

Stay of Enforcement

Court of King's Bench

Application for Stay of Enforcement



Resolution Services



Alberta
Government

Instructions

Stay of Enforcement

Before you Begin:

Use this package if the Maintenance Enforcement Program (MEP) has issued a support deduction notice or an order for payment (example - wage garnishment) and you want to stop these enforcement steps.

Before applying for a Stay of Enforcement, it is **strongly recommended** that you talk to a lawyer and read the *Alberta Maintenance Enforcement Act*, section 32.

Section 32 of the *Maintenance Enforcement Act* says that a Stay of Enforcement will **NOT** stop:

- any federal enforcement (example – garnishment of GST rebate, employment insurance payments or tax refunds).
- any registration or filing made by MEP under the Land Titles Act or Personal Property Registry.
- any restrictions on your driver’s license or services available at a Registry Office.

You must talk to a the staff at the Alberta Maintenance Enforcement Program (780-422-5555) to deal with any of the above enforcement measures. They will tell you what you need to do to stop their enforcement.

Also note that section 32 of the *Maintenance Enforcement Act* says that a Stay of Enforcement can only be in place for at most **9 months**.

Most importantly, a Stay of Enforcement Order will **NOT** change the amount of child support you are currently paying, or affect the amount of your child support arrears. You must also make a court application to change the child support you pay or to change the child support arrears you owe. Ask us how to do that.

Complete Maintenance Enforcement Statement of Finances

Before you can apply to the court, you must attempt to make payment arrangements with Maintenance Enforcement.

To do that, you must:

- Fill in the Statement of Finances. The form is available on the Alberta MEP website, or you can request it by phoning Maintenance Enforcement at 780-422-5555;
- Have the Statement of Finances sworn. You can do that at the Resolution Services office, or with any Commissioner for Oaths;
- Send or deliver the Statement of Finances to Maintenance Enforcement; and
- Receive a letter back from Maintenance Enforcement.



Tips:

- Maintenance Enforcement will write a letter back to you either saying that your payments have been changed, or that they can't change your payments. If you are happy with the payments that they have set up, you do not have to go ahead with your court application.
- If you are not happy with the payments that MEP has set up, keep the letter – you will need to attach it to your court documents.

Gather up the documents you will need to prove your case

- The income information that you should provide to the court is:
 - Your complete tax return for each of the past 3 years;
 - The Notice of Assessment form from the tax department for each of the past 3 years; and
 - Your pay stub or other proof showing the income you have received from all sources this year.
- If you are self-employed, work through a corporation that you control or are in a partnership, you should also provide financial statements, corporate tax returns and other proof of income. See the Disclosure Statement for a complete listing.



Tips:

If you have already attached your income information to a filed Affidavit or to a Disclosure Statement, you do not have to provide it again.

BUT, your Statement of Finances is not part of the court file. So you will have to repeat information from your Statement of Finances on your court forms.

Decide

- How long do you want the Stay of Enforcement to last? The longest that the Stay can be in place is 9 months.
- Do you want the Stay to stop enforcement of your monthly support payments? Or do you want to stop enforcement of the arrears? Or both?
- What are you willing to pay while the Stay of Enforcement is in place?

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.
- 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.



Tip:

In addition to serving the other party, you must also serve Maintenance Enforcement with a copy of your Application and Affidavit. You may do so by sending the documents by registered mail or delivering the documents to their office at:

7th floor North
10365 – 97 Street
Edmonton, AB T5J 3W7

Or, you may fax the documents to them at (780) 401-7575.

After the other party and Maintenance Enforcement have been served, fill in the Affidavit of Service forms

- 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, 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 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 for a
Stay of Enforcement**

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:

Stay of Enforcement *(Check off one or both)*

- A Stay of Enforcement on my ongoing monthly support payments
- A Stay of Enforcement on my arrears.

I ask that the Stay of Enforcement be in place for _____ months. *(Maximum 9 months)*

Other

- Variation of time for service.
- Any other remedies, including costs, that the Court determines to be appropriate.
- Other: *(Describe any other terms you would like in your order.)*

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: *(Please state Rule number(s) that apply to your application)*

5. APPLICABLE ACTS AND REGULATIONS:

- Maintenance Enforcement Act*
- Other *(Please state 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 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 – Stay of Enforcement**

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)

()
(Full address)

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

SWEAR / AFFIRM AND SAY THAT:

1. I am the Applicant, and 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. A copy of my support Order 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 my support Order for the following reasons: *(Describe)*

3. The amounts that are to be paid under the Order are
- \$ _____ per month for child support
(including special expenses, if a dollar amount was ordered)
- \$ _____ per month for spousal support.
- \$ _____ per month towards the arrears.

