

## Instructions – Originating Application under the *Extra-provincial Enforcement of Custody Orders Act*

### 1. Gather the documents you will need to prove your case

- You must have a **certified copy** of the Order that you want to enforce or change. Contact the court where the Order was made to get a certified copy. You may have to pay a fee.
- If you are asking the court to change the existing Order, 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 emails showing attempts to organize access (visits) with the child,
  - Your work schedule, if access must be scheduled around that,
  - The child’s school and extracurricular activity schedule.

### 2. Fill in the Originating Application form

- Fill in your full name and your address. The address must be a location at which you are willing to receive documents from the Respondent. This is known as your ‘address for service’. You should also provide a phone number at which you may be contacted for the purposes of this application.
- Fill in the Respondent’s full name and mailing address. If you know the Respondent’s phone number, you should include that as well.
- Do not fill in the **Court, Court location**, or the **Notice to the Respondent(s)**. These parts of the application form will be filled in by the court clerk when you file it at the courthouse (or Resolution Services office).
- Check off the orders that you are requesting from the court, and briefly describe your reasons for making the request, and the evidence you will be presenting to the judge. You will have an opportunity to give details when you complete the Affidavit in support of your application.

### 3. Fill in the Affidavit form

- Follow the instructions given in the form. Remember:
  - This form outlines the information the judge will likely want to know. The judge may want to ask you other questions as well.
  - 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 you want the judge to see must be referred to in the Affidavit and attached as exhibits to the Affidavit.
- Once you have finished filling in the Affidavit form, you must have the Affidavit sworn before a Commissioner for Oaths or a Notary Public. You can go to the Resolution Services office or the Clerk’s office to have your Affidavit sworn. Bring photo identification with you.

#### 4. File the completed Originating Application and Affidavit with the Court

- You will have to choose whether you file your application in the Provincial Court or the Court of Queen's Bench. When making this choice, consider the following:
  - If you are applying to enforce an out-of-province custody/access (parenting) order, you may choose to file the application in either the Provincial Court or the Court of Queen's Bench.
  - If you are applying to change the terms of the order, you may file your application in either Court, unless the order was granted by a "superior court" in another province of Canada – in which case your application must be filed in the Court of Queen's Bench.
  - There is a \$50 fee to file an application under the *Extra-provincial Enforcement of Custody Orders Act* in either the Provincial Court or the Court of Queen's Bench.

If you are unsure of which court you should be filing your application with, the court clerk can give you further information when you attend at the courthouse (or Resolution Services office).

- Go to the clerk's office at the Provincial Court (or Resolution Services office) or the Court of Queen's Bench, hand them your completed Originating Application and Affidavit form, and pay the applicable filing fee. You will speak to the clerk about setting a court date.
- You will be given copies of the forms with the court date filled in and stamped indicating the Originating Application and Affidavit have been 'filed' with the court.

#### 5. Serve the Originating Application and Affidavit on the Respondent

- You or another person over the age of 18 must serve the Respondent with a copy of the filed Originating Application and Affidavit (including all documents attached). Service means a person must hand-deliver the documents directly to the Respondent (this is called 'personal service'), or send them by recorded (registered) mail. Note that if you serve the documents by recorded mail, you must show that the Respondent has signed the acknowledgment of receipt.
- You must be able to show the judge that the Respondent received their copy of the Originating Application and Affidavit a sufficient number of days before the hearing date.
  - If you are applying simply to enforce an out-of-province custody/access (parenting) order, the Respondent must receive the documents **10 days or more** before the hearing date (see rule 3.9 of the *Alberta Rules of Court*).
  - If you are applying to enforce and change the terms of the order, the Respondent must receive the documents (see rule 12.27(3) of the *Alberta Rules of Court*):
    - **20 days or more** before the hearing date, if the Respondent was served in Alberta,
    - **1 month or more** before the hearing date, if the Respondent was served outside Alberta but within Canada, or
    - **2 months or more** before the hearing date, if the Respondent was served outside of Canada.

If you do not give the Respondent the required amount of notice then the judge may refuse to hear your application, or it may be rescheduled.

- When serving the court materials:
  - Think about having someone else serve the documents for you – for example, ask a friend or family member, or hire a process server.
  - Whoever delivers the documents must make a note of the address where the Respondent is when they deliver the documents;
  - Make sure the person that serves the documents knows that they will have to swear an Affidavit of Service.

