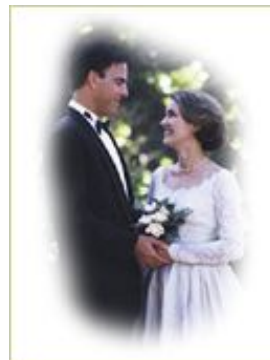




Marriage

- » This document provides information on marriage for the many Quebecers who are already married, or who are planning to marry. It explains the main legal aspects of marriage: the formalities of the marriage ceremony, the rights and duties of spouses, the sharing of the family patrimony and the various matrimonial regimes in effect in Québec.



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» Key points

Legal age for contracting marriage

In Québec, the legal age for marriage is 16, but people under 18 must obtain consent from their parents or their tutor.

Sex of the spouses

In Québec, two people wishing to make a public commitment to live together may form a civil marriage, whether they are of the same or the opposite sex.

Previous civil union

Two people living together in a civil union may marry each other. The marriage dissolves the civil union while maintaining its civil effects, which are considered to be the effects of marriage from the date of their previous civil union.

Notice of marriage

Before conducting the marriage ceremony, the [officiant](#) must announce the couple's intention to marry by means of a [notice posted](#) for 20 days before the date of the marriage at the place where the ceremony is to be held and at the nearest courthouse. The notice must state the name, domicile and date and place of birth of each of the intended spouses; the accuracy of the information must be confirmed by a witness of full age. A dispensation from the requirement of posting notice may be granted for serious reasons.

If the intended spouses are already joined in a civil union, the officiant is not required to post a notice of marriage or to verify that they are free from any previous bond of civil union.

In principle, any person, including a minor, may oppose the marriage for good reasons.

Authorized officiants

Clerks and deputy clerks of the Superior Court who have been specially designated for that purpose, and **notaries** authorized to execute notarial acts, may solemnize marriages.

Mayors, members of municipal or borough councils and municipal officers designated by the Minister of Justice may also solemnize marriages, but only within the territory defined in the instrument of designation.

Last, **any person authorized by the Minister of Justice** to solemnize civil unions may also solemnize a marriage. Some couples may wish to have their marriage solemnized by someone who does not fall into one of the categories defined above. When this is the case, the intended spouses and the person they have chosen as officiant must complete the form entitled [Request for the Designation of an Officiant of a Marriage or Civil Union](#) (available in [courthouses](#)) and send it to the Direction des services judiciaires of the Ministère de la Justice¹, preferably three months before the date of the ceremony.

After the Minister has signed the instrument of designation, it is forwarded to the designated officiant who then has full responsibility for the legal aspects of the ceremony. The officiant will also receive an [information kit](#).

Place of marriage

The marriage ceremony must be held in a place that is open to the public, before an authorized officiant and in the presence of two witnesses. A civil marriage and a religious marriage have the same legal value and impose the same obligations and responsibilities on the spouses.

A civil marriage solemnized by a clerk or deputy clerk of the Superior Court may take place at a courthouse or, with permission, at the place of residence of an intended spouse who is mobility impaired, or in the correctional facility where an intended spouse is confined. ([link](#))

A civil marriage solemnized by an officiant other than a clerk or deputy clerk of the Superior Court may be held in any other place agreed on with the intended spouses, provided that the place is in keeping with the solemn nature of the ceremony and has a suitable layout. An officiant other than a clerk or deputy clerk may perform a civil marriage in a courthouse if authorized to do so, or at the place of residence of an intended spouse who is mobility impaired.

As a general rule, a religious marriage is celebrated in a place of worship. This is a requirement in the case of a Roman Catholic marriage.

Spouses' names

Both spouses keep their birth names after marriage and continue to exercise their civil rights under that name, i.e. they must use their birth name in contracts, on credit cards, on their driver's licence, etc. However, women are free however to assume their husband's name socially. Women married before April 2, 1981 who already use their husband's last name to exercise their civil rights may continue to do so.

Marriage outside Québec

To be valid in Québec, a marriage solemnized outside Québec must comply with

- the marriage formalities of the place where the ceremony is performed; and
- the marriage provisions of the Civil Code of Québec respecting, among other things, the legal age for marriage and the prohibited degrees of relationship.

When the newlyweds return to Québec, their marriage is governed by the laws of the place where they have their common domicile. It is preferable for them to register the marriage certificate obtained outside Québec in the register of civil status. If the couple did not make a notarial marriage contract before marrying, the matrimonial regime that applies to their marriage will be the partnership of acquests.

