

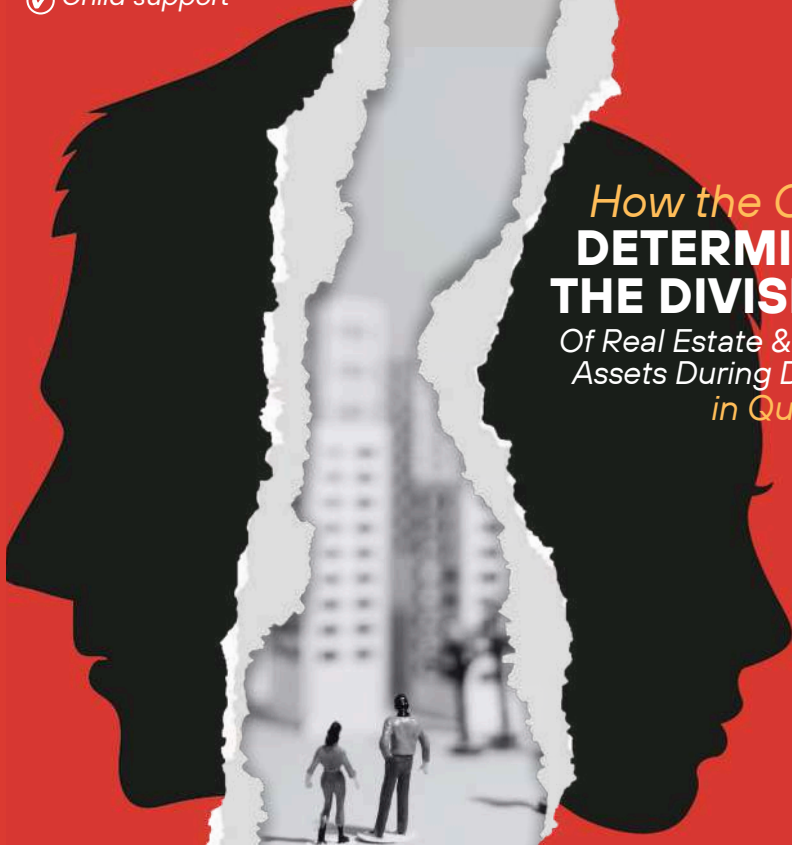
DIVORCE IN QUEBEC

Discussing:

- ✓ *Your real estate holdings*
- ✓ *Division of assets*
- ✓ *Spousal support*
- ✓ *Child support*

How the Court **DETERMINES THE DIVISION**

*Of Real Estate & Other
Assets During Divorce
in Quebec?*



01.

HOW DOES THE COURT DETERMINE

*A Division of Real Estate &
Other Assets during Divorce
in Quebec?*

In Quebec, the division of real estate and other assets during a divorce is governed by specific legal frameworks, primarily the family patrimony and the couple's matrimonial regime.

Here's how the court determines the division:



1.1 | FAMILY PATRIMONY

1.1.1 Definition:

The family patrimony includes specific types of property that are considered essential for family life. This typically consists of:

- The family home (including any vacation properties)
- Furniture and household items
- Vehicles used for family purposes
- Retirement savings and pensions accrued during the marriage

1.1.2 Equal Division:

Upon divorce, the net value of the family patrimony is usually divided equally between the spouses, regardless of who owns the property. This means that each spouse is entitled to half of the total value, which is calculated after accounting for any debts associated with these properties.

1.1.3 Calculation Process:

- Determine Market Value: First, establish the market value of all properties included in the family patrimony.
- Subtract Debts: Deduct any debts incurred to acquire or maintain these properties.
- Equal Share: The remaining net value is then divided equally between both spouses.

1.2 | MATRIMONIAL REGIME

1.2.1 Types of Regimes:

Types of Regimes: In addition to family patrimony, assets not included in this category fall under one of two matrimonial regimes:

- *Partnership of Acquests*: Each spouse retains ownership of their private property but shares in the value of property acquired during the marriage.
- *Separation as to Property*: Each spouse keeps their own property and is responsible for their own debts.

1.2.2 Division Rules:

For assets governed by a matrimonial regime:

- The division depends on the specific rules outlined in that regime.
- In a partnership of assets, spouses can claim a share of the acquired property upon divorce, while in separation as to property, there is no division unless otherwise agreed.

