

Women, family violence, and immigration

Family violence when a woman is sponsored by a spouse or partner



This information is for front-line workers and advocates working with women who:

- have been or are being sponsored by a spouse or partner, and
- have experienced family violence.

Many women are sponsored by a spouse or partner for permanent resident status. Most of the information in this fact sheet is about these “family class sponsorships” and what women who experience family violence may need to know about immigration law.

Immigration law in Canada is complicated. It is easy to make a serious mistake. It is important that a woman with concerns about her immigration status try to get legal help.

How can front-line workers help?

As a front-line worker, you may be able to help a woman whose status may be at risk by:

- letting her know when and where to get legal advice
- helping her gather evidence that she needs to show that she should be allowed to stay in Canada

If a woman is not a Canadian citizen, will she be forced to leave Canada if she leaves her spouse or partner?

It depends on her immigration status here.

Permanent resident status

In most cases, a woman with permanent resident status cannot lose that status or be forced to leave Canada only because she leaves an abusive relationship. This is true even if her abusive partner sponsored her application for permanent residence.

But immigration authorities may investigate if a sponsor tells them that:

- the relationship was not genuine, or
- the sponsored woman left out required information or included information that was not true in her application to [Citizenship and Immigration Canada](#) (CIC).

This could lead to the loss of her permanent resident status. A woman who is concerned about this possibility should get legal advice.

Conditional permanent resident status

In some cases, a woman's permanent resident status will be "conditional" for the first two years.

A sponsored woman will get conditional status if:

- she and her sponsor do not have a child in common, or
- the marriage or the relationship – whether conjugal partner or common-law partner – has existed for two years or less.

A woman with conditional permanent resident status is expected to live with her sponsor for two years from the date she receives that status.

If she separates during those two years, she risks losing her status and being forced to leave Canada. But if the reason for the separation is abuse or neglect, CIC could set aside the two-year condition. For more information, see **What if a woman with conditional permanent resident status separates because of abuse or neglect?** on [page 3](#).

A woman whose permanent resident status is conditional should get legal advice if she has left or is thinking about leaving her spouse or partner.

Sponsorship application in process

A woman already in Canada may have an application in process under a category known as the "Spouse or

Common-law Partner in Canada class". The woman and her sponsor make the application together and it is processed in Canada. It is sometimes called an "inland spousal sponsorship".

Applications for permanent residence take time to process. If a spouse or partner withdraws the sponsorship or the couple separate while the application is being processed, the woman will no longer be eligible for permanent resident status under the Spouse or Common-law Partner in Canada class and she may be forced to leave Canada.

If a woman who is being sponsored in this category leaves a relationship, or is thinking about leaving, she must get legal advice right away. She may still be able to pursue an application to remain in Canada on humanitarian and compassionate (H&C) grounds. For more information about this, see **Making a humanitarian and compassionate (H&C) application** in this series.

Other types of status or no status

Many women are in Canada without permanent resident status. They may have temporary status. For example, they may have work or study permits, or they may have been allowed to enter Canada as visitors.

Some women may be here as refugee claimants. Others may have stayed in Canada after the expiry of a temporary status.

A woman with temporary or no status needs to get legal advice about her options if she wants to stay in Canada permanently.

A woman may not be sure of her immigration status in Canada and may need legal help to find out what it is.

A woman's abusive spouse or partner might threaten to have her deported from Canada if she reports the abuse. A spouse or partner does not have the right to have a woman deported. Only federal immigration authorities make the decision to deport someone.

What if a woman with conditional permanent resident status separates because of abuse or neglect?

CIC could decide that the condition that says a woman has to live with her sponsor for two years does not apply. But she will need to show that she separated from her sponsor because of abuse or neglect by:

- the sponsor, or
- a family member of the sponsor whether or not they live with the woman and her sponsor.

The abuse or neglect could be aimed at:

- the sponsored woman,
- a child of the woman or the sponsor, or
- someone else who usually lives in the household and is a family member of the woman or her sponsor.

A woman with conditional status who separates from her sponsor should get legal help. She will need to prove to CIC that the abuse or neglect took place, and that it led to the relationship breaking down.

What kind of abuse or neglect will a woman need to show?

Abuse can be physical, sexual, psychological, or financial. Below are some examples of types of abuse.

Physical abuse includes:

- hitting, punching, slapping, choking, burning, pushing or shoving in a way that could cause injury
- confining a woman or refusing to allow her contact with friends and family
- forcing a woman to take drugs or alcohol or do illegal things

Sexual abuse includes:

- forcing, coercing, threatening or manipulating a woman to take part in unwanted sexual activity

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- using physical force, weapons, or objects in sexual acts without a woman's consent
- involving other people in sexual activity without a woman's consent
- involving or suggesting the involvement in sexual activity of a child or of someone who is unable to give valid consent for a reason such as illness, the influence of alcohol or drugs, or intimidation or pressure

Psychological abuse includes:

- a pattern of controlling behaviour, such as insulting, bullying, humiliating, threatening, name-calling, yelling, blaming, shaming, ridiculing, disrespecting, or criticizing her
- controlling what a woman can do or not do
- threatening to commit suicide
- threatening to cause death or injury
- threatening to hurt or remove a woman's children
- using personal beliefs such as the abuser's interpretation of religious or cultural beliefs to manipulate, dominate, or control a woman

Financial abuse is aimed at keeping a woman dependent on her sponsor and can include:

- stealing a woman's money
- controlling finances or refusing to share money

- preventing a woman from working or going to school
- causing a woman to lose her job, for example, by making her miss work

Neglect means not providing things needed to survive, such as food, clothing, medical care, or shelter, or causing a risk of serious harm by not doing something.

How does a woman show that she separated because of abuse or neglect?

