

Custody, Child and Spousal

Court of Queen's Bench

Application for
Custody, Access, Child and Spousal
Support



Resolution Services



Alberta
Government

Instructions

Custody, Access, Child and Spousal Support

Before you Begin:

- You must have a divorce file in the Court of Queen's Bench to use this form. If you do not, talk to us about how to start.
- See our booklet, "Making a Court Application in the Court of Queen's Bench (With an Application Form)" for more information about how to prepare, file and serve court forms and how to present your case in court.
- Be prepared to take several days or weeks to gather up the information that you need, and several hours to fill in your paperwork properly. This is not something you can dash off in a few minutes. If you have properly prepared, you will have a better chance of success. You only have one chance to make your application!

Gather up the documents you will need to prove your case

- Gather up your financial documents and fill in your Disclosure Statement before you start filling in these forms. See the package "Providing Financial Disclosure" for more information. **You must file complete financial disclosure at the same time as you file your application.**

There may be other documents that you should attach to your court forms. For example:

- To support your claim for custody or access, think about which documents will help your case. Some of these might be relevant:
 - School report cards
 - Letters from the child's doctor, teacher or counsellor
 - Copies of e mails showing attempts to organize access
 - Your work schedule, if access must be scheduled around that
 - The children's extracurricular activity schedule
- To support your claim for child support:
 - If you are asking for any special or extraordinary expenses for your children, attach receipts for those expenses, if you have them.
 - If you are claiming support for a child over the age of 18, attach income information for that child for any year in which they have earned an income.
 - If you are claiming support for a child over the age of 18 because they are in school, attach proof that they are registered in an educational institution, including the number of classes and/or hours per week of instruction.
 - If you are asking for retroactive support, attach income information back to the date that you are wanting the support to begin.

- If you are claiming undue hardship, attach income information for any other adult in your household.
- To support your claim for spousal support:
 - You must fill in a list of your assets, showing the value of each asset and your debts, showing the amount owing on each debt.
 - You must also fill in a budget, showing the amount you spend each month on your expenses.
 - If you are unable to support yourself because of medical problems or education, you will need proof of the medical problems or registration at an educational institution.

Fill in the Application form

- Follow the instructions on the form and in the “Making a Court Application” booklet.

Fill in the Affidavit form

- Follow the instructions on the form and in the “Making a Court Application” booklet.
- This form has been prepared with the information that the court is likely to want to see. You can, if you wish, change the content of the form to set out the information in a way that you think is best. If you type up your own Affidavit, it cannot be longer than 5 pages (or 8 pages if you are setting your matter for an afternoon Special).
- All of the documents that you want the judge to see must be written about in the Affidavit (and your Disclosure Statement, if you have filled one in) and attached as exhibits to the Affidavit (or attachments to your Disclosure Statement).
- You cannot have more than 40 pages of exhibits to your Affidavit, unless you get permission from a judge. If you must have more than 40 pages, ask us how to apply for permission.

After the other party has been served, fill in the Affidavit of Service form

- Follow the instructions on the form and in the “Making a Court Application” booklet.

**These instructions have been prepared for you by Resolution Services.
Contact us at:**

Calgary

7th floor, Calgary Courts Centre
601 - 5 Street SW
Phone 403-297-6981

Grande Prairie

Main Floor, Court House
10260 - 99 St.
Phone: 780-833-4234

Red Deer

Main Floor, Court House
4909 - 48 Ave
Phone: 403-340-7187

Edmonton

8th floor, Brownlee Building
10365 – 97 Street
Phone 780-415-0404

Lethbridge

1st Floor, Court House
320 - 4 St. S
Lethbridge AB T1J 1Z8
Phone: 403-388-3102

Medicine Hat

Court House
460 First Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8716

Outside these centres, contact us toll free at 310-0000

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT **Family Law Application for
Custody, Access, Child
Support and Spousal
Support**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT _____
(Applicant's Name)

_____ (Full address)

()

NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a Respondent. You have the right to state your side of this matter before the judge. To do so, you must be in Court when the application is heard as shown below:

COURT DATE: _____, _____, 20_____.
(Weekday) (Month) (Day) (Year)

TIME: _____
(Time of Day)

WHERE: _____
(Courtroom (if known), Street address of courthouse)

BEFORE WHOM: **Justice in Family Chambers**

Go to the end of this document to see what else you must do and when you must do it.

