

Families and the Law

Representing Yourself

in Family Court



This booklet explains how to make an application in court in Alberta. There is information about:

- people who were legally married and who lived in a common law relationship
- how to present evidence in court
- how to bring an application
- common problems and ways to solve them

We've also included some tips and hints that will help you if you are representing yourself in court.

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Legal Education
Alberta



Edmonton Community
Legal Centre

Who is this booklet for?

This booklet explains how the legal process works in Alberta. The booklet has information for people who were legally married and people who lived in a common law relationship. There is information about how to present evidence in court, how to bring an application and common problems that self-represented people experience. There are also some tips and hints that will help you navigate the legal system.

Family law is complicated. Finding out about the law and your options is a very good first step. There are a lot of people and organizations who can help you. We've listed these referrals at the back of this booklet. Most of the legal words are defined in the margins.

There are other booklets in this series that can help you. Go to www.cplea.ca to find out more.



Edmonton Community
Legal Centre

Alberta **LAW**
FOUNDATION



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The Centre for Public Legal Education Alberta is a non-profit organization whose mission is to help people understand the law as it affects their everyday lives. We develop plain language booklets, presentations and other learning materials to help people recognize and respond to their legal rights and responsibilities. We have a variety of programs, and provide legal information and referral on many legal topics. For more information, please go to www.cplea.ca.

The contents of this booklet do not constitute legal advice. We make no claims or promises about its accuracy or completeness. If you require legal advice, you should consult a lawyer.

June 2014



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LOOK FOR THE FOLLOWING SYMBOLS TO FIND:



Additional resources and useful links where you can find more information.



Definitions of some of the common terms used throughout the document.



Tips and things to consider that may apply to your situation.

This booklet is based on **Alberta** law.
The law may be different in other provinces.

The Laws

What laws are used to help solve family disputes?

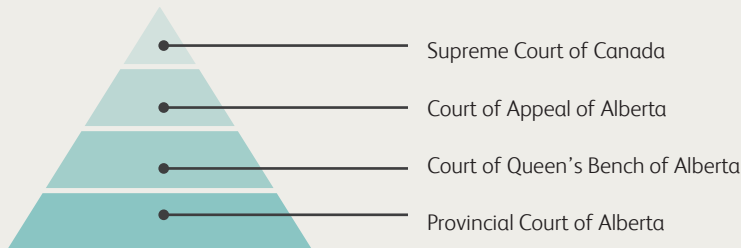
The *Divorce Act*, the *Family Law Act* and the *Matrimonial Property Act* are the three laws that are most commonly used in family disputes. The *Divorce Act* and the *Matrimonial Property Act* only apply to people who are married, and the *Family Law Act* applies to married and unmarried people. The laws overlap in some areas. If you are thinking of making an application in court, then you need to know ahead of time which law you should use.

WHICH LAW SHOULD YOU USE?

Law	Married	Unmarried
<i>The Divorce Act:</i> <ul style="list-style-type: none">- Divorce- Custody and access of children- Child support- Spousal support	✓	✗
<i>The Matrimonial Property Act:</i> <ul style="list-style-type: none">- Division of property- Exclusive possession of the matrimonial home and goods	✓	✗
<i>The Family Law Act:</i> <ul style="list-style-type: none">- Guardianship- Parentage- Contact- Child support- Partner and spousal support- Other matters	✓	✓

Which level of court do I use?

THE LEVELS OF COURTS IN CANADA



Applicant is the person who is making the court application.

Respondent is the other person involved in the application, who responds to the application.

Court of Queen's Bench is the superior court in Alberta.

The **applicant** gets to decide which law and which level of court to use. If the applicant decides to use the *Divorce Act* or the *Matrimonial Property Act*, then the application must be made in the **Court of Queen's Bench**. If the applicant uses the *Family Law Act*, then most of the applications can be made in either the Provincial Court or in the Court of Queen's Bench. There are some matters that can only be dealt with in the Court of Queen's Bench.