Legal aspects

Legally, marriage is governed by [Book Two](#)  of the Civil Code of Québec, which concerns family law. It is founded on two key principles: equality between the spouses, and free choice of a matrimonial regime. The spouses must

- choose the family residence together;
- contribute toward household expenses according to their respective means;
- jointly assume the debts contracted for the day-to-day needs of the family; and
- comply with the legal provisions governing partition of the family patrimony if the couple is legally separated or if the marriage is dissolved.

» Formalities for a religious marriage

Before the ceremony

The intended spouses visit an officiant, set the date for their marriage, and make sure that the officiant is authorized to solemnize marriages (if the certificate of authorization is not clearly displayed, the couple may ask to see it).

The officiant verifies the age, identity and civil status of the intended spouses and makes sure they have the consent of their parents or tutor if they are under 18 years of age. The officiant also verifies that the intended spouses are free from any bond of marriage or civil union and that they are not related to a degree that would prohibit marriage. The officiant arranges for the posting of the marriage notice and informs the intended spouses of the advisability of a premarital medical examination.

During the ceremony

The spouses, the two witnesses and the officiant sign the Declaration of Marriage, and the spouses keep one copy.

Please note

The information contained in the *Declaration of Marriage* will be used to draw up the act of marriage. It is important to make certain that the names of the spouses and other individuals are spelled correctly and that any accents used in the names are included.

After the ceremony

The officiant forwards the *Declaration of Marriage* to the Registrar of Civil Status who verifies the document and draws up the act of marriage. The Registrar then registers the act of marriage in the register of civil status and gives the spouses, on request, a marriage certificate or a copy of their act of marriage.

The spouses are responsible for making sure that the officiant sends *Declaration of Marriage* to the Registrar of Civil Status.

More information about religious marriages can be obtained from the priest, rabbi or minister of religion who will be solemnizing the marriage.

Forms and documents required for a religious marriage

The documents required for a religious marriage may vary, depending on the religious denomination concerned. For example, the spouses may be required to provide a baptismal certificate, a birth certificate or a certificate of celibacy. The forms for requesting a birth, marriage or death certificate or a certificate of celibacy can be obtained from the office of the [Registrar of Civil Status](#) .

» Formalities for a civil marriage

Before the ceremony

Couples who wish to be married by a clerk or deputy clerk of the Superior Court must complete the civil marriage [General Information](#) form (available from the *Service des mariages civils* at the [courthouse](#) in their [district](#)). They must then set a date for the marriage and schedule an appointment with the *Service des mariages civils* for an interview with the [clerk](#),² which is when the date and time of the marriage will be confirmed. They must attend this interview with a witness, who does not need to be one of the witnesses chosen for the actual marriage ceremony, but someone who knows both the intended spouses.

For marriages before an officiant other than a clerk or deputy clerk, the intended spouses must schedule an appointment with the officiant to settle pre-marriage formalities, agree on fees and the method of payment, and finalize such particulars as the time and place of and procedure for the ceremony.

All officiants must verify the identity and the civil status of the intended spouses and ensure that the consent of the parents or the tutor has been obtained if an intended spouse is under 18 years of age. The officiants must also ensure that the intended spouses are not related to a degree that would prohibit marriage and that they are free from any previous bond of marriage or civil union. They must inform the intended spouses of the advisability of a premarital medical examination.

More information about who is authorized to act as an officiant, and the officiant's obligations and duties, can be found in the document [Officiants](#).

Important

The [fees](#) for a civil marriage solemnized by a clerk or deputy clerk of the Superior Court must be paid at the interview with the clerk, in cash or by debit card, credit card, certified cheque, postal order or bank money order made out to the Minister of Finance of Québec.

The fees and the method of payment for a marriage solemnized by any other officiant must be agreed with the officiant before the ceremony.

Forms and documents required for a civil marriage

During the interview with the clerk, **the intended spouses** must submit the duly completed and signed *General Information* form for civil marriages together with their acts of birth. This form is not required if the marriage is solemnized by an officiant who is not a clerk or deputy clerk.

In all instances, however, the intended spouses are required to submit documents that confirm their civil status. People born in Québec must provide their act of birth or birth certificate. If the intended spouses cannot provide a birth certificate, they may submit a sworn statement, a passport and an ID photo, or a Canadian citizenship card and immigration documents.

Intended spouses who are divorced must provide the officiant with a certificate of divorce or a certified true copy of the decree absolute of divorce signed by an authorized officer; those who have had a previous civil union dissolved must provide an authentic copy of the joint declaration of dissolution executed before a notary or a certified true copy of the dissolution judgment; those whose marriage has been annulled must provide a certified true copy of the judgment annulling the marriage.