1. REMEDY CLAIMED OR SOUGHT *(check off and fill in to show what you want the Court to order)*

Custody and Access:

An order granting me sole custody and primary residence of the following children:

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

An order granting the other parent sole custody and primary residence of the following children:

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

If one parent will have sole custody and primary residence of the children, describe the parenting time that you would like ordered for the parent that will not have primary residence of the children: *(Specify)*

An order granting me and the other parent joint custody of the following children:

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

_____, born _____
(Name of child) *(Date of birth)*

If you are asking for joint custody, check one of the following options to show what you would like the order to say about where the children will live:

- The children will live with me most of the time and have parenting time with the other parent as follows: *(Describe the parenting time that you would like ordered for the other parent.)*

- The children will live with the other parent most of the time and have parenting time with me. *(Describe the parenting time that you would like ordered for you.)*

- One or more children will live with me most of the time and one or more children will live with the other parent most of the time (split custody)
The children that will live with me are: *(list names of children that will live with you)*

The children that will live with the other parent are:
(list names of children that will live with the other parent)

- The children will live with me 50% of the time and with the other parent 50% of the time (shared custody).

- Other:
(Describe the arrangement that you want for the residence of the children, if it does not fall into one of the above categories.)

Other (Describe any other terms you would like in your custody and access order)

Child Support

An order setting my income and/or the other parent's income for the purpose of child support.

An order for the table amount of child support starting on: _____
(Date you want the child support payments to start)

An order for child support in the amount of \$_____ per month.
 This is the amount payable under the *Federal Child Support Guidelines*.
 This amount is different from the amount that would be payable under the *Federal Child Support Guidelines*.

An order setting the percentage or amount that each parent is required to contribute to the following section 7 expenses: (Check the boxes that apply)

- child care expenses
- medical/dental insurance premiums
- health-related expenses that are more than \$100 per year
- extraordinary school expenses
- post-secondary education expenses
- extraordinary expenses for extracurricular activities

An order that the Respondent pay retroactive child support back to _____
(Date you want the retroactive child support to start)

Other: (Describe any other terms that you would like in your child support order)

Spousal Support

An order for spousal support to be paid in the amount of \$ _____ per
(Amount)

month, starting on _____
(Date you want your spousal support payments to start)

An order for spousal support to be paid in a one-time lump sum of \$ _____
(Amount)

to be paid by _____
(Date you want lump sum to be paid)

Other: (Describe any other terms that you would like in your spousal support order)

Other

Variation of time for service.

Any other remedies, including costs, that the Court determines to be appropriate.

2. GROUNDS FOR MAKING THIS APPLICATION:

My grounds for making this application are set out in my Affidavit sworn on

(Date)

3. MATERIAL OR EVIDENCE TO BE RELIED ON:

I am relying on the evidence set out in my Affidavit sworn on _____
(Date)

I am relying on the following: (Describe the evidence, other than your Affidavit, that you are relying on)

4. APPLICABLE RULES:

- Rule 13.5 – Variation of time period
- Other: *(List any Rule number(s) that apply to your application)*

5. APPLICABLE ACTS AND REGULATIONS:

- Divorce Act (Canada)*
- Federal Child Support Guidelines*
- Other *(List any other Acts / Regulations that apply to your application)*

6. ANY IRREGULARITY COMPLAINED OF OR OBJECTION RELIED ON:

- Not applicable
- Specify: _____

7. HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:

(In most circumstances, this section will be left blank. But, if you are asking for your application to be heard in a different way (such as videoconference, or teleconference) you must speak with the Clerk about what to write in this space.)

