

PUBLICATION

The division of property for non-married couples is changing

Lauren D. Ghent

May 1, 2019

On January 1, 2020 new rules will be in place that will change how separation and division of property of non-married parties are handled. The changes apply to non-married parties so that when they separate and divide property that was acquired during the relationship, the property is subject to equal division—the same as if they were married.

It will be crucial to determine whether the two non-married parties are categorized as 'adult interdependent partners'. They are adult interdependent partners when they:

- have made a legal agreement to become adult interdependent partners (which means that the two persons share one another's lives, are emotionally committed to one another and function as an economic and domestic unit);
- lived together for a continuous period of three years or more; or
- lived together for less than three years but are in a relationship of some permanence, and there is a child of the relationship by either birth or adoption.

To determine whether two people are an economic and domestic unit, the following factors are taken into account:

- Whether or not the persons have a conjugal (sexual) relationship;
- The degree of exclusivity of the relationship (do they have interdependent relationships with others);
- The conduct and habits of the persons in respect of household activities (do they live together, share rooms, share chores, are they an economic and domestic unit).

Similar to married spouses, adult interdependent partners can contract out of the *Family Property Act* during their relationship and agree to divide their property in another manner in the event of a separation. They can do this with a Cohabitation Agreement which is legally enforceable if:

- it is in writing;
- each partner has met separately with their own lawyer to obtain independent legal advice; and,
- each partner signs an Acknowledgement with their lawyer that they are aware of the effect of the agreement and enter into it voluntarily.

In the New Year when the *Matrimonial Property Act* of Alberta becomes the *Family Property Act*, the law will apply to married and unmarried parties who meet the criteria of being 'adult interdependent partners' under the *Adult Interdependent Relationships Act*.

If you are in an adult interdependent relationship or even starting a new relationship moving in with your partner, contact anyone in the McLeod Law [Family Law group](#) to talk about how to protect your property in the event of a separation.