A woman with conditional permanent resident status who separates from her sponsor because of abuse or neglect must prove to CIC that:

- the woman and her sponsor lived together as a couple until the separation, and
- the abuse or neglect was the reason for the separation.

Evidence that the woman and her sponsor were living together until the separation could include:

- joint bank accounts or credit cards
- joint ownership of a house, joint rent receipts or utilities accounts
- mail addressed to the sponsor and the woman at the same address
- documents showing the same address for the sponsor and the woman, such as insurance policies, driver's licences

Evidence that the woman and her sponsor lived as a couple until the time of separation could include:

- sharing a bedroom
- having a sexual relationship that is exclusive
- taking part in social activities together
- being seen as a couple by friends, family members, schools, child care centres, doctors, or other people, organizations, or service providers

Evidence of abuse or neglect could include:

- police reports
- court documents – for example, documents showing charges laid, bail conditions, probation orders, peace bonds, victim impact statements
- letters from women's shelters or other services for women experiencing violence
- medical reports
- photographs
- copies of email messages or recordings of voicemail messages
- a sworn statement by the woman giving details of the abuse or neglect
- sworn statements from friends, family members, neighbours, or co-workers giving details of what they know about the abuse or neglect

Getting legal help

If a woman's stay in Canada may be at risk, she should get legal advice before she does anything. And if a woman or her children are being abused or neglected by her spouse or partner who has sponsored her or promised to sponsor her, she should get legal advice. There may be legal issues affecting her situation that she is not aware of. For example, she may be from a country that Canada is not sending people back to because of the human rights situation there.

She may need to speak to a family lawyer, especially if she has children. In some situations, if there is a court order under family law that deals with the children, her removal from Canada might go against the order.

A woman should also know that if she does not have immigration status in Canada and she contacts the police, they may decide to contact immigration authorities. The police database will show if there is an immigration warrant in her name.

For legal advice, a woman can contact a legal clinic or a lawyer. Community legal clinics give free legal advice to people with low incomes, but not all clinics deal with immigration issues. Student legal clinics in law schools in Toronto, Kingston, London, Ottawa, and Windsor also represent and assist people.

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To find a legal clinic, visit the Legal Aid Ontario (LAO) website at www.legalaid.on.ca or call Legal Aid Ontario at:

Toll-free: **1-800-668-8258**

Toronto area: **416-979-1446**

Toll-free TTY: **1-866-641-8867**

Toronto area TTY: **416-598-8867**

Legal Aid Ontario also offers a searchable directory of lawyers. A woman can search for a lawyer by area of law, location, and language at: www.legalaid.on.ca/en/getting/findingalawyer.asp.

Legal aid certificates

A **legal aid certificate** can pay for a lawyer's services. LAO will decide if a woman qualifies based on her income and legal issue.

Victims of family violence may be able to get a legal aid certificate on an emergency basis. It may be possible to apply and get the certificate on the same day.

Victims of family violence can also ask a women's shelter or community legal clinic to make a referral under LAO's Family Violence Authorization Program. Under this Program, victims of family violence may qualify for a free two-hour session with a lawyer. A woman who needs advice from a

family lawyer *and* an immigration lawyer can ask for both. If she needs a lawyer to represent her in legal proceedings, she will need to apply for a legal aid certificate.

Barbra Schlifer Commemorative Clinic

This organization provides free legal representation in family and immigration law, as well as counselling and language interpreter services for women who experience physical, sexual, or psychological abuse. They also give summary advice and advocacy in criminal law. They accept collect calls.

Toronto area: **416-323-9149**

Toronto area TTY: **416-323-1361**

www.schliferclinic.com

Law Society Referral Service

The Law Society Referral Service, operated by the Law Society of Upper Canada, can provide the name of a lawyer who will provide a free half-hour consultation. There is no charge for this referral service. They can also provide names of lawyers who accept legal aid.

Toll-free: **1-800-268-8326**

Toronto area: **416-947-3330**

www.lsuc.on.ca

Other community resources

Assaulted Women's Helpline

The Helpline provides crisis counselling and referrals to shelters, legal advice and other services 24 hours a day, 7 days a week, for women across Ontario. It is free and available in over 100 languages, including 17 Aboriginal languages.

There are 27 agencies across Ontario that provide transitional housing to abused women and their children funded by the Ministry of Community and Social Services. To access these services, contact the Assaulted Women's Helpline.

Toll-free: **1-866-863-0511**

Toronto area: **416-863-0511**

Toll-free TTY: **1-866-863-7868**

Toronto area TTY: **416-364-8762**

**#SAFE (#7233) Bell Mobility,
Rogers, Fido or Telus cell
phone**

www.awhl.org

Fem'aide

This helpline is for Francophone women in Ontario seeking support, referrals, and information on woman abuse, including sexual assault, available 24 hours a day, 7 days a week.

Toll-free: **1-877-336-2433**

Toll-free TTY: **1-866-860-7082**

www.femaide.ca

211 Ontario

This website is an online resource to help you find community and social services available across Ontario.

www.211ontario.ca

The 211 resource includes a 24-hour telephone referral service for all types of social services. It is available 24 hours a day, every day of the year, and in more than 150 languages.

Telephone: **211**

Other titles in the series:

- Humanitarian and compassionate (H&C) applications and refugee claims: how are they different?
- Making a humanitarian and compassionate (H&C) application

Related CLEO resources:

- Do you know a woman who is being abused? A Legal Rights Handbook
- refugee.cleo.on.ca

This publication contains general information. It is not a substitute for getting legal advice for your particular situation.

Produced by:

CLEO (Community Legal Education Ontario/
Éducation juridique communautaire Ontario)

With funding from:

Legal Aid Ontario
Department of Justice Canada

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January 2014



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Community Legal Education Ontario
Éducation juridique communautaire Ontario

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