WARNING

If you do not come to Court on the date and time shown above either in person or by your lawyer, the court may give the Applicant what the Applicant wants in your absence. You will be bound by any order that the Court makes.

If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court, and serving a copy of that affidavit or other evidence on the Applicant(s) a reasonable time before the application is to be heard or considered.

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit - Custody, Access and Child and Spousal Support**

SWORN / AFFIRMED BY: _____
(Name of person making this Affidavit)

SWORN / AFFIRMED ON: _____
(Date Affidavit sworn / affirmed)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT _____
(Name of party filing this document)

(Full address of party filing this document)

()

I, _____, of _____, Alberta,
(Your name) *(Name of City / Town)*

SWEAR / AFFIRM AND SAY THAT:

1. I am the Applicant. I have personal knowledge of the facts set out below, except where I say that they are based on information and belief. In that case, I believe the facts to be true.

GENERAL INFORMATION

2. I am:

married to the Respondent. We separated on _____
(Date)

divorced from the Respondent. We were divorced on _____
(Date)

3. The chart below gives basic information about the child(ren) in this case:

(List all of the children involved in this case)

Child's full legal name	Age	Birthdate <i>(mm /dd / yyyy)</i>

CUSTODY and ACCESS:

4. The current custody and access arrangements are:

(Give details of the arrangements that currently apply to the children. Specify dates and times)

Child's Name	Custody / Access Arrangement

5. I ask the Court for the following order for custody and/or access:
(Choose all that apply)

An order that _____
(Name of party(ies) or person(s))

have sole custody joint custody of the child(ren).

An order that I the Respondent have access to the children at the following times and / or on the following terms:

An order preventing me and/or the Respondent from travelling outside of the province of Alberta with the children.

An order to allow me, the Respondent and/or another person to travel with the children outside of Canada. (Describe who will be travelling, where they will be travelling to and when they will be travelling.)

An order to allow me the Respondent to obtain a passport for the child(ren) without the consent of the other parent.

An order directing the police to assist in enforcing the terms of my custody and access order.

Other terms relating to custody and/or access: (Describe)

6. My reasons for asking for the above orders are:

7. My plan for the day-to-day care of the child(ren) is as follows:

(If you are asking for the children to live with you, give details, including: school arrangements, how you will care for the children when you are at work or away from the home – day care, after school care, etc. Attach additional pages to your Affidavit, if needed.)

CHILD SUPPORT:

8. *(Choose one)*

- I am the person who will be receiving child support under the Court order (recipient).
- I am the person who will be paying child support under the Court order (payor).

9. *(Check off the box that contains the statement that is true for you)*

- The other parent and I **do not** have a verbal or written agreement for me or the other parent to pay child support.
- The other parent and I have a verbal or written agreement for me the other parent to pay child support. *(If you checked this box, provide the details below.)*

Date of agreement	Present monthly child support amount	Other details about our child support agreement
	\$	

- Attached as Exhibit “_____” is a copy of the written agreement for child support.

10. The term I want in my child support Order are as follows:

(Check the boxes that show the terms you want in your child support Order)

- Setting my income and/or the other parent’s income for the purpose of child support.
- An order for child support in the amount of \$_____
 - This is the amount payable under the *Federal Child Support Guidelines*.
 - This is different from the amount that would be payable under *Federal Child Support Guidelines*. *(Complete #18 to explain why you want a different amount.)*
- Setting the amount or percentage that each party is to pay for section 7 (special) expenses.
- Other: *(Describe any other terms that you would like in your child support order)*

11. I am asking for my child support payments to start on _____
(Date you want the order to start)

Section 7 or Special Expenses

12. (Choose all that apply)

- I have no special expenses for the child(ren).
- I have the following special expenses for the child(ren):

Special Expense	Gross Annual Amount
Child care expenses (daycare / babysitting)	\$
Children's portion of medical or dental premiums	\$
Health-related expenses in excess of \$100 annually, net of insurance reimbursement	\$
Extraordinary expenses for primary/secondary school	\$
Expenses for post-secondary education Tuition amount: \$_____	\$
Extraordinary expenses for extracurricular activities	\$

- I attach a child support calculation printout which shows the net after-tax amounts for these expenses as Exhibit "_____".