1.3

ADDITIONAL CONSIDERATIONS

1.3.1 Undue Hardship:

If one spouse can demonstrate undue hardship due to financial circumstances, this may influence how assets are divided.

1.3.2 Special Circumstances:

The court may also consider special needs or contributions made by either spouse during the marriage that could affect asset distribution.

Conclusion



In summary, Quebec courts determine the division of real estate and other assets during divorce by first assessing the family patrimony for equal division and then applying the rules of the applicable matrimonial regime for any remaining assets. This structured approach aims to ensure fairness and equity in asset distribution following a divorce.

02.

UNDERSTANDING DIVORCE IN QUEBEC:

A Comprehensive Guide

Divorce can be a complex and emotional process, especially in Quebec where specific legal frameworks govern the dissolution of marriage. This guide outlines ten essential considerations for anyone navigating divorce in this province.



2.1 | **LEGAL GROUNDS FOR DIVORCE**

2.1.1 Living Apart for at Least One Year:

In Quebec, one of the primary grounds for divorce is living separately for a minimum of one year. This separation can occur even if the spouses reside under the same roof, provided they demonstrate an intention to live apart through their actions and interactions.

2.1.2 Adultery:

Adultery is defined as engaging in sexual relations with someone other than one's spouse. Only the spouse who has been cheated on can file for divorce on these grounds, and forgiveness of the act negates this option.

2.1.3 Physical or Mental Cruelty:

This includes any form of physical harm or psychological abuse that makes cohabitation intolerable. The victim must be the one to file for divorce, and evidence must support claims of cruelty.

2.2 | **FINANCIAL CONSIDERATIONS**

2.2.1 Asset Division:

Quebec law mandates equitable division of marital assets. This process involves identifying and valuing all assets acquired during the marriage.

2.2.2 Debts:

Similar to assets, debts incurred during the marriage are also subject to division. It's crucial to address joint debts to prevent future financial complications.

2.2.3 Alimony:

Spousal support may be awarded based on various factors, including the length of the marriage and each spouse's financial situation. Courts assess eligibility and determine amounts accordingly.

2.2.4 Child Support:

Child support is calculated based on parents' incomes and custody arrangements. The objective is to ensure that children's needs are met post-divorce.

2.3 | CHILD CUSTODY AND SUPPORT

2.3.1 Custody Arrangements:

Quebec recognizes various custody types, including sole and joint custody. Courts consider the best interests of the child when making custody decisions.

2.3.2 Visitation Rights:

Non-custodial parents typically have visitation rights, which can be negotiated between parents or determined by the court if an agreement cannot be reached.

2.3.3 Financial Support for Children:

Child support obligations are legally binding and calculated using established guidelines that consider income and custody time.

2.4 | EMOTIONAL PREPAREDNESS

Divorce can take an emotional toll on individuals. Acknowledging feelings of grief, anger, or relief is essential. Seeking counselling or joining support groups can provide necessary emotional support during this challenging time.

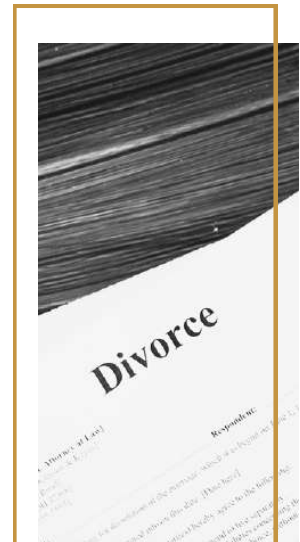
2.5 | DOCUMENTATION AND ORGANIZATION

2.5.1 Necessary Documents:

Essential documents include financial records, marriage certificates, and any agreements regarding child custody or support.

2.5.2 Streamlining the Process:

Keeping organized records can facilitate a smoother divorce process, reducing stress and potential delays.



2.6 | LEGAL REPRESENTATION

Hiring a family law lawyer can significantly impact the divorce process. A specialized lawyer helps navigate legal complexities, ensuring that rights are protected throughout proceedings.

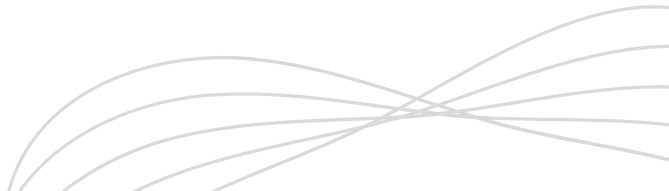
2.7 | IMPACT ON LIVING ARRANGEMENTS

Post-divorce living arrangements often change significantly. Individuals may need to find new housing or consider relocating, which can affect child custody arrangements and financial responsibilities.