Intended spouses who have been widowed must provide the officiant with the death certificate of their deceased spouse in the form of a copy of an act, a certificate or an attestation. Proof of death may also be a record of civil status, a letter issued by a consulate, a sworn statement or other equivalent proof.

Please note

Photocopies will not be accepted.

Original documents will be returned to their owners.

Documents written in a language other than French or English must be accompanied by an official translation, which is a translation prepared by a member of the [Ordre des traducteurs, terminologues et interprètes agréés du Québec](#) , accompanied by a sworn statement from the translator that the translation is accurate.



» Declaration of family residence

Neither spouse may dispose of a family residence (whether a main or secondary residence) without the consent of the other spouse. The same applies to the furnishings and decorative elements in the residence that are for the general use of the family. A spouse who disregards this obligation could be sued for damages. This restriction, however, has no effect on the right of ownership.

A spouse who has not consented to the sale of a family residence can have the transaction annulled if a declaration of family residence has been registered at the [registry office of the registration division](#)  in which the residence is situated. A declaration of family residence can be made by either spouse, or jointly by both. A spouse who makes an individual declaration is under no obligation to inform the other spouse.

» Family patrimony

The family patrimony consists of

- the residences used by the family or the rights which give the family the use of them;
- the household furniture used to furnish or decorate the residences;
- the motor vehicles used for family transportation;
- the rights accrued in a retirement plan during the marriage or civil union; and
- the earnings registered during the marriage under the [Act respecting the Québec Pension Plan](#)  or equivalent programs.

However, the family patrimony does not include property that was given or bequeathed to one of the spouses either before or during the marriage, or any appreciation in the value of the property. Other excluded items include property belonging to one of the spouses privately, such as immovables (buildings or land) not used by the family, money in bank accounts, and stocks and shares. Any property that is not included in the family patrimony is administered and divided in keeping with the rules of the spouses' matrimonial regime (see the section on [matrimonial regime](#) below).

The rules on family patrimony rules apply to all married couples, and spouses cannot

waive rights in the family patrimony before or during the marriage. They can, however, waive their rights, by way of a notarial act or judicial declaration, when the patrimony is partitioned following a judgment of divorce, separation from bed and board or annulment, or following the death of one of the spouses. For the waiver to be valid, it must be registered in the [register of personal and movable real rights](#) .

Important

The obligations concerning partition of the family patrimony do not apply to couples married before July 1, 1989 who waived partition of the family patrimony in a notarial act made before January 1, 1991.

With the exception of work income registered under the Québec Pension Plan, the family patrimony provisions do not apply to couples who were married before the family patrimony rules came into force and who indicated before January 1, 1991 in a notarial act that they did not wish to be subject to the rules.

Partition of the family patrimony

The net value of the family patrimony must be established at the time of partition, and the patrimony must be equally divided between the spouses. If a marriage is dissolved following the death of a spouse, the family patrimony must be partitioned before the succession can be liquidated.

The net value of the family patrimony is determined by deducting the following from the market value of all the property in the family patrimony:

- the debts contracted to acquire, improve, maintain and preserve the property that makes up the family patrimony;
- the net value of the property the spouses owned when they married; and
- any contribution made to acquire or improve the property in the family patrimony using a bequest or gift made to one of the spouses during the marriage.

The product of these calculations is the net partitionable value of the [family patrimony](#).



» Matrimonial regime

A matrimonial regime is a system of rules that governs the economic relationship between spouses, and between the spouses and third parties. The regime determines who owns the property and who administers it during the marriage. Most importantly, the matrimonial regime determines how property that is not included in the family patrimony is partitioned when a marriage is dissolved following a divorce, death or legal separation, or when a couple makes a change in matrimonial regime.

Couples planning to marry must choose a matrimonial regime, and since there is no perfect matrimonial regime, it is up to the partners to weigh the pros and cons of each regime and make the best choice for their situation and plans. It is important to remember that the matrimonial regime **affects only property excluded from the family patrimony** and takes effect as soon as the marriage is solemnized.

The intended spouses can choose one of three matrimonial regimes: partnership of acquests, separation as to property, and community of property. Subject to the provisions of the Civil Code, the couple can create its own regime by stipulating, for instance, that only part of the property is to be considered as acquests, while the remaining property will be subject to the rules governing separation as to property.

Spouses who do not make a marriage contract will automatically be governed by the legal regime of partnership of acquests. Their choice of any other matrimonial regime must be formalized in a notarial contract.

