

Change Custody and Child Support

Court of King's Bench

Application to Change
Custody, Access and Child Support



Resolution Services



Alberta
Government

Instructions

Changing Custody, Access and Child Support

Before you Begin:

- You must have a divorce file in the Court of King'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 King'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

- You will need a copy of the Order that you want to change.
- 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 request to change custody or access, think about which documents the judge will want to see. 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 request to change child support:
 - If you are asking for any special or extraordinary expenses for your children, you will need receipts for those expenses, if you have them.
 - If you are claiming support for a child over the age of 18, you will need proof of that child's income 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, you will need 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, you must provide income information back to the date that you want the new support amount to begin.
- If you are claiming undue hardship, you will need proof of the amounts you are spending on the thing that causes you undue hardship and income information for any other adult in your household.
- If you are asking to reduce arrears, you must provide:
 - Income information back to the date when you first began to fall into arrears.
 - A copy of your Debtor's Statement of Account from the Maintenance Enforcement Program; and
 - A list of your assets, showing the value of each asset, and a list of your debts, showing the amount owing on each debt.
- If you are objecting to a decision of the Child Support Recalculation Program, you must attach a copy of the recalculation decision that you object to.



Tip:

You can print off a copy of your Debtor's Statement of Account from the Maintenance Enforcement website, if you have your account number and your pin. Or you can phone them at 480-422-5555 and ask them to mail it to you.

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.

If you are objecting to a decision of the Child Support Recalculation Program, send a copy of your application to them.

**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, contact us toll free at 310-0000

Clerk's Stamp

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

COURT Court of King'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 to
Change Custody, Access
and Child 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)*

Changing Custody and Access:

- An order changing custody to grant me sole custody and primary residence of the following children:

_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>

- An order changing custody to grant the other parent sole custody and primary residence of the following children:

_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>

If you are asking to change custody so that 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 changing custody to grant me and the other parent joint custody of the following children:

_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>
_____	, born	_____
<i>(Name of child)</i>		<i>(Date of birth)</i>

If you are asking to change to a joint custody order, 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 changes you would like to your custody and access order)

Changing Child Support

An order changing my child support starting on: _____
(Date you want the new child support payments to start.)

Check the boxes below that show the changes you want to your child support order:

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

An order changing my child support to \$_____ 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 declaring that the child, _____
(Name and date of birth of child)
is no longer a child of the marriage for whom child support is payable as of _____
(Date)

An order declaring that the child, _____
(Name and date of birth of the child)
has resumed his/her status as a child of the marriage for whom child support is payable as of _____
(Date)

An order changing 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 changes that you would like to your child support order)*

Arrears *(Check off the box or boxes that apply)*

An order cancelling all of the arrears that I owe for child and/or spousal support

An order reducing my child and/or spousal support arrears to \$ _____ *(Amount)*

An order setting out a payment plan for my child and/or spousal support arrears, so that I am required to pay \$ _____ per month towards my arrears. *(Amount)*

An order for a Stay of Enforcement, so long as I make my ongoing support payments and any amount ordered to be paid towards my support arrears.

Other: *(Describe any other changes that you would like to your arrears.)*

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 King'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 - Change Custody,
Access 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)

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>

4. A copy of the Order I want to change is attached as Exhibit "_____". *(As this is your first exhibit, fill in the blank with the letter "A". Your next exhibit will be "B", and so on.)*

I have not attached a copy of the Order I want to change for the following reasons: *(Describe)*

CUSTODY and ACCESS:

5. The current custody and access arrangements are:

The Respondent and I are following the custody and access terms in our court order.

The Respondent and I have changed the custody and access terms from those in the court order.

The custody and access arrangements that we have been following are:

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

Child's Name	Custody / Access Arrangement

6. Since the time the Order was made, our circumstances have changed as follows:
(Describe what has changed and how it has affected your custody and access arrangements.)

7. I ask the Court for the following changes to the existing 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 changes to custody and/or access: (Describe)

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

9. 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:

10. *(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).