13. Additional information about the special expenses:

(Give details about each expense, including any contribution from child, the name of the child that each expense is for, and the nature of each expense. If you are attaching any receipts, they must be marked as exhibits.)

14. I believe the above special expenses are necessary and reasonable because: *(Give details)*

Income of the Applicant

15. I have or will be filing a Financial Statement, which will provide evidence of my income. I ask the court to set my guideline income at \$_____, based on:

- This is what I believe my gross annual income from all sources will be this year
- This is my gross annual income for last year
- Other: *(Explain how you have calculated your guideline income and why you believe this amount should be accepted as your guideline income)*

Income of the Respondent

16. The Respondent has has not filed a Financial Statement, which has provided evidence of their income. I ask the court to set the Respondent's guideline income at \$_____, based on:

- This is what I believe the Respondent's gross annual income from all sources will be this year
- This is the Respondent's gross annual income for last year
- Other: *(Explain how you have calculated the Respondent's guideline income and why you believe this amount should be accepted as their guideline income. Attach any supporting documents as exhibits.)*

Retroactive Child Support

(Complete only if you are asking that the change in child support be retroactive.)

17. I am asking for the child support order to be retroactive to _____
(Date you want child support change to start)

I am asking for a retroactive order for the following reasons:

Setting child support at an amount different from the Guidelines

18. *(Complete only if you are asking the court to set child support at an amount different from the Federal Child Support Guidelines. Make sure the amount is set out in #10. It is strongly recommended that you talk to a lawyer before filling out this section.*

Check and complete the section that relates to your claim.)

Undue Hardship

I am claiming undue hardship for the following reasons:
(Explain your reasons for claiming undue hardship. If your reasons include a payment of money, provide the dollar amounts paid, and attach proof of payment and any other supporting documents as exhibits.)

I live with the adults and children listed below. If I live with another adult, their income is set out below.

(List the names of any adults and children in your household. If living with an adult, state their gross annual income from all sources and attach proof of their income as exhibits.)

Child Over Age of Majority

I am proposing that child support be set at a different amount because the child, _____ is over the age of majority. That child's

(Name of child)

circumstances are as follows:

(Explain where the child is living, details of their educational program (if applicable), what their expenses are, how those expenses are being paid, the child's own income and other resources, and any other information needed to make a decision about the amount to be paid for child support.)

I propose that child support for the child over the age of majority be set at \$_____

Income Over \$150,000.

I am proposing that child support be set at a different amount because the parent who pays support has an income over \$150,000. My reasons for the amount I have proposed are: *(Specify)*

SPOUSAL SUPPORT

19. (Choose one)

- I am the person who will be receiving spousal support under a Court order (recipient).
- I am the person who will be paying spousal support under the Court order (payor).

20. (Check off the box that contains the statement that is true for you)

- The other party and I **do not** have a verbal or written agreement for me or the other party to pay spousal support.
- The other party and I have a verbal or written agreement for me the other party to pay spousal support. (If you checked this box, provide the details below.)

Date of agreement	Present monthly spousal support amount	Other details about our spousal support agreement
	\$	

- Attached as Exhibit “ _____ ” is a copy of the written agreement for spousal support.