4. My Order is registered with the Maintenance Enforcement Program.
- Attached as Exhibit “_____” to my Affidavit is a copy of my Debtor Statement of Account from the Maintenance Enforcement Program.

5. I have attempted to make payment arrangements with Maintenance Enforcement by doing the following:

(Check and complete as many as apply to you)

- I completed the Statement of Finances form and delivered it to Maintenance Enforcement by hand delivery regular mail fax other _____ on _____
(Date)
- I have received a letter back from Maintenance Enforcement, which is attached as Exhibit “_____”. I am not able to make the payments set out in that letter.
- I have had discussions with a worker with Maintenance Enforcement on _____ but have not been able to agree on a payment amount.
(Date)

6. As of today, the payment status under the existing support Order are as follows:
(Choose all that apply)

- all payments have been made (there are no support arrears)
- there are child support arrears in the amount of \$ _____
- there are spousal support arrears in the amount of \$ _____

7. I am asking for an Order for: *(Choose all that apply)*

- A Stay of Enforcement with respect to my ongoing monthly support payments.
- A Stay of Enforcement with respect to my support arrears.
- That the Stay of Enforcement be in place for _____ months.
- That I pay \$_____ towards my ongoing monthly support and/or \$_____ towards my support arrears while the Stay of Enforcement is in place.
- Other: *(Describe what other relief you want, relating to a Stay of Enforcement)*

8. I am taking the following steps to change my Order for child or spousal support

(Choose one)

- I have filed an Interjurisdictional Support Orders (ISO) application to change my support.
- I have filed a Claim under the Family Law Act to change my support.
- I have booked an Intake appointment with the Resolution Services office so that I can start an application to change my support.
- I have booked a Child Support Resolution appointment with Resolution Services to discuss a change in my support.
- I have not taken any steps to change my Order for child or spousal support because: *(Explain)*

9. The reasons I am unable to pay my child or spousal support at this time are:

10. My current employment status is as follows: *(Choose all that apply)*

- I am employed.
- I am self-employed
- Details of my employment / self-employment are:

(Name and address of employer or place of business)

(Position)

(Length of time in this position)

- I have been unemployed since _____
(Date)

and details of my unemployment are:

(Give details, including prospects of employment and benefits you are receiving, steps you are taking to find employment, or if in school, type of program and expected completion date)

11 I expect my gross annual income this year to be \$_____.

12 *(Choose one. If attaching documents, check off and fill in the documents that you are attaching)*

- The documents proving my income are attached as exhibits to my Disclosure Statement, which has been filed on this court file.

- I attach the following documents to prove my income:

- my Income Tax and Benefit Return (T1 General) and notices of assessment and reassessment from Canada Revenue Agency for the years:

(List the years, e.g. "2014, 2015 and 2016")

- the Canada Revenue Agency printout of my income tax returns for the years

(List the years, e.g. "2014, 2015 and 2016")

- my Notices of Assessment / Re-Assessment from the Canada Revenue Agency for the years:

(List the years, e.g. "2014, 2015 and 2016")

- Other proof of my income for the last 3 years:

(Describe the document(s) you are attaching to show your income)

TABLE OF EXHIBITS

(List your exhibits and the descriptions again.

Number the pages of your exhibits, starting with "1" and numbering all the way through all of the exhibits, like a book. List the page number that each exhibit starts on. For example, if your first exhibit is 3 pages, then it starts on page 1, and your second exhibit starts on page 4.

If you do not have any exhibits, then remove this page.)

Exhibit Letter	Brief Description of Exhibit	Page Number
A		1
B		

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> <i>(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)</i>			
2.	<u>Vehicles:</u> <i>(List cars, trucks, motorcycles, trailers, motor homes, boats, etc.)</i>			

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	+/-	\$

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

at _____, Alberta

on _____, 20 _____

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

Print Name and Expiry / Lawyer / Student-at-Law



(Signature of person swearing / affirming Affidavit)

ID Verified _____

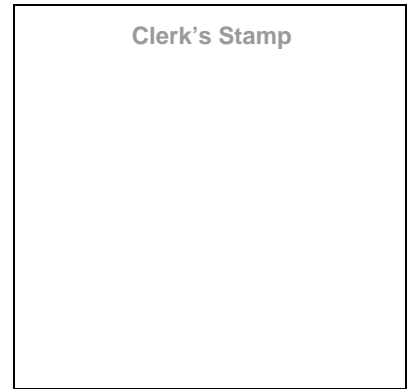
COURT FILE NUMBER _____
(File number, as on other court documents)

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

at _____, Alberta
on _____, 20 _____



(Signature of person swearing / affirming Affidavit)

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

ID Verified _____

Print Name and Expiry / Lawyer / Student-at-Law