## 6. Prepare the Affidavit of Service

- After the Respondent has been served with a copy of the Originating Application and Affidavit, you have to file an Affidavit of Service with the Court. This form proves to the judge that the other party was properly notified of your application. The Affidavit of Service will:
  - Explain who delivered the documents;
  - Say the date the documents were delivered; and
  - Say the address of where the Respondent was served.
- The Affidavit of Service must be completed and sworn by the person who served the documents. Just like the Affidavit for your application, the Affidavit of Service must be sworn.
- You must be sure to file the original Affidavit of Service at the clerk's office before the court date and bring a copy of it with you to court.

## 7. Going to Court

- On your court date, plan to arrive early. Bring with you:
  - Copy of your Originating Application and Affidavit
  - Copy of your Affidavit of Service
  - Pen and paper
- Make sure you go to the right courtroom – there may be several courtrooms where family matters are heard. The courtroom may be filled in on your Application, or you can find out which courtroom you are in by asking security staff and checking the docket lists or boards.
- In Provincial Court in Edmonton and Calgary, before you speak with a judge you will likely meet with a Caseflow Coordinator, who will assist the parties to explore any settlement options available, review the documents required for the application to go ahead, and inform them of the process to be followed.

COURT FILE NUMBER \_\_\_\_\_

COURT  Provincial Court of Alberta  
 Court of Queen's Bench of Alberta

COURT LOCATION / JUDICIAL CENTRE \_\_\_\_\_

Clerk's stamp:

**APPLICANT(S)**

Address for service and contact information for the Applicant(s)


**RESPONDENT(S)**

Last known address and contact information for the Respondent(s)


DOCUMENT

**Originating Application –  
Extra-provincial Enforcement of Custody Orders Act**

**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 Court. To do so, you must be in Court when the application is heard as shown below:

Court Date: \_\_\_\_\_

Time: \_\_\_\_\_

Where: \_\_\_\_\_  
*(Courtroom (if known), Street address of court location)*

Before Whom: \_\_\_\_\_

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

**1. I ask the Court to grant the following order(s):** *(Choose all that apply)*

- Registration of a custody or access (parenting) order made by a Court outside of Alberta.
- Enforcement of a custody or access (parenting) order made by a Court outside of Alberta.
- Changes to a custody or access (parenting) order made by a Court outside of Alberta.
- Other: *(specify)*

\_\_\_\_\_  
\_\_\_\_\_

**2. Children involved in this application:** *(List full name and birthdate (yyyy/mm/dd) of each child)*

(a) \_\_\_\_\_ / / ; (d) \_\_\_\_\_ / / ;  
(b) \_\_\_\_\_ / / ; (e) \_\_\_\_\_ / / ;  
(c) \_\_\_\_\_ / / ; (f) \_\_\_\_\_ / / ;

**3. I am relying on the following grounds or reasons for making this application:**

*(Summarize the basis for your application)*

(a) I am relying on the grounds or reasons set out in the Affidavit sworn/affirmed on \_\_\_\_\_  
(Date)  
for making this application.

(b) Other: *(specify)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. Affidavit or other evidence to be used in support of this application:** *(List the evidence you will rely on)*

(a) I have filed an Affidavit in support of this application, sworn / affirmed on \_\_\_\_\_  
(Date)

(b) I intend to rely on the following other evidence, copies of which are served with this originating application:

\_\_\_\_\_  
\_\_\_\_\_

**5. Applicable Acts and Regulations:** *(Choose all that apply)*

*Extra-provincial Enforcement of Custody Orders Act.*

Rule 12.27 of the *Alberta Rules of Court* (Applications under the *Extra-provincial Enforcement of Custody Orders Act*).

Rule 13.5 of the *Alberta Rules of Court* (Variation of Time).

Other: *(Specify)*

\_\_\_\_\_  
\_\_\_\_\_

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you.

If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must reply by giving reasonable notice of that material to the applicant(s).

Clerk's stamp:

COURT FILE NUMBER \_\_\_\_\_

COURT  Provincial Court of Alberta  
 Court of Queen's Bench of Alberta

COURT LOCATION / JUDICIAL CENTRE \_\_\_\_\_

APPLICANT(S) \_\_\_\_\_

RESPONDENT(S) \_\_\_\_\_

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT \_\_\_\_\_

DOCUMENT

## **Affidavit – Extra-provincial Enforcement of Custody Orders Act**

AFFIDAVIT OF: \_\_\_\_\_  
*(Name of person swearing / affirming this affidavit)*

DATE SWORN: \_\_\_\_\_  
*(Date this affidavit is sworn)*

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

### **SWEAR / AFFIRM AND SAY THAT:**

1. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true.
2. I have an Order for custody and access from another province or country, which was granted on \_\_\_\_\_ by the \_\_\_\_\_.  
*(Date) (Name of Court that granted the order)*  
A certified copy of the Order is attached to this Affidavit as Exhibit ' \_\_\_\_\_ '.