2.8 | MEDIATION VS. LITIGATION

2.8.1 Mediation:

This alternative dispute resolution method allows couples to negotiate terms amicably with a mediator's assistance, often resulting in less conflict and lower costs.



2.8.2 Litigation:

When mediation fails or issues are too contentious, court litigation may be necessary. This process can be lengthy and costly but may be required to resolve disputes legally.

2.9 | FUTURE FINANCIAL PLANNING

Creating a post-divorce budget is crucial for financial stability. Understanding new financial obligations, such as child support or alimony, helps individuals plan effectively for their future.

2.10 | FUTURE FINANCIAL PLANNING

The divorce process in Quebec involves specific filing requirements and court procedures that must be followed meticulously to avoid delays. Familiarizing oneself with these processes can lead to a more efficient resolution.

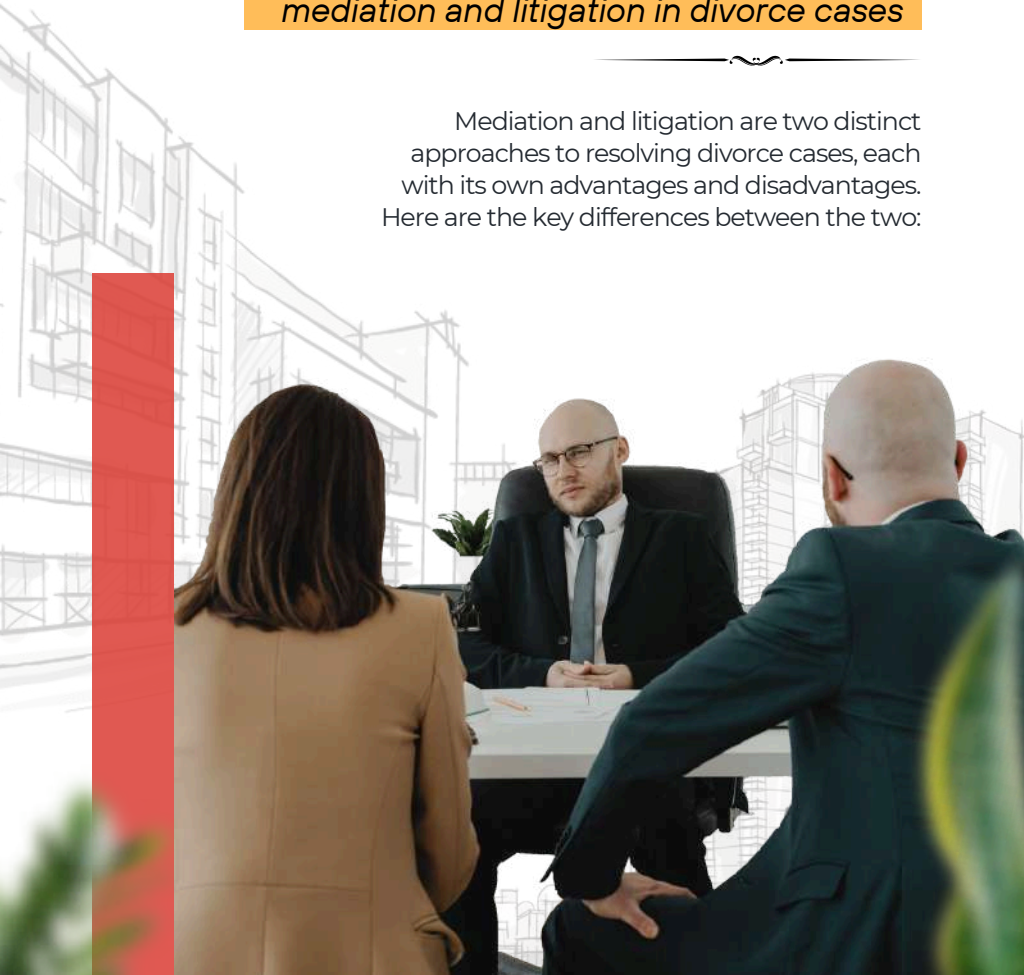
Navigating divorce in Quebec requires careful consideration of legal grounds, financial implications, emotional impacts, and procedural requirements. By understanding these ten considerations, individuals can better prepare themselves for the challenges ahead in their journey toward a new chapter in life.

