

# Separation



FAMILY VIOLENCE LAW HELP

[www.familyviolencelaw.gov.au](http://www.familyviolencelaw.gov.au)

Separation is when you end a relationship. You can separate even if you stay living in the same house as your ex-partner. If you are experiencing domestic and family violence and thinking about separating, you can get legal advice about this.

## How do I separate?



You don't need your ex-partner's agreement or permission to separate. Usually separation starts when one person tells the other person they consider the relationship to be over and then stops behaving like a couple.

You do not have to apply to a court or fill in form to make your separation official. You can:

- write down the day you separated or ask a friend to do this
- let organisations know you have separated
- get legal advice about how separation affects you. For example - advice about dividing any property and about making arrangements for your children
- consider applying for child support if you have children living with you.

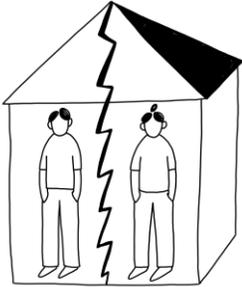
## Does one of us have to move out when we separate?



No. Some people stay living together but separated under one roof.

If you've experienced domestic and family violence, get legal advice about your options to help you decide if you want to leave or stay in the home.

### What is separation under one roof?



You and your ex-partner can stay living together but still be separated. This is called ‘separation under one roof’.

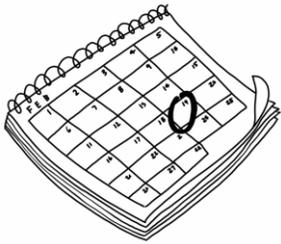
If you become separated under one roof, it can change your entitlements to things like Centrelink and Child Support so it’s important to let those agencies know.

If you are on a temporary visa, becoming separated under one roof may affect your visa. Get immigration advice.

You can get legal advice about separation under one roof.

### Things to think about when you separate

If you separate, you may want to think about things like:



- if you are married, you can apply for a divorce 12 months after you separated
- once you get a divorce, there are time-limits to start court action for a property settlement or spousal maintenance
- if you were in a de facto relationship there are time-limits to start court action for a property settlement or de facto maintenance
- if you have children and are on a pension or benefit, you need to apply for child support within 13 weeks of separating
- if you are on Centrelink, it can affect the type of payment you receive. Let Centrelink know within 14 days of separating. Call **13 24 68**
- if you are on a temporary visa, it may affect your visa - get immigration advice
- separating may affect your taxes
- separating may change who gets the things you own if you die. Think about updating your Will if you have one, or making one if you don’t. Also update your Superannuation nominations.

## What services need to know I've separated?



Consider updating your personal details with the services listed on this [Australia Post checklist](#).

It's also a good idea to change your passwords when you separate.

## I have experienced domestic and family violence, can I get a divorce as soon as I separate?



No. You must be separated from your husband or wife for at least 12 months before you can apply for a divorce.

While we have tried to make the information here as up-to-date and accurate as possible, the law is complex and always changing. All legal problems are different. You should see a lawyer to get advice about your problem. Legal Aid NSW, National Legal Aid and the Commonwealth Attorney-General's Department are not liable for any errors or omissions, or for any loss or damage that arises from any person who relies on any information on this factsheet. This factsheet was developed in 2019.



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