If you already have an order, and you are applying to change it, then you need to apply to the same level of court.

EXAMPLE

Beth applied for a child support order four years ago. She was divorcing her ex at that time, so she used the *Divorce Act* to apply. When that order was made, the children lived mostly with her. Now the children split their time equally between parents. To change the order, Beth or her ex would have to apply to vary the original order using the *Divorce Act* in the Court of Queen's Bench.

DIFFERENCES BETWEEN THE COURT OF QUEEN'S BENCH AND THE PROVINCIAL COURT

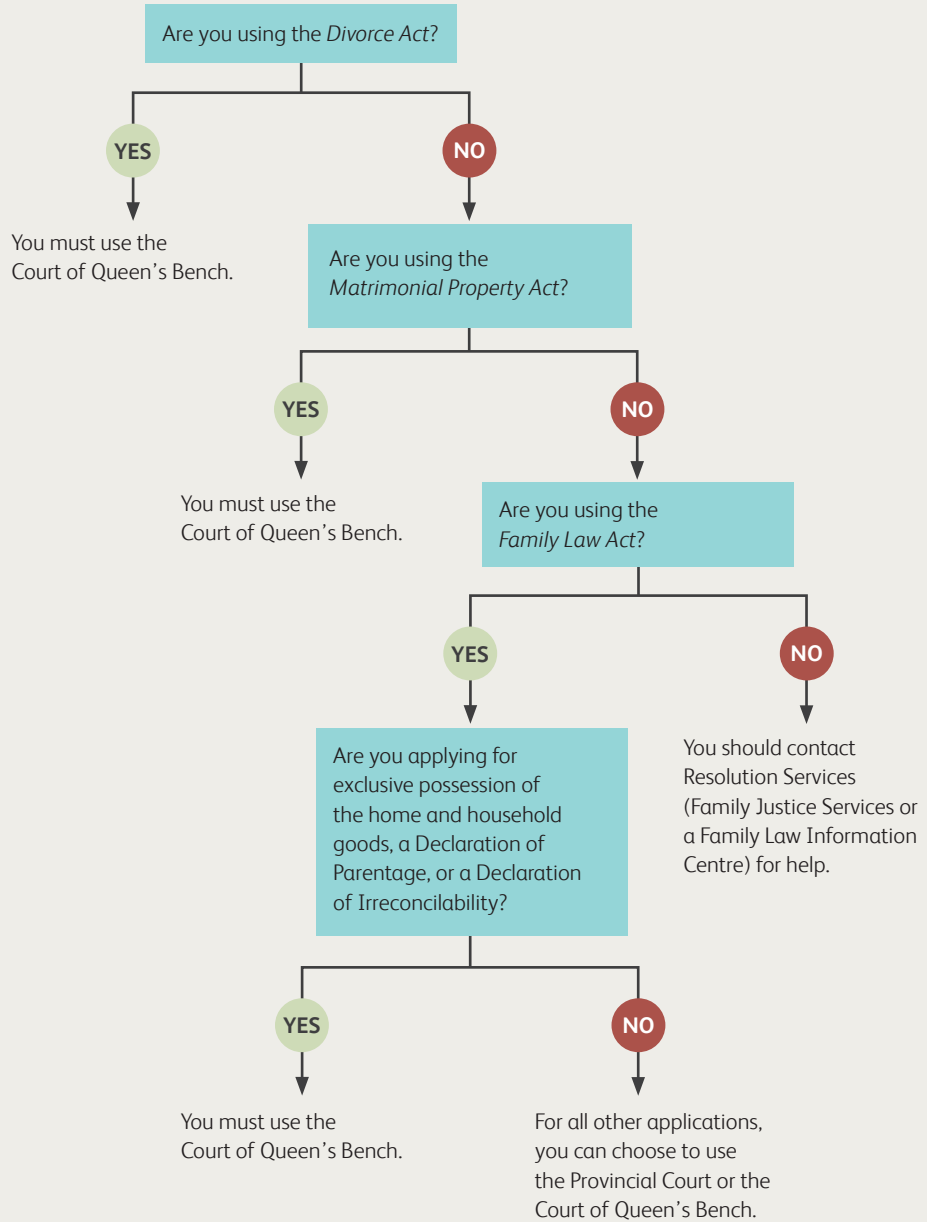
Provincial Court	Court of Queen's Bench
More locations across the province (72 locations)	Fewer locations (13 locations)
More people represent themselves without a lawyer	More lawyers than in Provincial Court
A judge has the ability to allow you to talk about your evidence in court.	It is not very common for you to be able to talk about your evidence. Instead, your evidence must be written.