3. The following chart gives basic information about the child(ren) in this case:  
*(List all children involved in this case)*

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

4. At the time the above Order was made, the children had a connection with the province or country where the order was made because: *(Describe how long the children were living in that province or country, where they were attending school, etc.)*

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5. At this time, the children have a connection with Alberta because: *(Describe how long the children have been living in Alberta, where they are attending school, etc.)*

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6. The parenting arrangements for the child(ren) at this time are as follows:  
*(Give details of the arrangements that currently apply to the children. Specify dates and times)*

Child's name	Parenting (Custody/Access) Arrangement

7. I am asking the Alberta Court to:

- Register the custody/access or parenting order made by a Court outside of Alberta.
- Enforce the custody/access or parenting order made by a Court outside of Alberta.  
*(If you are only asking the Court to enforce your Order, then you can skip to paragraph 11 below).*
- Change the custody/access or parenting order made by a Court outside of Alberta.
- Other: *(describe)*

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**Request to Change Custody/Access or Parenting Order**

*(Complete this section only if you checked off that you want to change the terms of your Order)*

8. Since the time the Order was granted, there have been the following changes of circumstance which have impacted the existing custody/access or parenting arrangements:

*(List every change since the date of the last Order for custody/access or parenting)*

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9. I ask the Court for the following changes to the existing order for custody/access or parenting:

An order that \_\_\_\_\_  
*(Name of party(ies) or person(s))*

shall have  sole custody  joint custody of the following child(ren):

\_\_\_\_\_  
*(Names of children)*

An order for the following custody and/or access arrangements for the child(ren):  
*(Give complete details of the proposed arrangements, including where the child(ren) will live, when each parent will visit with the child(ren), any conditions which will apply to these residential/access arrangements, etc. Be sure to specify dates and times, if applicable.)*

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10. My plan for the day-to-day care of the children is as follows:

*(Give details if you are asking for the children to live with you, 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.)*

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14. I have the following other information in support of my application: *(Give details)*

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**Sworn (OR Affirmed) before me**

on \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_, Alberta.

\_\_\_\_\_  
Commissioner for Oaths  
in and for the Province of Alberta



\_\_\_\_\_  
*(Signature of person swearing / affirming Affidavit)*

ID Verified \_\_\_\_\_

Clerk's stamp:

COURT FILE NUMBER \_\_\_\_\_

COURT  Provincial Court of Alberta  
 Court of Queen's Bench of Alberta

COURT LOCATION / JUDICIAL CENTRE \_\_\_\_\_

APPLICANT(S) \_\_\_\_\_

RESPONDENT(S) \_\_\_\_\_

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT \_\_\_\_\_

DOCUMENT

## Affidavit of Service Extra-provincial Enforcement of Custody Orders Act

AFFIDAVIT OF: \_\_\_\_\_  
*(Name of who delivered the documents to the Respondent)*

DATE SWORN: \_\_\_\_\_  
*(Date this affidavit is sworn)*

I, \_\_\_\_\_, of \_\_\_\_\_, Alberta,  
*(Name of person who delivered documents to the Respondent)* *(Name of City / Town)*

### SWEAR / AFFIRM AND SAY THAT:

- I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true.
- I am 18 years of age or older.
- On \_\_\_\_\_, I served the Respondent,  
*(Date)*

\_\_\_\_\_  
*(Respondent's full name)*

with a copy of the following documents:

- Originating Application, filed \_\_\_\_\_  
*(Date filed)*
- Affidavit of \_\_\_\_\_ filed, \_\_\_\_\_  
*(Name of person swearing / affirming affidavit)* *(Date filed)*
- Other: \_\_\_\_\_ filed, \_\_\_\_\_  
*(describe)* *(Date filed)*

4. I served the document(s) listed above:

by personal service, that is, I left the documents with the Respondent at:

\_\_\_\_\_  
*(Complete address where you served the Respondent)*

by causing the documents to be sent by recorded mail to the Respondent at:

\_\_\_\_\_  
*(Complete address where you served the Respondent)*

Service was effected on \_\_\_\_\_ as is evidenced by the  
*(Date)*  
acknowledgement of receipt card, signed by the Respondent, attached as Exhibit 'A' to my affidavit.

in compliance with the attached court order allowing an alternative method of service by:

\_\_\_\_\_  
\_\_\_\_\_

**Sworn (OR Affirmed) before me**

on \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_, Alberta.

\_\_\_\_\_  
Commissioner for Oaths in and for the  
Province of Alberta, or Notary Public



\_\_\_\_\_  
*(Signature of person swearing / affirming Affidavit)*

ID Verified \_\_\_\_\_