

Adult Interdependent Relationships

In every province and on the federal level, there are different rules about common law relationships. In some cases, common law partners are treated the same as if they were married if they lived together for one year. In other cases, they may have had to live together for three years. For many purposes, common law partners are never treated the same as married people.

The Adult Interdependent Relationships Act helps to settle the questions about when partners can be treated the same as if they were married. And, it allows same-sex couples, and other parties in interdependent relationships to be treated the same way

If you are Adult Interdependent Partners:

If you and another person are Adult Interdependent Partners (A.I.P.), then you will be treated the same as if you were married in cases such as the following:

- changing your names or your children's names;
- dealing with the estate of an your partner if they die;
- applying for support after separation;
- applying for social assistance or AISH;
- applying to be named guardian or trustee of your partner if they are a dependant adult;
- applying for compensation under the Victims of Crime Act or the Workers Compensation Act;
- receiving information from schools or medical facilities;
- dealing with life or auto insurance companies; and
- making a will.

Keep in mind that unless you go through a formal marriage ceremony, you are NEVER married. Also, the Adult Interdependent Relationships Act is an Alberta law, and does not apply to matters in other provinces, or matters that are covered by federal law. There are still certain cases where rights and obligations are set out for married people, that are not given to AIP's. For example:

- an AIP may not be able to claim their partner as a spouse for tax purposes;
- an AIP may not be able to claim a tax deduction for contributions made to their

partner's RRSP;

- an AIP is not recognized as a spouse under the Matrimonial Property Act;
- the Divorce Act applies only to married people. As such, AIP's do not have to go through a Divorce, but also cannot apply for relief under the Divorce Act.

How is an Adult Interdependent Partnership created?

There are two ways in which you may find yourself in an AIP -- by signing an AIP Agreement, or by becoming a "deemed AIP" by passage of time.

AIP Agreement

If you and another person live together, or intend to live together, you may sign an agreement to become AIP's. Once the agreement is signed, you are AIP's until one or both of you end the relationship.

You cannot sign an AIP agreement if:

- you are under the age of 18 (unless you are over 16 and have your guardians' consent);
- you have signed an AIP agreement with someone else, and that AIP has not ended; or
- you are married.

A standard form AIP agreement is attached. It does not have to be signed in front of a lawyer.

Deemed AIP

If you and another person live together for a continuous period of 3 years, in a "relationship of interdependence", or if the two of you live together for a shorter period, but have a child together, the two of you will become AIP's, whether you want to or not.

You cannot become a deemed AIP if:

- you are married, and not separated from your spouse;
- you are a deemed AIP or have signed an AIP agreement with someone else, and that AIP has not ended;
- you are related to the other person by blood or adoption; or

- one of you provides personal services to the other and receives payment or other compensation for those services from the other (e.g. a live in nanny or housekeeper).

What is a Relationship of Interdependence?

It may be very clear that the two of you intend to become AIP's. You may make a clear decision to live together, announce that decision to your friends and family, and hold yourselves out to the community as partners.

Other times, it may not be so clear. And one of you may think you are AIP's, while the other thinks you are only room-mates. In that case, it will help to look at the factors a court would consider if asked to decide if an AIP exists. These are:

- whether you share each other's lives;
- whether you are emotionally committed to each other;
- whether or not the two of you have a conjugal (ie sexual) relationship;
- whether or not either of you date others;
- the conduct and habits of the two of you with respect to household activities and living arrangements;
- whether you hold yourselves out to others as an economic and domestic unit;
- whether you have any formal agreement setting out your intentions and responsibilities to each other;
- any contributions made by you to each other or to your mutual well being;
- whether your finances are intertwined, or whether one of you supports the other;
- the care and support of children; and
- how property is purchased, owned and used.

All of the factors do not have to be present to prove an AIP exists.

If you and another person are living together and do not want to become AIP's, you may enter into an agreement stating that you are not AIP's. However, if you are in fact in a "relationship of interdependence" or have children together, that agreement may not stop one of you from making claims against the other.