WHICH LEVEL OF COURT CAN YOU USE?



If you have questions about which law you can use, you can contact Resolution Services for help.

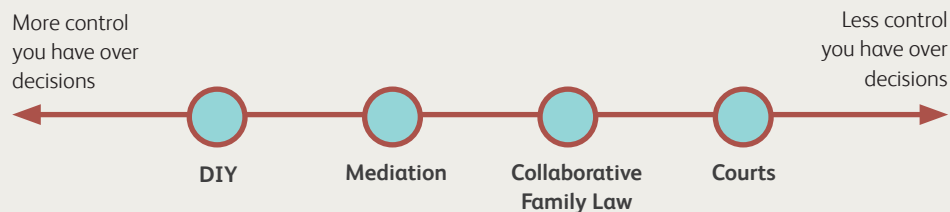
www.albertacourts.ab.ca/fjs/flic.php



How can you solve disputes outside of court?

How can you solve disputes out of court?

TYPES OF AGREEMENTS



DIY

You can make an agreement together about the issues. If you make an agreement yourselves, you will save money and time. You will also have control over what your agreement says.

Mediation

A mediator helps you work together with the other person to come up with a plan that will work for everyone. The mediator is a neutral person, and won't take sides. The mediator won't force an agreement on you, but will help you come up with an agreement that you both can accept.



If one person makes less than \$40,000 per year, you might qualify for mediation services through Resolution Services (Family Justice Services) www.albertacourts.ab.ca/fjs

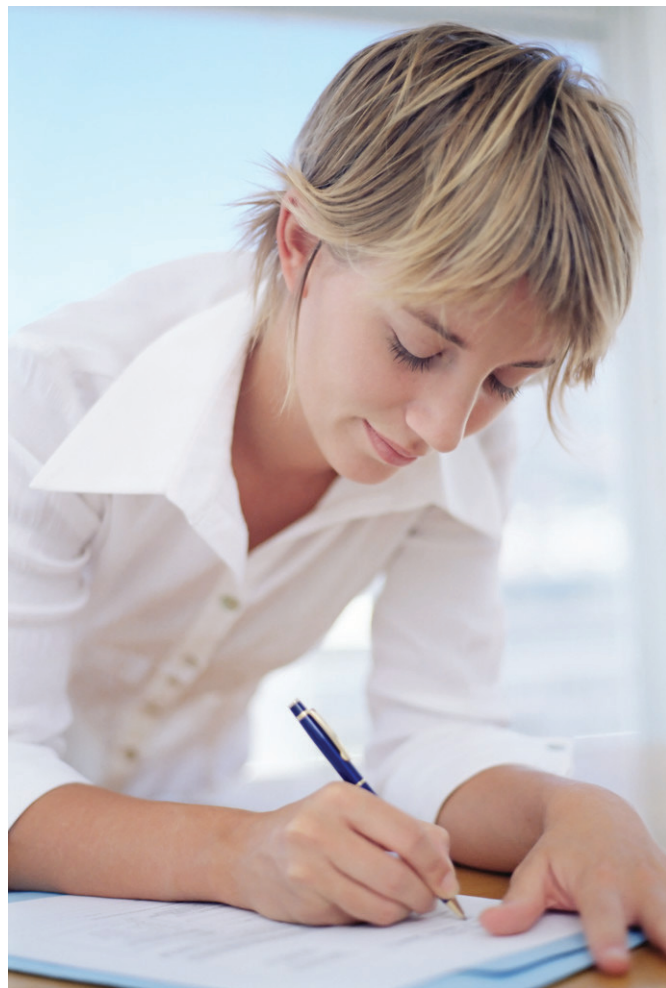
If you think that you want to represent yourself with some help from a lawyer, then you might want to find a lawyer who offers a limited scope retainer. In this arrangement, a lawyer provides legal services for part of your legal matter, but not all of it. The part that the lawyer will be responsible for is something that you make an agreement over before starting to work together. For example, you could hire a lawyer to draft all of the court documents, but you would represent yourself in the actual application. Or you could hire a lawyer to act like a coach, who would provide you with legal advice when you need it, but you would do all of the other work. You will have to call law firms or look online to find out if a lawyer offers this kind of service.