21. I am asking for the following spousal support order: (Check all that apply)

- An order for spousal support to be paid in the amount of \$ _____ per month starting _____ (Date you want the new order to start)
- An order for spousal support to be paid in a one-time lump sum of \$ _____ by _____ (Date you want the lump sum to be paid)
- Other: (Describe any kind of order you would like for spousal support order)

Income of the Applicant

(If you have filled in #15, above, you may cross this out)

22. I have or will be filing a Financial Statement, which will provide evidence of my income. I ask the court to set my income for spousal support at \$ _____, based on:

- This is what I believe my gross annual income from all sources will be this year
- This is my gross annual income for last year
- Other: *(Explain how you have calculated your income and explain why you believe this amount should be accepted as your income)*

Income of the Respondent

(If you have filled in #16, above, you may cross this out.)

23. The Respondent has has not filed a Financial Statement, which has provided evidence of their income. I ask the court to set the Respondent's income at \$ _____, based on:

- This is what I believe the Respondent's gross annual income from all sources will be this year
- This is the Respondent's gross annual income for last year
- Other: *(Explain how you have calculated the Respondent's income and explain why you believe this amount should be accepted as their income)*

Retroactive Spousal Support

(Complete only if you are asking that the spousal support be retroactive.)

24. I am asking for the spousal support to be retroactive to _____
(Date you want spousal support to start)

I am asking for a retroactive order for the following reasons:

Other Information

25. The Respondent and I lived together for _____ years.

26. During the time that the Respondent and I lived together, I was: *(check all that apply)*

- attending school
- employed full time
- employed part time
- a stay-at-home parent
- I suffered from an illness or disability that affected my ability to work *(Describe your illness or disability)*

- Other *(Describe)* _____

27. During the time that the Respondent and I lived together, the Respondent was: *(check all that apply)*

- attending school
- employed full time
- employed part time
- a stay-at-home parent
- The Respondent suffered from an illness or disability that affected his/her ability to work
(Describe the illness or disability)

- Other *(Describe)* _____

28. During the time the Respondent and I lived together: *(Check all that apply)*

- both of us earned income to pay our expenses
- I was the person primarily responsible for earning income to pay our expenses
- The respondent was the person primarily responsible for earning income to pay our expenses
- Other *(Describe how your expenses were paid during the time you were together)*

29. I have the following education and training:

30. I have worked at the following jobs:

31. (Choose one)

- At this time, I am in good health.
- At this time, I suffer from an illness or disability that affects my ability to work. (Provide details)

32. Attached as Exhibit “_____” is my detailed information regarding my assets, liabilities and my monthly budget.

ADDITIONAL INFORMATION

33. I have the following other information in support of my application:

Sworn (OR Affirmed) before me

on _____, 20 ____
at _____, Alberta.

Commissioner for Oaths in and for the Province of
Alberta, Justice of the Peace or Notary Public



(Signature of person swearing / affirming Affidavit)

ID Verified _____

Assets, Debts and Monthly Budget of _____
(Your name)

as of _____
(Date you complete this form)

A. ASSETS

	Asset	Particulars	Date Acquired	Value (Estimated)
1.	<u>Real Estate:</u> (List any interest in land, including leasehold interests and mortgages owing to you, whether or not you are registered as owner. Provide legal descriptions and indicate without deducting encumbrances or costs of disposition. Record encumbrances under debts)			
2.	<u>Vehicles:</u> (List cars, trucks, motorcycles, trailers, motor homes, boats, etc.)			

3.	<p><u>Financial Assets:</u> <i>(List savings and chequing accounts, term deposits, GIC's, stocks, bonds, Canada Savings Bonds, mutual funds, insurance policies (indicate beneficiaries), accounts receivable, etc.)</i></p>			
4.	<p><u>Pensions and RRSP's:</u> <i>(Indicate name of institution where accounts are held, name and address of pension plan and pension details)</i></p>			
5.	<p><u>Corporate / Business Interests:</u> <i>(List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, trust, joint venture, etc.)</i></p>			
6.	<p><u>Other:</u> <i>(List anything else of value that you own, including precious metals, collections, works of art, jewelry or household items of high value.)</i> <i>(Include location of any safety deposit boxes)</i></p>			