03.

WHAT ARE THE KEY DIFFERENCES BETWEEN

mediation and litigation in divorce cases

Mediation and litigation are two distinct approaches to resolving divorce cases, each with its own advantages and disadvantages. Here are the key differences between the two:



3.1

MEDIATION

3.1.1 3.1.3

Nature of Process: **Cost & Time Efficiency:**

Mediation is a collaborative and non-adversarial process where a neutral mediator facilitates discussions between the parties to help them reach a mutually acceptable agreement. This method encourages open communication and cooperation, which can be particularly beneficial when children are involved.

Mediation is generally less expensive and quicker than litigation. The costs primarily involve the mediator's fee, which is typically shared between the parties. Because mediation avoids lengthy court procedures, it can significantly reduce legal fees and ancillary costs.

3.1.2

Control Over Outcome:

In mediation, the parties retain control over the decisions made regarding their divorce. They work together to create solutions tailored to their unique circumstances, leading to potentially more satisfying and sustainable agreements.

3.1.4

Confidentiality:

Discussions in mediation are confidential, meaning that anything said cannot be used against either party in court if mediation fails. This confidentiality fosters a more open dialogue.

3.1.5 Suitability:

Mediation is often suitable for couples who can communicate effectively and are willing to negotiate in good faith. However, it may not be appropriate in cases involving significant power imbalances or domestic violence.

3.2 | LITIGATION

3.2.1 Nature of Process:

Litigation involves taking the divorce case to court, where a judge makes legally binding decisions on contested issues such as custody, support, and property division. This process is inherently adversarial, with each party typically represented by attorneys who advocate for their interests.

3.2.2 Control Over Outcome:

In litigation, the parties lose control over the final decisions as these are made by a judge based on the evidence presented. This can lead to outcomes that may not fully satisfy either party.

3.2.3 Cost and Time Considerations:

Litigation tends to be more costly and time-consuming due to formal procedures, multiple court appearances, and legal arguments. The process can drag on for months or even years, depending on the complexity of the case and court schedules.

3.2.4 Public Record:

Unlike mediation, litigation is part of the public record, meaning that details of the case can become accessible to anyone. This lack of privacy may deter some individuals from pursuing litigation.

3.2.5 Suitability:

Litigation may be necessary in high conflict situations or when one party is unwilling to negotiate in good faith. It provides a structured environment where legal protections are enforced, making it essential for cases involving abuse or significant financial disputes.

Summary



Choosing between mediation and litigation depends on various factors including the level of conflict between parties, complexity of issues involved, and personal preferences regarding control over outcomes. Mediation offers a cooperative approach that can lead to quicker resolutions at lower costs, while litigation provides a more formal structure necessary for resolving contentious disputes through judicial oversight.

04.

WHICH APPROACH IS MORE COST EFFECTIVE

for Divorce Cases.

Mediation is generally considered more cost effective than litigation in divorce cases.

Here are the key points highlighting this difference:



4.1 | **COST COMPARISON**

4.1.1 Mediation Costs:

Mediation typically involves lower costs due to its collaborative nature. Parties share the mediator's fees, which are usually significantly less than the combined legal fees of hiring separate attorneys for litigation. Mediation can resolve disputes more quickly, further reducing overall expenses related to legal representation and court fees.

4.1.2 Litigation Costs:

Litigation can be extremely expensive, often reaching hundreds of thousands of dollars, especially in contentious cases. The costs accumulate from attorney fees, court fees, and the time spent in prolonged legal battles. Litigation involves multiple court appearances and extensive preparation, which can lead to high billable hours.

4.2 | **TIME EFFICIENCY**

4.2.1 Mediation:

The mediation process is usually faster, allowing couples to reach agreements without the delays associated with court schedules. This efficiency translates into lower costs as fewer hours are billed by attorneys.

4.2.2 Litigation:

Litigation can take months or even years to resolve due to court backlogs and procedural requirements. The longer the process drags on, the higher the legal costs incurred by both parties.

4.3 | EMOTIONAL AND RELATIONAL COSTS

4.3.1 Mediation:

Mediation tends to foster a more amicable environment, which can reduce emotional strain and lead to better post divorce relationships. This collaborative approach can save on potential future legal costs related to ongoing disputes.