Ending an AIP

An AIP may be ended in several ways. Some of these are:

- the two of you may enter into a written agreement to end your AIP;
- the two of you marry each other;
- one of you marries someone else; or
- if it was a deemed AIP, if one of you enters into an AIP agreement with someone else.

If the two of you have separated, and the AIP has not been ended in one of the above ways, then it ends automatically at the end of one year, so long as at least one of you intends that it should end. During that one year period, either of you can make claims on the other, if AIP's are recognized under the law under which you would make your claim. After the year is up, you may not be able to make claims against each other. There are some exceptions to that - for example, one partner may be able to claim support from the other, even after the one year period has ended.

Useful Information About AIP's

- You may become an AIP to someone with whom live for three years, even if you are not a common-law or same sex couple. If you do not want that to happen, you should sign an agreement with that person stating that you are NOT AIP's.
- The Adult Interdependent Relationships Act is retroactive. That is, even though the Act did not come into force until 2003, it will apply to people who began living together before 2003.
- You do not have to register your AIP agreement for it to be valid. Keep it in a safe place, as you will need it to prove you are in an AIP.
- You cannot become an AIP with a person to whom you are related by blood or adoption, unless you sign an AIP agreement with them.
- You cannot be in an AIP with two different people at the same time. You cannot sign an AIP agreement if you are married, but you could become a deemed AIP if you are separated, and living with someone else.

- You can become a deemed AIP even if you are a minor, by living with someone for three years, or by having a child together. You cannot, however, sign an AIP agreement if you are a minor, unless you are 16 or over, and have your guardians' consent.
- If you are in an AIP and your partner has children, you could be held responsible for the support of those children, if you are found to have stood in the place of a parent to the children. If you might be in this position, you should talk to a lawyer.
- There is no statute in Alberta that deals with division of property when AIP's separate. The Matrimonial Property Act applies only to married couples. However, the courts can divide AIP's property based upon common law principles. If you are separating from an AIP and need to divide up your property, speak to a lawyer about your rights.

This publication has been prepared by Family Justice Services, and provides general information about the law as of the date it was written. It is not intended to provide you with legal advice. If you want advice on your case, speak to a lawyer.

Adult Interdependent Partner Agreement

BETWEEN:

(Name of Adult Interdependent Partner)

(Full Address)

- and -

(Name of Adult Interdependent Partner)

(Full Address)

We understand that by entering into this Agreement we will become each other's adult interdependent partner and will have all the benefits and obligations of adult interdependent partners under Alberta law.

1 We agree that

- (a) each of us is 16 years of age or older,
- (b) neither of us is a party to an ongoing marriage or adult interdependent partner agreement, and
- (c) we are living or intend to live together in a relationship of interdependence.

2 We understand that this Agreement will expire if we become former adult interdependent partners pursuant to the Adult Interdependent Relationships Act.

In witness whereof we have executed this Agreement in _____,
Name of City / Town

_____ on _____.
Province / State Date

Witness
(Print name and address below)

Adult Interdependent Partner

Witness
(Print name and address below)

Adult Interdependent Partner

Guardians' Signatures (if applicable)

Guardian of _____

Date: _____

(Print Name)

Guardian of _____

Date: _____

(Print Name)

NOTES:

1. Each adult interdependent partner's signature must be witnessed by 2 witnesses.
2. If either adult interdependent partner is under the age of 18 years, the guardians of that person must sign above indicating their consent to the person entering into the Adult Interdependent Partner Agreement.
3. A person who is under the age of 18 years may not enter into an Adult Interdependent Partner Agreement if the person is related to the other party by blood or adoption.
4. An Adult Interdependent Partner Agreement may be part of or attached to another agreement between the parties.
5. If an Adult Interdependent Partner Agreement is part of or attached to another agreement between the parties that contains one or more provisions relating to the property of one or both of the parties, the parties are advised to seek legal advice as to their rights and obligations in respect of that property.