

Respond – Change Custody, Access, Child and
Spousal Support

Court of Queen's Bench

Responding to Application
To Change Custody, Access, Child and
Spousal Support



Resolution Services



Alberta
Government

Instructions

Responding to an Application

Before you Begin:

- There is an important date in the Application (or Originating Application) form that you have been served with. The court date is in the box on the first page. If you do not go to court on that date, the judge will assume that you agree with whatever the Applicant is asking for.
- If you want to respond to the application, you **must** fill in an Affidavit, setting out everything that you want the judge to know, and attaching any documents that the judge will want to see.
- If the application deals with support, you must also fill in a Disclosure Statement. See our booklet “Providing Financial Disclosure” for that form, and instructions on how to complete it.
- 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.

Gather up the documents you will need to prove your case

- If the application deals with support, the booklet “Providing Financial Disclosure” tells you what documents to gather up.

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

- With respect to child support:
 - If you want to receive (or to continue to receive) payment for any special or extraordinary expenses for your children, attach receipts for those expenses, if you have them.
 - If you want to receive (or to continue to receive) 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 want to receive (or to continue to receive) 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 claiming undue hardship, attach income information for any other adult in your household, and evidence to support your undue hardship claim.

- With respect to spousal support:
 - Attach a list of your assets, showing the value of each asset and your debts, showing the amount owing on each debt.
 - If you are unable to support yourself because of medical problems or education, attach proof of the medical problems or registration at an educational institution.

- With respect to 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

Fill in the Affidavit form

- 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.
- All of the documents that you want the judge to see must be written about in the Affidavit and attached as exhibits to the Affidavit.
- Make 2 copies of the sworn Affidavit and file the original with the Court of Queen's Bench.

Serving the other party

- You may serve the other party with your filed Affidavit in one of several ways:
 - You may serve them personally – by handing a copy of the Affidavit to them.
 - If they have a lawyer named on their application form, you can leave a copy with the lawyer or one of their staff.
 - You can leave a copy at the address for service listed on the Application form.
 - If the Application form has a fax number or e mail address, you may fax or scan and e mail the form to the other party that way.



Tip:

You do not have to serve the other party yourself. You can have a friend or a process server do it for you.

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

- Make sure the Affidavit of Service states how you served the Applicant.

**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

Edmonton

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

Grande Prairie

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

Lethbridge

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

Red Deer

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

Medicine Hat

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

**Outside these centres, call the
Resolution Services Contact Centre at 1-855-738-4747**

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 the other party's full name, as on other court documents)

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

DOCUMENT: **Affidavit – Responding to
Changing Custody and
Access, Spousal Support,
and Child 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

MAKE OATH / AFFIRM AND SAY THAT:

1. I am the Respondent. 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.
2. I have read the Affidavit filed by the Applicant, and I make this Affidavit in response to the application of the Applicant.

CUSTODY AND ACCESS

(Complete this section if you are responding to an application for changes to an existing order for custody and/or access)

3. I agree with the following things the Applicant is asking for: *(Give details)*

4. I disagree with the following things the Applicant is asking for:

(Give details of what you disagree with)

because:

- There has been no change of circumstances since the last Order made.
 Other: *(Give details as to why you disagree)*

SPOUSAL SUPPORT

(Complete this section if you are responding to an application for changes to an existing order for spousal support. Make sure you complete the Income sections below)

5. I agree with the Applicant's application to change spousal support.

6. I am opposing the Applicant's application for changes to an existing order for spousal support because:

- There has been no change of circumstances since the last Order made.
 My income is not what the Applicant claims it is. *(Complete #17)*
 The Applicant's income is not what the Applicant claims it is. *(Complete #18)*
 Other reasons:

(Give other reasons for opposing the Applicant's application, including your response to any claims for retroactive support.)

7. Attached as Exhibit ' _____ ' is my detailed information regarding my assets, liabilities and my monthly budget of expenses.

CHILD SUPPORT

(Complete this section if you are responding an application for changes to an existing order for child support)

8. I agree with the Applicant's application to change child support.
9. I am opposing the Applicant's application for changes to an existing order for child support because:
- There has been no change of circumstances since the last Order made.
 - My income is not what the Applicant claims it is. *(Complete #17)*
 - The Applicant's income is not what the Applicant claims it is. *(Complete # 18)*
 - The custody and/or access arrangements for the child(ren) are not what the Applicant says they are. The current custody and/or access arrangements for the child(ren) are:

- I disagree with the special expenses that the Applicant is claiming. *(Complete #11)*
- Other reasons:
(Give other reasons for opposing the Applicant's application, including your response to any claims for retroactive support, undue hardship, or imputing income)

10. I ask the court to set the amount of child support payable at:
- The same amount as in the previous order.
 - 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 the *Federal Child Support Guidelines*. *(Complete #15 to explain why you want a different amount)*

'Add-on' or Special Expenses

11. (Choose all that apply)

- I have no special expenses for the child(ren).
- My current child support Order does not include special expenses and I would like the Applicant to pay a share of the children's special expenses.
- My special expenses for the children have changed since the last Order.
- 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 "_____".

12. 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.)

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

14. I want to stop paying the following special expenses, claimed by the other parent, because: *(List the expenses that you do not want to pay, and explain why you believe you should not be paying them.)*

Setting child support at an amount different from the Guidelines

- 15. *(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)*

Medical or Dental Insurance Coverage

- 16. I do not have health benefit coverage available to me for the children.
 - I have health benefit coverage available to me for the children. Details of the plan are:
(Give details of coverage and cost of the plan)
-
-
-

INCOME OF THE RESPONDENT

(Complete this section if:

- you are the support payor,
- you are a child support recipient whose income is needed to determine the child support amount [for example: you are claiming special expenses, or you share custody of the child(ren)], or
- you are the spousal support recipient)

17. 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 APPLICANT

(Complete this section if:

- the Applicant is the support payor,
- the Applicant is a child support recipient whose income is needed to determine the child support amount [for example: they are claiming special expenses, or they share custody of the child(ren) with you], or
- the Applicant is the spousal support recipient)

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

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

ARREARS

(Complete this section if the Applicant is asking to reduce arrears of child support and/or spousal support)

- 19. I agree the Court should reduce the Applicant's support arrears to \$ _____.
- I do not agree that the Court should reduce the Applicant's support arrears. My reasons are: *(Specify)*

OTHER INFORMATION

20. I have the following other information in response to the Applicant's application:

Sworn (OR Affirmed) before me

on _____, 20 ____

at _____, Alberta.

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



(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. | <p><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)</p> | | | |
| 2. | <p><u>Vehicles:</u> (List cars, trucks, motorcycles, trailers, motor homes, boats, etc.)</p> | | | |
| 3. | <p><u>Financial Assets:</u> (List savings and chequing accounts, term deposits, GIC's, stocks, bonds, Canada Savings Bonds, mutual funds, insurance policies (indicate beneficiaries), accounts receivable, etc.)</p> | | | |
| 4. | <p><u>Pensions and RRSP's:</u> (Indicate name of institution where accounts are held, name and address of pension plan and pension details)</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 | | |
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