4.3.2 Litigation:

The adversarial nature of litigation often exacerbates conflict between parties, potentially leading to further disputes and additional legal expenses down the line.

Conclusion



Overall, mediation is frequently seen as a more cost-effective approach for divorce cases compared to litigation, primarily due to lower fees, faster resolutions, and a more cooperative atmosphere that can mitigate future conflicts.

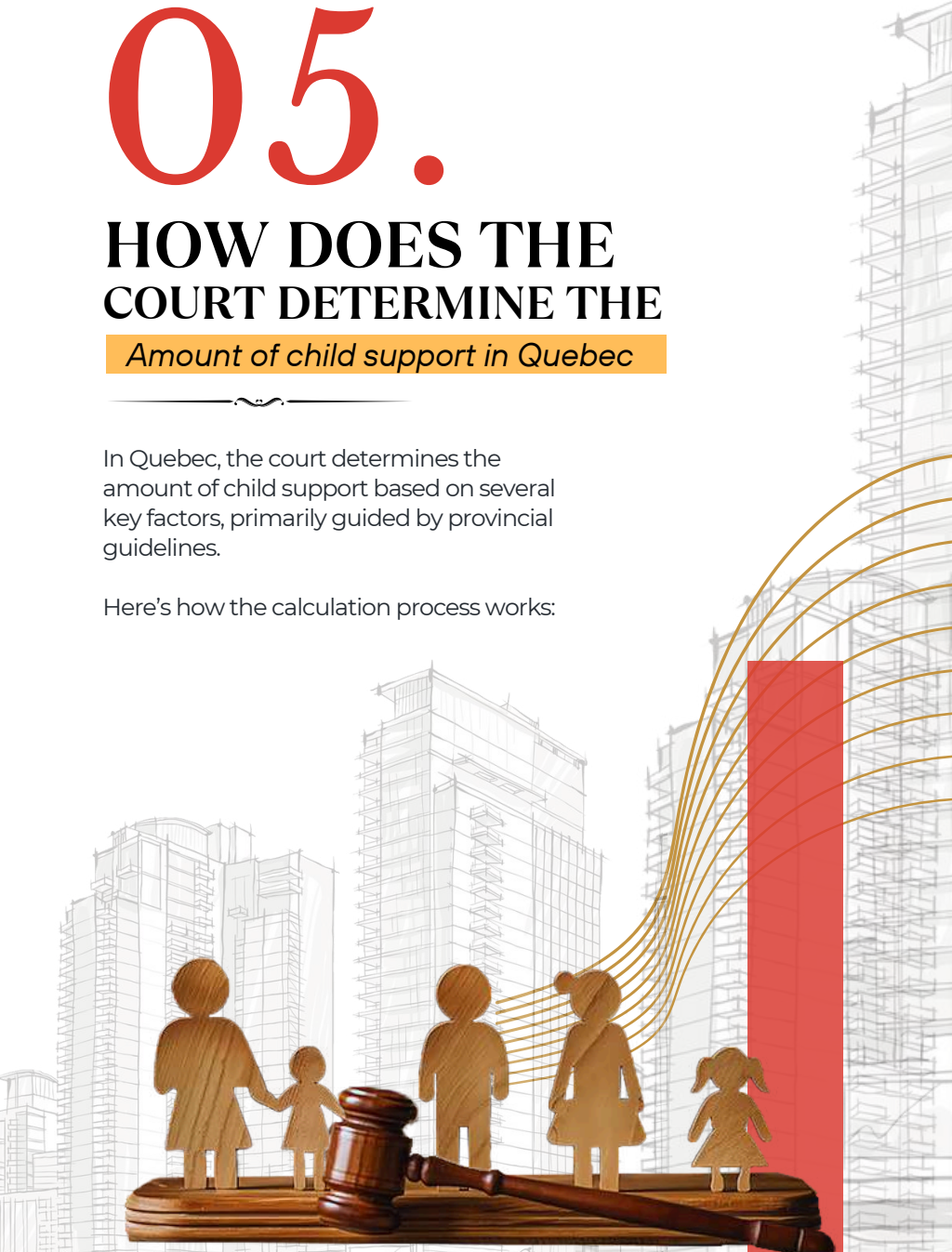
05.