Partnership of acquests

Nearly half of all couples marry without a notarial marriage contract. Their union is thus automatically governed by the regime of partnership of acquests. This regime, under which each spouse owns and administers his or her own private property and acquests, is the legal regime in force since July 1, 1970.

The property owned by each spouse before the marriage is considered to be private property. The following is also private property:

- property acquired during the marriage by succession or gift;
- property acquired during the marriage to replace private property, as well as any indemnity under an insurance contract on the private property;
- the rights or benefits devolved to either spouse as a subrogated holder or specified beneficiary under a retirement contract or plan or any other annuity or personal insurance policy;
- clothing, personal papers, wedding rings, and instruments required for the spouse's work;
- the right to support payments, a disability pension or other benefits of the same kind.

As a general rule, property acquired during the marriage is considered to be an acquest and the value of the acquests is divided equally between the spouses if the regime is dissolved. Acquests include wages, investment and work income, and property acquired with that money. Unless property can be clearly established as the private property of one of the spouses, the property is considered to be an acquest.

Each spouse administers his or her own private property and acquests and is solely responsible for any debts contracted, except debts contracted for the day-to-day needs of the family, for which both spouses are responsible.

One spouse can refuse the acquests of the other on dissolution of the matrimonial regime, for instance, if the other spouse's debts exceed the assets. However, this refusal is not reciprocal; the other spouse remains entitled to the acquests of the first spouse.

Intended spouses who wish their marriage to be governed by the regime of partnership of acquests do not need a notarial contract. Couples with special requirements, however, can have a contract drawn up by a notary to adjust the rules of the regime to their specific needs.

Separation as to property

The regime of separation as to property requires a notarial marriage contract.

Under this regime, each spouse remains the exclusive owner of his or her property, administers the property alone and assumes responsibility for his or her debts, subject, however, to the legal provisions respecting the family patrimony, the protection of the family residence and furnishings, and the spouses' joint responsibility with regard to debts contracted for the family's day-to-day needs. For example, even if one of the spouses is the sole owner of the family residence, he or she cannot dispose of it without the other spouse's authorization.

If the regime is dissolved, the spouses retain their own property, providing they can prove ownership. Gifts made in the marriage contract can increase a spouse's share; however, gifts made by the spouses to each other in the event of death (also called

gifts mortis causa) are automatically cancelled by divorce or annulment, whereas gifts given during their lifetime (gifts inter vivos) can be cancelled or reduced by the court.

Couples who choose the regime of separation as to property should purchase all durable goods, particularly immovables (buildings and land), in undivided co-ownership. This is done by having the names of both spouses written into each notarial act of ownership or purchase whenever the value of a transaction warrants it.

Community of property

Although the regime of community of property has not been the legal regime in Québec since 1970 and has fallen out of favour, couples can still choose this matrimonial regime by notarial contract and adapt it to their particular situation.

Couples who married without a marriage contract before 1970 continue to be governed by the provisions of the regime of community of property, unless they have since entered into a marriage contract.

Under this regime, the property of the spouses is divided into three categories: community property, private property and the wife's reserved property (her income, property acquired with that income, etc.). The husband administers the community property and his own private property. He needs his wife's consent before he can sell, donate or mortgage any community property. The wife administers her own private property and her reserved property. If requested by her husband, she must turn over to the community any income derived from her private property that has not been expended. She has the same rights over her reserved property as her husband has over community property.

The community property consists of

- all the movable property owned by the spouses at the time of the marriage;
- joint assets (movable and immovable) acquired and paid for by the spouses during the marriage; and
- income from the husband's private property and the proceeds from the husband's work income.

Private property consists of

- immovables acquired before the marriage;
- gifts made in a marriage contract;
- gifts made during the marriage;
- legacies received from a spouse's ascendants (father, mother, etc); and
- compensation received by a spouse as damages for bodily or moral injury.

On dissolution of the regime, the community property and the wife's reserved property are divided equally between the two spouses and each spouse retains his or her private property. The wife can keep her reserved property by waiving her right to the community property and, as in the case of partnership of acquests, the wife can refuse the partition of the community property if the debts of the community outweigh the assets. However, that option is not available to the husband.

Please note

To make things easier when a matrimonial regime is dissolved or modified or when a spouse dies or a marriage breaks up, each spouse should confirm all transactions in writing and keep important papers such as invoices and documents proving ownership. This is especially important in the regime of separation as to property.

A matrimonial regime or a marriage contract can be changed or modified at any time, provided both spouses consent and agree to sign a new contract before a notary. It is not necessary to have the court approve the change or to issue public notices for the benefit of creditors. This also applies to immigrants residing in Québec who may have a matrimonial regime that is different from the regimes in Québec.