Collaborative Law

You and the other person each have your own lawyers, but you agree that you will work together to come up with solutions. You all sign an agreement that says that you will all work together, and that you won't go to court. If you can't reach an agreement and end up in court, then you have to hire new lawyers. Most of the communication occurs in four way meetings, with both sides and the lawyers present, and everyone is encouraged to be honest and openly share information.

Courts

If you cannot agree on a way to solve your issues together, then you can apply to the court. A judge will decide, and will issue a court order. Going to court is expensive, takes a lot of time, and should be a last resort.



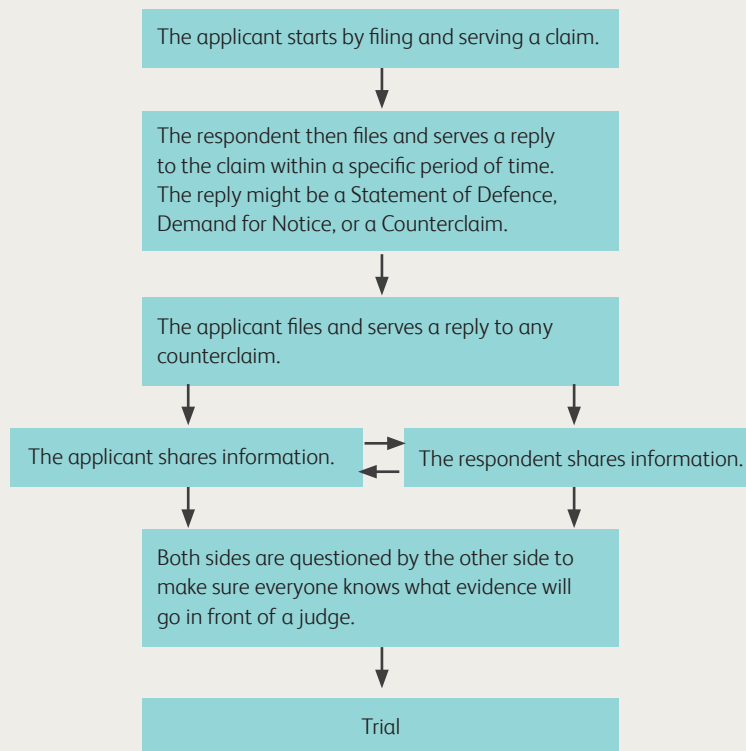
How do you start a family law action?

When someone starts a legal action, they receive an action number from the courts. All of the paperwork that is involved with that action must be filed with the courts using the same action number.

EXAMPLE

Josiah wants a divorce. He drafts a Statement of Claim for Divorce and takes it to the courthouse. He has started a court action and he receives an action number. Two months later, his ex makes an application for child support, and she files two affidavits in support of her application. All of those documents will be filed with the courthouse using the same action number.

