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Legal Brief*

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De Facto Spouses* and Financial Eligibility for Legal Aid

Lea and William are the parents of a 15-year-old girl named Rose. Rose chose to live with her father when her parents split up two years ago. She now wants to move in with her mother and Annabelle, her mother's partner, but her father disagrees. Rose's mother thus quickly makes an appointment with a lawyer at her local legal aid office.

Lea knows that in order to benefit from the services of a lawyer, she must be financially eligible for legal aid, but she wonders whether the financial situation of Annabelle, who has been her *de facto* spouse for the past 18 months, will be considered in determining her eligibility.

To be financially eligible for legal aid, Lea will have to show that her income, liquid assets and other assets, as well as those of her family, do not exceed the financial eligibility levels and values determined by regulation.

According to the *Act respecting legal aid and the provision of certain other legal services*,¹ a family includes the father or mother, their *de facto* spouse, and the children. Lea's family therefore consists of her partner, with whom she has been cohabiting for at least a year, and herself. As a general rule, the income, assets and liquid assets of both spouses will be taken into account when determining a person's financial eligibility.

If the following conditions have been met, however, only the financial situation of the parent, and not that of his or her spouse, will be considered: the service requested is for the benefit of a minor child and the parent has custody of that child.

In the present situation, only one of the two conditions has been met. Lea wants to apply for legal custody of Rose, which is a service for the benefit of the child, but because she does not have custody of Rose, the first condition has not been met and the general rule will apply: her spouse's financial situation will have to be taken into consideration.

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Don't hesitate to have your eligibility for legal aid evaluated by making an appointment at a legal aid office near you. You can also check your eligibility online [here](#).

To find the contact information for your legal aid office, please click on the following link www.csj.qc.ca.

* The information set out in this document is not a legal interpretation.

The masculine gender is used to designate persons solely in order to simplify the text.

* A "de facto spouse" is referred to as a "common law spouse" outside Québec. People sometimes also refer to their *de facto* spouse as their "partner".
1 CQLR, c. A-14.