B. DEBTS

Debt	Particulars	Date incurred	Balance Owing	Monthly Payment
1. Secured Debts: <i>(List all mortgages, lines of credit, car loans, and any other debt secured against an asset that you own.)</i>				
2. Unsecured Debts: <i>(List all bank loans, personal loans, lines of credit, overdrafts, credit cards and any other debts that you have)</i>				
3. Other: <i>(List any other debts not listed above)</i>				
—				
—				
—				

C. Monthly Budget

Line 1: Total Net Monthly Income from all sources (e.g. include employment income (After payroll deductions), EI Benefits, social assistance, Child Tax Benefit etc.) \$ _____

Monthly expenses:			
Rent or mortgage	\$	Clothing	\$
Property Taxes	\$	Laundry, dry cleaning	\$
Home insurance	\$	Haircuts, personal care	\$
Cable television	\$	Newspaper, subscriptions	\$
Internet	\$	Alcohol, tobacco	\$
Telephone	\$	Savings for future	\$
Utilities	\$	Vacation Savings	\$
Home maintenance	\$	Entertainment, recreation	\$
Vehicle Loan	\$	Activities for children	\$
Gas for Vehicle	\$	School expenses	\$
Vehicle maintenance	\$	Day care, babysitting	\$
Vehicle Insurance	\$	Gifts, allowances	\$
Public transportation	\$	Other: (please specify)	\$
Food, groceries, Household supplies	\$		\$
Meals outside the home	\$		\$
Dental/Medical Insurance (if not deducted by your employer)	\$		\$
Dental/Medical expenses not covered by insurance	\$		\$
Total Monthly Debt payments	\$		\$
Total Column 1	\$	Total Column 2	\$
Line 2: Total of Column 1 + Column 2 = Total Monthly Expenses:			
			\$

Total Monthly Income from Line 1:		\$
(Minus) Total Monthly Expenses from Line 2:	-	\$
Equals Monthly Surplus or Deficit	+/-	\$

TABLE OF EXHIBITS

(Exhibits are numbered, starting with the first page of the first exhibit being #1, and continuing through to the last page of the last exhibit. On this chart, write the page number where each exhibit starts.)

Exhibit Letter	Brief Description of Exhibit	Page Number
A		
B		

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit of Personal Service**

SWORN / AFFIRMED BY: _____
(Name of person making this Affidavit)

SWORN / AFFIRMED ON: _____
(Date Affidavit sworn / affirmed)

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT _____
(Name of party filing this document)

(Full address of party filing this document)

()

I, _____, of _____, Alberta,
(Name of person who served) (Name of City / Town)

SWEAR / AFFIRM AND SAY THAT:

1. I have personal knowledge of the facts set out below, except where I say that they are based on information and belief. In that case, I believe the information to be true.
2. I am 18 years of age or older.

3. On _____ I served the Applicant Respondent
(Date)

(Name of person who was served)

with the following documents:

Application form filed: _____
(Date filed)

Originating Application filed: _____
(Date filed)

Affidavit filed: _____
(Date filed)

Claim filed: _____
(Date filed)

Statement filed: _____
(Date filed)

Disclosure Statement filed: _____
(Date filed)

Order filed: _____
(Date filed)

Other: (State the name of the document and the date filed with the court. If it is not a filed document, attach a copy as an exhibit to this Affidavit.)

4. I served the documents listed above by personal service, that is, I left the documents with the
 Applicant Respondent at: (Complete address where you served the Applicant or Respondent)

Sworn (OR Affirmed) before me

on _____, 20 _____

at _____, Alberta.

Commissioner for Oaths
in and for the Province of Alberta, Justice of the Peace
or Notary Public



(Signature of person swearing / affirming Affidavit)

I.D. Verified _____