HOW DOES THE COURT DETERMINE THE

Amount of child support in Quebec

In Quebec, the court determines the amount of child support based on several key factors, primarily guided by provincial guidelines.

Here's how the calculation process works:



5.1 | **FACTORS CONSIDERED IN CHILD SUPPORT CALCULATION**

5.1.1 Parents' Incomes:

The primary factor in calculating child support is the income of both parents. The court uses a basic parental contribution table to assess how much each parent should contribute based on their respective incomes.

5.1.2 Number of Children:

The total number of dependent children affects the overall support amount. More children typically lead to higher total support obligations.

5.1.3 Custody Arrangements:

The total number of dependent children affects the overall support amount. More children typically lead to higher total support obligations. The amount of time each parent spends with the children (custody time) is crucial. The court considers whether one parent has sole custody or if there is shared custody, as this influences how support is allocated.

5.1.4 Additional Expenses:

The court may also consider any additional expenses related to the children, such as medical costs, education expenses, and childcare fees.

5.1.5 Special Needs:

If a child has special needs that require additional financial support, this will also be factored into the calculation.

5.2 | CALCULATION PROCESS

2.1.1 Child Support Determination Form:

Parents must complete this form (also known as Schedule I) to calculate the basic amount of child support payments. This form helps establish a clear financial picture for both parties and assists in determining an appropriate amount.

2.1.2 Judicial Discretion:

While the guidelines provide a framework for calculating support, judges have discretion to adjust amounts based on specific circumstances that may not be fully captured by the standard calculations.

2.1.3 Use of Online Tools:

Quebec offers online calculation tools that can provide estimates for child support payments based on the inputs related to income, custody arrangements, and number of children.

Conclusion



The determination of child support in Quebec is structured around a combination of parental income, custody arrangements, and specific needs of the children involved. This systematic approach aims to ensure that children's financial needs are met while considering both parents' capabilities to contribute.

06.

WHAT FACTORS CAN INFLUENCE THE COURT'S

Decision on Child Support Amounts

The court's decision on child support amounts in Quebec is influenced by several key factors, ensuring that the financial needs of the child are met while considering the parents' circumstances. Here are the primary factors that can affect the calculation:



6.1

PARENTS' INCOME LEVELS

The income of both parents is a crucial determinant in calculating child support. The court assesses each parent's gross income, which includes all sources such as employment earnings, self-employment income, and investment returns.

Deductions for expenses related to earning that income may also be considered to arrive at net income figures

6.2

PARENTS' NUMBER OF CHILDREN

The total number of children requiring support directly impacts the amount of child support. Generally, more children will lead to higher total support obligations, as each child's needs must be accounted for.

6.3

PARENTING TIME ARRANGEMENT

The amount of time each parent spends with the children (custody arrangement) significantly influences child support calculations. Shared custody arrangements may lead to adjustments in the basic support amount, reflecting the time children spend with each parent and related expenses incurred during that time.

6.4 | SPECIAL OR EXTRAORDINARY EXPENSES

The court may consider additional expenses that go beyond basic child support, such as medical costs, educational fees, daycare expenses, and extracurricular activities. These extraordinary expenses can be allocated between parents based on their financial capacity.

6.5 | UNDUE HARDSHIP

If one parent experiences undue hardship due to their financial situation—such as having significant debts or other dependents—the court may take this into account when determining support amounts. This ensures that child support obligations are fair and reasonable given each parent’s circumstances.

6.5 | STANDARD OF LIVING PRIOR TO SEPARATION

The court may evaluate the standard of living that the child was accustomed to before the separation. This consideration aims to maintain a similar quality of life for the child post divorce, influencing the amount of support deemed necessary.

6.6 | SPECIAL NEEDS OF THE CHILD

If a child has special needs that require additional financial resources, this will also play a role in determining child support amounts. The court aims to ensure that these specific needs are adequately met through appropriate financial support.

Conclusion



In summary, the court's decision on child support amounts in Quebec is multifaceted, taking into account both parents' incomes, the number of children involved, custody arrangements, extraordinary expenses, and any undue hardships faced by either parent. These factors work together to create a fair and equitable support system that prioritizes the child's best interests.

Quick Disclaimer

Understand that this document can serve as a guide to walking you through the complicated maze of divorce.

Under no circumstance should be considered the authority on divorce.

You should always consult legal council.



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