

# Separation – Answer Key

## Writing Assignment

The following is a list of the types of orders that spouses can seek from the court while they are separated. Read each one and give a brief explanation as to why it would be important for a spouse to seek that type of order.

### Order Respecting Period of Cohabitation

Important in order to decide if you and your partner are in a common-law relationship. The court can make a decision about the period of time you and your partner cohabited in a common-law relationship and the dates that cohabitation began and ended.

### Order of Custody and Access

*The Family Maintenance Act* allows the court make orders giving custody (the right to care and control of a child) to one parent alone or to both parents (joint custody). Orders of access set out the kind of contact a parent without custody will have.

### Order of Financial Support

The court can order one spouse to pay maintenance to support the other spouse or any children in that spouse's care.

### Order of Financial Disclosure

Both spouses have the right to request and receive financial information from each other, for example, tax returns and statements of earnings, assets and debts. This right exists both before and after separation. The Timely receipt of accurate and complete financial disclosure will ensure the parties who need support get the amount of support they are entitled to. It also ensures the entire process moves quickly and isn't bogged down with multiple requests for information which tie up the courts and increase the parties' costs.

### Order of Sole Occupancy

The court can order that one spouse alone will have the right to live in the family home. This kind of order prevents the other spouse from living in the home even if she or he owns it. An order like this is also important if there is a situation where one of the spouses cannot afford to find other living accommodations.

### Order of Postponement of Sale

Where the court gives a sole occupancy order to one spouse and the other spouse owns all or part of the home, the court can also postpone any rights the spouse that owns the home has to divide, rent, sell or otherwise dispose of the home.

## Order of Protection

Under *The Family Maintenance Act* the court can make orders prohibiting or restricting communication and contact between spouses or common-law partners. If at any time, the safety of a spouse or common-law partner or his or her children is threatened, the police should be contacted immediately for assistance. The court can also make protection and prevention orders under *The Domestic Violence and Stalking Act*.

## True or False Questions

1. When you are separated, you are no longer legally married.
  - False. You are still legally married even though you are separated.
  
2. You do not have to tell your spouse that you intend to physically separate in order to be considered living separate and apart.
  - False. Telling your spouse you intend to physically separate is one of the things you must do in order to be considered living separate and apart. Also, the spouses must be physically separated and one or both of them must have the intention to be physically separated. If you do not do these things, you may have trouble proving there has been a breakdown of the marriage and that could lead to a serious delay in divorce proceedings.
  
3. You do not have to go to court to separate.
  - True.