HOW DO COURT ACTIONS USUALLY WORK?



At any time in the process, the people can decide to make an agreement on their own and settle without going to trial.

Applications can be made at any time in the process.

This is a very simplified chart. You may have to take additional steps in your unique matter.



Application is a request to a judge to make a decision and issue a court order.

Interim application is a request for a temporary court order, which will be in place until a final order is made.

Affidavit is a written statement of facts that is sworn or affirmed before a commissioner for oaths, and is used as evidence in court.



You usually cannot make an application involving children in the Court of Queen's Bench unless you've taken the Parenting After Separation course. You can find more information about the course online.

<http://www.albertacourts.ab.ca/fjs/education.php#pas>

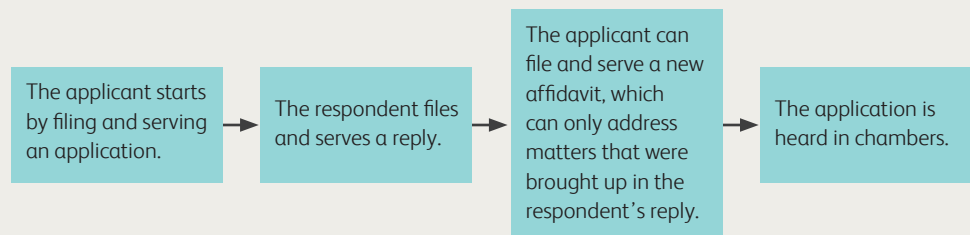
What is an application?

When you make an **application**, you are asking a judge to make a decision after hearing evidence from both sides. Once a judge decides, then a court order is made. Most applications are **interim applications**, which means that the order is only in force temporarily.

You need to file and serve the application, as well as sworn evidence in the form of an affidavit or statement, to the other side. Oral evidence, which is also called *viva voce* evidence, is not usually used. Instead, you have to summarize the evidence that is in your **affidavit** for the judge.

Compared to a trial, applications are shorter and they usually focus on only one or two issues. You must make your case quickly. If you are making your application in morning chambers, then the entire application, including hearing from the respondent, must be less than 20 minutes. Special chambers is for applications that need up to an hour.

HOW DO APPLICATIONS WORK?



How do I serve documents?

What is service?

When someone is served, they have been officially given documents by someone else. Any person who is involved with the application must be served with the filed application and the affidavits or statements that are going to be used in court. Service lets the other person know what is going to be told to the judge, and what the other side is asking the judge to do. Once documents are served, a proof of service document must be completed and filed at the courthouse.

Does the applicant always have to serve the respondent?

In many family law matters, the respondent must be served personally. Sometimes the applicant cannot serve the respondent with documents. This means the applicant will have to arrange to have someone else deliver the documents. Process servers can be hired to serve documents.

Sometimes a lawyer will be able to accept the documents on behalf of the client, so the client would not be served personally. If there is a very urgent situation, the applicant can apply without notice to the other side. This is called an *ex parte* application. For example, if the health or safety of the children is at risk, then the applicant might not provide notice to the other side. The judge may or may not issue an order. If an order is issued, it is usually only on a temporary basis.

Sometimes the proof of service document must include a picture of the person who was served.



The Alberta Rules of Court, Rule 12.55, lists when a respondent/defendant must be served personally for family matters.

<http://www.qp.alberta.ca/1125.cfm>

What are the different kinds of service?

Personal Service is when the documents are hand delivered to the person. Many family law applications must be served this way. The person is served as soon as the person is handed the papers. You can hire a process server to serve documents for you.

EXAMPLE

Harry is applying to increase the amount of time that he spends with his children. Stacy, his ex, still lives in the same house with the children. Harry finds a company online that serves documents. He hires the process server to serve Stacy with the court documents at her home address. The process server knocks on the door and when Stacy answers, he hands her the documents. He writes an Affidavit of Service, which sets out where, when and to whom he delivered the documents. He swears his affidavit in front of a commissioner for oaths. Harry files the Affidavit of Service at the courthouse.