The new matrimonial regime takes effect on the day the contract is signed and is not retroactive.

1. 1200, route de l'Église, 7^e étage, Québec (Québec) G1V 4M1.

2. Some courthouses, such as the Montréal Courthouse, have different practices. Inquiries should be made to the appropriate courthouse.

» For more information

Conjugal institutions:

- [De facto unions](#)
- [Civil Unions](#)

Persons authorized to solemnize civil unions and the obligations of officiants:

- [Officiants](#)
- [Register of celebrants](#) 

What constitutes family patrimony and the rules for partition of the family patrimony:

- [Family Patrimony](#)

Protection provided by a declaration of family residence:

- [Family residence: protection and declaration](#)  (In French)

Cancelling the registration of a declaration of family residence:

- [Family residence: Cancelling the registration](#)  (In French)

Registering a notice of marriage contract:

- [Publish a notice of marriage contract](#)  (In French)

Declarations of birth, parental authority and the rules of filiation:

- [Filiation](#)

Fees for the solemnization of a civil union by a court clerk:

- [Tariff of Court Costs](#)

Declarations of marriage and how to obtain a certificate of marriage a copy of an act of marriage:

- [Registrar of Civil Status](#) 

The addresses and telephone numbers of Québec courthouses:

- [Courthouses](#)

Which judicial district a municipality is located in:

- [Search for a judicial district](#)

Laws relating to marriage:

- [Marriage](#)  (Title One of Book Two of the Civil Code of Québec)
- [Rules respecting the solemnization of civil marriages and civil unions](#)
- [Act respecting the Québec Pension Plan](#) 

Forms that relate to marriage:

- [Notice of Civil Marriage](#) (SJ-218A)
- [Request for the Designation of an Officiant of a Marriage or Civil Union](#) (SJ-893A)
- [Civil Marriage - General Information](#) (SJ-217A)

Should you wish to

Contact a notary:

- [Chambre des notaires](#) 

Obtain an official document attesting civil status (birth, death, etc.):

- [Registrar of Civil Status](#) 

Have a document translated into French or English from a language other than French or English:

- [Ordre des traducteurs, terminologues et interprètes agréés du Québec](#) 

Publish a notice of marriage contract or a change to a marriage contract or matrimonial regime:

- [Register of Personal and Movable Real Rights](#) 

Publish and protect your rights in respect of immovable property:

- [Land Register of Québec](#)  (registry offices)

The content of this document is strictly informative and has no legal value.

If you find some of the information difficult to understand, do not hesitate to [contact us](#).

Please note, however, that we cannot interpret the information to apply it to a specific situation.



Latest update: May 18, 2007

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Form

» Notice of Civil Marriage (SJ-218A)



Form to be completed by the officiant of a civil marriage and posted as the public notice of the marriage in the places prescribed by law.

Version: Mars 2004

Type of File: ► **DYNAMIC PDF**

[Adobe Reader](#) 7 required

File Size: 402 Kb

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[Other forms](#)

To obtain a print copy of the form or for further information, please contact the clerk of the court at the [courthouse](#) in your area.

Latest update: May 2, 2006



Form

» Request for the Designation of an Officiant of a Marriage or Civil Union (SJ-893A)



Form to be completed by prospective spouses to request that a person of their choice be designated to perform a marriage or civil union ceremony.

Version: September 2006

Type of File: ► **DYNAMIC PDF**

[Adobe Reader](#) 7 required

File Size: 400 Kb

[Download](#)

For more information

[Officiants](#)

[Other forms](#)

To obtain a print copy of the form or for further information, please contact the clerk of the court at the [courthouse](#) in your area.

Latest update: April 10, 2007

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Form

» Civil Marriage - General Information (SJ-217A)

Form to be completed by prospective spouses to request a date for a marriage ceremony performed by a courthouse clerk or deputy clerk.

Version: November 2006

Type of File: ► **DYNAMIC PDF**

[Adobe Reader](#) 7 required

File Size: 584 Kb

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For more information

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[Marriage](#)

[Other forms](#)

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Latest update: April 10, 2007





General Information

» Ministère de la Justice du Québec
Édifice [Louis-Philippe-Pigeon](#)
1200, route de l'Église, 6^e étage
Québec (Québec) G1V 4M1

Telephone: (418) 643-5140
Toll free: 1 866 536-5140
Email: communications.justice@justice.gouv.qc.ca

Please note: The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

Latest update: February 20, 2007

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Québec



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