partner relationship, which includes the ending of a marriage or de facto relationship.

What does it mean to be separated?

The decision to separate can be made by one party in the relationship (it doesn't have to be mutual), but the decision to end the relationship does need to be communicated to the other party.

Separation is different from divorce

These terms are sometimes confused as they are used interchangeably. Separation refers to when your relationship ends, or your 'break up'. Divorce is the legal end of a marriage (dissolution of marriage). It is a formal recognition that the marriage has ended. A divorce alters your legal relationship status and is required if you wish to remarry.

How and when to announce separation

The key is, there is no 'right' time. The length of time between considering separating from your partner and taking action is short for some, and long for others. Whether you tell your partner and others in your life in a discussion or in writing is up to you and will depend on your circumstances (especially if domestic or family violence is a consideration).

The family's living arrangements

It is possible to be separated, but live under the same roof (as long as you are leading separate lives and it is safe for you, your children and your pets). To be able to apply for divorce, you must be able to demonstrate to the Court that you been separated for 12 months, and the relationship has irretrievably broken down. This can be more difficult without physically separating (where you begin living in different houses).

Other things to consider:

- Your financial situation: take a good look at your budget to get a handle on what options you have given your financial position.
- If you are a homeowner or renter: both parties are legally entitled to live in the family home where it is safe to do so. Think about the suitability of this arrangement in your situation in the short, medium and long term.
- The emotional environment: consider how you feel about staying in the home together and if it is sustainable. Often during an emotional time people benefit from time and space, especially if there is conflict. Discussing this decision with a counsellor and a family lawyer can help clear up any questions or worries.

Collecting important documents

It can take time to find the documents needed to finalise arrangements for your children, property and finances after you've separated. Key documents include marriage certificate, birth certificates, personal identification documents and mortgage documents and statements.

Protect your safety

Unfortunately, separation is a time where the risk of family violence is increased. If you have concerns about this, develop a separation safety plan. This might include: packing an emergency suitcase, keeping your devices and passwords secure, obtaining copies of important documents, obtaining emergency funds to assist your children in the event of a domestic violence crisis, or seeking a family violence order (also known as apprehended domestic violence or restraining orders).

Crisis helplines

DVCS (ACT only): 02 6280 0900

1800RESPECT: 1800 737 732

Lifeline: 13 11 14

Kids Helpline: 1800 551 880

Beyond Blue: 1300 22 4636

Parentline ACT: 02 6287 3833

Protect your privacy

Emotions can run high during separation, and you may want to ensure that your messages, emails and accounts are protected. Turning off location settings on devices can also ensure your privacy and safety. If experiencing family violence, seek support to manage risks to you when doing so.

Protect your finances

You can consider contacting your bank to make enquiries about the protection of joint assets, loans and mortgages. If needed and appropriate for your situation, financial hardship arrangements can also be put in place to reduce money stress while you transition to separated life. You can also start to make a list of everything that you and your partner own separately and together, so that when it comes to deciding who gets what, an inventory is ready.

Why get legal support?

A lawyer will do any or all of these things:

- explain your rights and entitlements
- explain the legal processes that apply to your situation and recommend which one/s fit best
- help you to understand legal documents and to complete them
- advocate for you and represent you both in and out of Court
- help you to apply for assistance from legal aid (if you're eligible)
- give you an opinion, based on legislation, case law knowledge and their experience about what you should do next, the likely outcomes and strength of your case.

Unless you can confidently do all of these things yourself, it is worth your time and resources to chat with a family lawyer. This can help you avoid potentially costly and damaging situations for your children or finances

Seek individual lawyers

Remember that even if your separation is amicable, you and your partner cannot see the same lawyer.

After more detail?

Our free guide to separation tells you in more detail what you need to know if you're considering separation, including what the next steps and options are.

Visit <https://parkercolescurtis.com.au/separation-guide> to access the free guide.



We're here for you



During relationship change or conflict, people can feel uncertain, stressed or overwhelmed. With a mix of compassion, skill and life experience, we cut through the lawyer-speak to clearly explain your options. With legal guidance and support we empower you to recreate your life.

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