

Change Custody and Access

Court of King's Bench

Application to Change Custody and Access



Resolution Services



Alberta
Government

Instructions

Changing Custody and/or Access

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.

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

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

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 and
Access**

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)*

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 and Access**

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.)

ADDITIONAL INFORMATION

10. 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 _____