

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

A woman who speaks **French** has the right to communicate in French with immigration authorities. If she is making an application to Immigration, Refugees & Citizenship Canada she has the right to apply in French. To find out more about her French language rights, she should contact a lawyer or a community legal clinic.

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.

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.

Permanent resident status

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 Immigration, Refugees and Citizenship Canada (IRCC).

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

A woman with permanent resident status may choose to start a new relationship after separating from her sponsor. But she cannot sponsor a new spouse or partner until 5 years after the date she became a permanent resident.

Conditional permanent resident status

Between October 2012 and April 2017, some sponsored women were given “conditional” permanent resident status. A woman with conditional permanent resident status was expected to live with her sponsor for

2 years from the date she received that status.

A woman who separated during those 2 years risked losing her status and being forced to leave Canada. But if she separated because of abuse or neglect, IRCC could set aside the 2-year condition.

In April, 2017, the government got rid of the condition that said a woman had to live with her sponsor for the 2 years. Since then, women get permanent resident status without the condition.

And women in Canada who had conditional permanent resident status now have **permanent resident status** without the condition.

In most cases, this applies even if a woman separated from her sponsor within the 2-year period. But this does not apply if the woman was ordered to leave Canada, and she:

- did not appeal the removal order, or
- appealed the removal order to the Immigration Appeal Division and lost her appeal.

A woman in one of those situations should get legal advice about her options.

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 leaves Canada while her application is being processed, she may not be able to come back. And her application will not be accepted if she is not living with her spouse or partner in 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.

She may also be able to apply for a Temporary Resident Permit.

Withdrawal of sponsorship

A sponsor can tell IRCC that they want to withdraw their sponsorship at any time before the application is decided. An abusive spouse or partner may tell IRCC that the relationship was not genuine or that the woman being sponsored has not been completely truthful in her application. IRCC can decide to investigate and this can lead to a woman being removed from Canada and barred from returning for 5 years.

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.

Temporary Resident Permit

A woman who is in an abusive relationship may also be able to apply for a Temporary Resident Permit.

A Temporary Resident Permit is a permit from IRCC to live in Canada for a certain period of time. There are special rules to help people in situations of family violence or abuse. And a Temporary Resident Permit issued because of family violence will be valid for at least 6 months. There is no fee to apply.

A woman who separates from her spouse or common-law partner can apply for a Temporary Resident Permit if all of the following are true:

- she has applied or wants to apply for permanent resident status in Canada
- she's being abused by her spouse or common-law partner
- she's been depending on the relationship with her spouse or partner for her application to be successful

Usually, if an application depends on a spouse or partner, this means that the spouse or partner has started or promised to start a sponsorship application. For example:

- a woman is waiting for a decision on an application for permanent residence based on a sponsorship by her spouse or partner
- a woman is waiting for her spouse or partner to begin an application

to sponsor her for permanent residence

- a woman's spouse or partner has withdrawn their application to sponsor her for permanent residence

A woman might also qualify for a Temporary Resident Permit because of family violence if she has made or was planning to make an H&C application.

A woman who gets a Temporary Resident Permit that is valid for 6 months or longer will qualify for OHIP coverage and can apply for a work permit or a study permit from IRCC.

Some people are not eligible to apply for a Temporary Resident Permit. For example, if a woman made an unsuccessful refugee claim and it's been less than a year since the final decision, she cannot apply for a Temporary Resident Permit.

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.

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**

Bell Relay Service: **1-800-855-0511**

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 2 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 may also give summary advice and advocate for women in criminal law cases. 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 is an online service that gives callers the name of a lawyer in their area who can give them a free consultation for up to 30 minutes. They can ask for a lawyer who speaks their language, or a lawyer who accepts Legal Aid certificates. A woman can also call the Referral Service on a crisis line if she is unable to use the online service – for example, if she is in custody, in a shelter, or in a remote community without access to the internet. This line is available from Monday to Friday, 9:00 a.m. to 5:00 p.m.

Crisis Line:

Toll-free: **1-855-947-5255**

Toronto area: **416-947-5255**

www.findlegalhelp.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 200 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**

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Notes:

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](#)
- [stepstojustice.ca](#) has step-by-step information about common legal problems, including family violence, immigration, and refugee law

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

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CLEO's Steps to Justice website has step-by-step information about common legal problems. Visit stepstojustice.ca.

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