

Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP
Answers to pressing questions on Family Law.

Husband wants to send wife home.

Question: I'm a girl from India and also new in Canada, so I don't know about the Canadian rules of divorce. Can I file for divorce without any reason or do I need somebody who can prove that? I have a problem with my husband. I came here depending on my husband to apply to the government for my ability to stay in Canada. Now he wants to send me back to India. What type of papers do I need for a divorce, and after divorce what type of facilities from the government are available for me because I have a 15-month-old baby?

Answer: You need a good family law lawyer who takes Legal Aid and you need on fast. (Note to my readers. I referred her to one.) Maybe there was a cultural clash. You were raised in rural India and he was raised in urban Canada. You may not have lived up to his expectations of what he thought an upwardly mobile Indian wife in Toronto society should be like. Or perhaps it is something just as ordinary as how, at times, babies can drive couples apart. Or maybe the fantasy that come Canadian men have of expecting a "submissive" wife from the Old County just doesn't materialize once she arrives here and experiences how Canadian women assert themselves compared to their peers back home. Then again, your husband may just be a boor. Whatever, you are entitled to separate and leave him at your will without having to return to India and he still has to pay you both child support (until the child finishes his first post-high school degree) and spousal support (for at least three years under the Immigration Sponsorship Rules.) After one year of separation, you are entitled to divorce without having to have a reason without any witnesses so long as he pays your basic support amounts the Ontario and municipal governments will not be obligated to offer you public assistance. If it did, the government could enforce the Immigration Sponsorship Agreement against your husband to reimburse it for what it pays you for welfare. However your don't have to wait the one year to apply for a divorce or for child or spousal support the moment you separate from your husband. However, if it is a short marriage of under one year it is unlikely that you are entitled to any significant claim against your husbands property.

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