11. As of today: *(Choose one)*

- all child support required to be paid under the court order has been paid (there are no child support arrears)
- there are child support arrears in the amount of \$_____

12. (Choose one)

- I am asking the court to change the existing order for child support because since the time the Order was made, our circumstances have changed as follows:

(Describe what has changed for you, for the other parent or for the child and how it has affected your child support. This may include changes in your financial situation, a child turning 18, an increase in Section 7 (special) expenses, etc.)

- The Child Support Recalculation Program has recalculated the amount of child support under the Child Support Order, and I do not agree with the recalculated amount. A copy of the notice telling me of the recalculated amount is attached as Exhibit “_____”.

13. I am asking for the change to my child support to start on _____
(Date you want the new order to start)

14. The change or changes that I want to make to my child support Order are as follows:
(Check the boxes that show the changes you want to your child support Order)

- Changing my income and/or the other parent’s income for the purpose of child support.
- Changing the amount of my child support to \$_____

 - 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 #22 to explain why you want a different amount.)*

- Declaring that the child _____ is no longer a child for
(name of child)
whom child support is payable as of _____
(date)
- Declaring that the child _____ has resumed his or her
(name of child)
status as a child of the marriage for whom child support is payable as of _____
(date)
- Changing the amount or percentage that each party is to pay for section 7 (special) expenses.
- Other: *(Describe any other changes that you would like to your child support order)*

Section 7 or Special Expenses

15. (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 Respondent 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 "_____".

16. 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.)

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

18. 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.)

Income of the Applicant

19. 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

20. 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.)

21. I am asking for the change in child support 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

22. *(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 #14. 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)*

REDUCING OR CANCELLING ARREARS

(Complete #35 – 39 only if you want to reduce or cancel arrears. Cross them off if they do not apply.)

23. Attached as Exhibit “_____” to my Affidavit is a copy of my Debtor Statement of Account from the Maintenance Enforcement Program

I have not attached a copy of my Debtor’s Statement of Account for the following reasons: *(Describe)*

24. *(Choose those that apply)*

- I am asking for an order cancelling all of the arrears that I owe for child and spousal support.
- I am asking for an order reducing my child and spousal support arrears to \$ _____.
- I am asking for an order setting out a payment plan for my child and spousal support arrears so that I am required to pay \$_____ per month towards my arrears amount.
- I am asking for a stay of enforcement for so long as I make my ongoing child and spousal support payments and payments of any amount ordered towards my arrears.
- I am asking for the following additional change to my arrears:

25. Since the time the Order was granted I was unable to pay the support at the time it was due for the following reasons:

26. I cannot pay the arrears of support now for the following reasons:

27. I will not be able to pay the arrears of support in the future for the following reasons:

ADDITIONAL INFORMATION

28. 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 _____

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 King'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 _____

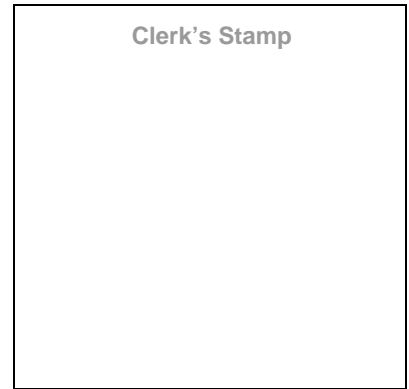
COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King'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 Service on
Maintenance Enforcement
Program (M.E.P)**

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 Director of Maintenance Enforcement
(Date)

with the following documents:

Application form 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 using the following method:

Handing the documents to a staff member at the Maintenance Enforcement office, at 7th floor North, 10365 – 97 Street, Edmonton, Alberta.

Sending the documents by recorded mail to the Director of Maintenance Enforcement at 7th floor North, 10365 – 97 Street, Edmonton, AB, T5J 3W7.

Sending the documents by way of facsimile transmission to the following fax number: (780) 401- 7575. Attached as Exhibit ' _____ ' is the fax transmission sheet showing the fax was completed.

Other: (Describe the method and attach documents proving receipt, if any, as Exhibits to this Affidavit.)

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 _____