

FAMILY LAW AND YOU

The breakup of a relationship is extraordinarily difficult on you, both emotionally and financially, but grown ups and children alike can and do survive separation and divorce. The legal issues that arise at this time are complex and important, involving choices and decisions.

The selection of a lawyer is one of the most important decisions you will make. Who you choose can powerfully effect how your divorce moves forward. We recommend that you take your time to find the right lawyer for you. We encourage our clients to interview us to determine if we are the right fit for them. Your interview of us is complimentary.

Some couples resolve their divorce issues without a lawyer or any other professional for that matter. Others engage in drawn-out courtroom battles that add to the emotional and financial costs of divorce. Most can find their needs met between the two ends of this spectrum.

There are several choices to consider when deciding how you want your divorce issues to be resolved:

1. **Minimum legal involvement** – You manage your divorce making use of a lawyer on an “as needed” basis for help in drafting agreements and other documents;
2. **Mediation** – A mediator is someone who remains neutral and meets with both parties to assist them in reaching their own agreement. Mediators can be lawyers, mental health professionals or anyone else with an interest in mediation. Mediators do not give legal advice, and consequently, retaining your own lawyer is advisable;
3. **Collaborative Law** – Several lawyers in Nova Scotia have been specially trained to advise and assist in negotiating an agreement on all issues. Each party retains his or her own trained collaborative lawyer to look after his or her interests. In this process, the lawyers cannot go to court. Settlement is the only agenda. All decisions are made by the parties. The lawyers facilitate the process and generally prepare the necessary documents;
4. **Adversarial Approach** – Each party hires a lawyer. The lawyer represents you and takes instructions from you. The lawyer’s job is to give you sound legal advice. The lawyer advocates for you and you alone, whether it be to negotiate a settlement on your behalf or to litigate at trial;
5. **Arbitration or binding Settlement Pre-Trials** – Parties may choose a private arbitrator who will be given the power to make certain decisions for them as an alternative to taking their case into the public court system. Some judges will

agree to make a decision without the necessity of a trial if both parties agree to participate in a binding Settlement Pre-Trial.

You should ask yourself, “What is the best choice for me?” Consider these questions in assisting you in your decision as to which choice is best for you. Are you and your partner likely to approach the issues civilly and respectfully? Is it important for you to keep open the possibility of future friendship with your partner? Do you have children and will you be co-parenting with your partner? Do you and your partner have the same circle of friends or extended family in common that you both want to stay connected to? Do you take personal responsibility for handling conflicts with integrity? Do you want your case to be private and not on the public record? Do you want to make your own decisions as to what is best for your family or will it be necessary to have some other person, such as a judge, to make the decisions for you?

Once you have considered your particular situation and the choices available to you, you will most likely have questions with respect to your rights and obligations as a spouse and a parent.

In our experience, most couples focus on two issues:

1. Children; and
2. Money.

Generally speaking on the issue of children, the law is clear that the children’s best interests are paramount. Children have a right to have maximum contact with each of their parents.

On the issue of spousal support, the law requires full disclosure with respect to the marital background and the financial roles played throughout the marriage. For example, if one spouse was the breadwinner and the other spouse was a stay-at-home parent, it is likely that spousal support will be an issue. Spousal support is based on entitlement. Once entitlement has been established, there are two remaining issues, duration and quantum. Spousal support is based on ability to pay, on the one hand, and need on the other hand.

On the issue of child support, the Federal *Child Support Guidelines* set out the criteria in determining both the base amount of child support and contribution to extraordinary expenses. Child support may be straightforward in situations where the payor spouse is an employee. It may be quite complex, if the payor spouse is a shareholder in a company.

On the issue of division of assets and debts, generally the law is clear that assets are divided equally unless the party claiming an unequal division in his or her favor proves that an unequal division would be harsh and unconscionable.

The foregoing sets out the primary issues separating spouses must resolve, however, there can be a multitude of other issues from interim suit costs to a valuation of business assets. You will want to ensure that you have been properly advised on all of the issues and know all of your choices before committing and making a decision.

FAMILY LAW AND US

At Boyne Clarke we use a team approach, involving partners, associates, associated counsel, paralegals and legal assistants, as their participation is available, to facilitate highest-quality, efficient and most cost-effective representation of our clients.

We have access to highly specialized computer programs to assist us in the analysis of the issues.

We maintain an inventory of complex documents which we adapt for individual cases. If we utilize such a document in your case you will only be charged for the time expended to tailor the document to meet your specific needs.

We have a Credit Manager who does not bill for his time. It is important to discuss all of your financial matters with him. We bill on a monthly basis so you have a clear understanding of what costs are being incurred.

Our role is to advise, provide legal counseling, prepare documents, negotiate, mediate and finally to litigate when necessary.

We recognize that at the time of separation, emotions run high. Our duty to you is to provide you with sound legal advice every step of the way.

Our Family Law Practice Group has a combined total of 49 years of family law experience. We have paralegals and both junior and senior family law experts with their hourly rates based on their respective years of experience. One of our senior family law experts is a trained collaborative family lawyer. Our lawyers specialize primarily in the area of family law and regularly attend Continuing Legal Education programs to ensure they are current in the law.

FAMILY LAW AND OTHERS

At Boyne Clarke we link closely with other professionals to ensure a holistic approach to the issues involved in your separation. For example, it may be necessary to consult with an accountant on complicated financial matters, such as the calculation of child support where one party is a shareholder of a company and not an employee, or it may be necessary to consult with a mental health professional on matters involving parenting children post-separation.

We believe it is important for you to have the best information available, to know your choices and to make the right decisions for you to avoid the negative economic, social and emotional consequences of separation and divorce.

BOYNE CLARKE

Boyne Clarke is a full purpose law firm. It is the largest firm in Dartmouth and the fifth largest firm in Atlantic Canada.

Boyne Clarke's offices are located on the 6th, 7th and 8th floors of Belmont House, located on the corner of Alderney Drive and Ochterloney Street on the Dartmouth waterfront. The Law Courts Building and downtown Halifax are an easy 10-minute ferry ride away and rush hour traffic to and from Dartmouth is never a problem.

One of the firm's goals is to keep abreast with innovations in office technology. All personnel use computers which are connected on a Novell Network. All lawyers, assistants and clerks have unlimited 24 hour access to the Internet and utilize an office-wide voice mail system. Our systems are supported by two systems specialists.

The firm's law library fulfills most of our lawyers' research needs. The library contains complete sets of the most common case reports and in addition, a variety of legal publications to aid almost all legal research projects. The firm employs a law librarian and has computer access to Quicklaw, Maritime Law Book, and other data banks to assist lawyers and articled clerks with their legal research.

The administration of the firm is directly managed by a team led by our Director of Administration, Human Resources Manager, Systems Administrator and Accounting Manager.

At Boyne Clarke, emphasis is placed on providing our clients with legal services of the highest quality in a timely, effective and efficient manner. We strive to be innovative and creative in our advice to our clients and in our assistance in the attainment of their objectives.