

Reduce or Cancel Arrears

Court of King's Bench

Application to
Reduce or Cancel Arrears



Resolution Services



Alberta
Government

Instructions

Reducing or Cancelling Arrears

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 Support Order that has caused you to be in arrears.
- 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 application to reduce or cancel 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.



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.

**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

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)

erk's Stamp

DOCUMENT

Family Law Application to Reduce or Cancel Arrears

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

(Applicant's Name)

(Full address)

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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)*

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*
- Family Law Act*
- Alberta 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 – Reduce or Cancel
Arrears**

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)

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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. I have arrears of child support spousal support as a result of the Order 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 support order for the following reasons: *(Describe)*

5. 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)*

Income of the Applicant

6. 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)*

7. Attached as Exhibit “_____” is my detailed information regarding my assets, liabilities and my monthly budget.

Income of the Respondent

8. 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.)*

9. *(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 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:

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

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

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

ADDITIONAL INFORMATION

13. 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 _____

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

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	+/-	\$

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)

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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 _____

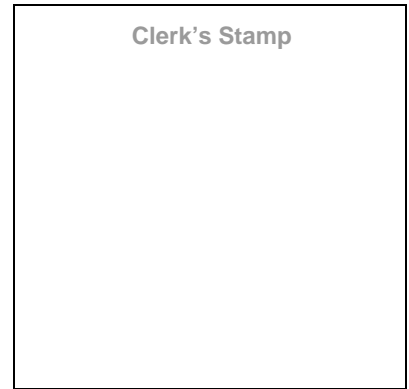
COURT FILE NUMBER _____
(File number, as on other court documents)

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 _____