Substitutional Service is when there have been attempts to personally serve someone, but they have failed, and in order to move forward, the service must be done in a different way other than personally. Substitutional service can be applied for when:

- it would be impractical to use personal service; and
- You can suggest a way to to serve the documents that is likely to bring the documents to the attention of the person who is being served.



You can apply to serve documents through Maintenance Enforcement, but there is a fee.

You can contact MEP at 780-422-5555 for more information.

WHAT ARE SOME EXAMPLES OF SUBSTITUTIONAL SERVICE?

Tim is applying for a parenting order. His ex has moved and he doesn't know exactly where she is living with the kids now. She is very close with her mother, and her mother has lived in the same house in Red Deer for many years. Tim asks the judge to let him serve his ex by serving the documents on her mother.

Shelly wants to reduce the amount of child support that she is paying. She doesn't know where her ex is living with the children, but she is friends on facebook with her ex. She asks the judge to let her serve documents using the private messaging feature in Facebook.

You need to have a judge's approval before you can serve documents in a unique way. If you don't get a judge's approval, then you may have to serve the documents again.

Can documents be served using email?

Some documents can be served by email.

- If a document is starting an application (for example, if the document is a claim), then that document cannot be served by email. It must be personally served on the respondent.
- The person being served must have provided an email address for service.
- The document must be received in a form that can be used and referenced by the other person.
- A confirmation of delivery of the email must be received.

How do you find someone so you can serve them?

If you don't know where they live or work, there are many different ways to try to find someone.

- Search for the person online. There are some basic searches that you can do yourself (for example, put their name in quotes and use simple search terms (“John Smith” AND “Alberta”)).
- Search for the person using social media. Are you friends on facebook? Are you connected through mutual friends? Can you ask friends for an update on location?
- Hire someone to find them for you. You can hire debt recovery agencies, also called “skip tracers” to track someone down for you for a fee.
- Contact family, friends and employers to find out if someone knows their current location.

If you cannot find someone and you've taken reasonable steps to find them, then you can ask a judge to allow you to make your application without serving them.

This is called dispensing with service.

What is the evidence needed to support the application?

What is evidence?

There are different kinds of evidence. Evidence can be oral evidence, given under oath at a questioning or at trial. Affidavits and statements provide written evidence, and are usually used in applications. Affidavits are the same as Statements, and for this booklet, we will use the term “affidavit” to refer to both.



An **affidavit** is a written statement of facts that is sworn or affirmed before a commissioner for oaths, and is used as evidence in court.

What is an affidavit?

An **affidavit** is a written statement of facts that is sworn or affirmed before a commissioner for oaths, and is used as evidence in court. An affidavit is the same as if you were testifying at a trial. The court forms and kits that are available on the Alberta Courts website contain the affidavits and statements that you can use:

<http://www.albertacourts.ab.ca/fjs/selfhelp/index.php>.



WHAT ARE THE FORMAL REQUIREMENTS OF AN AFFIDAVIT?

- The front page must have the full name of the person swearing the affidavit and the date that it was sworn.
- The place of residence of the person swearing must be given. This can be an address, or the municipality of the person (for example, “I, John Smith, of 11111, 111 Street, Edmonton, am making this affidavit...” or “I, John Smith, of the City of Edmonton am making this affidavit...”).
- It must be written in the first person. For example, “I have two children with the respondent.”
- It must be divided into numbered paragraphs.
- Dates and numbers should be expressed using numerals, unless the meaning is clearer using a combination of numerals and words. For example, it might make sense to state the date of a marriage as “We were married on July 12, 2007” instead of “We were married on 12/07/2007.”
- It must be signed and sworn in front of a commissioner for oaths or a notary public.
- It must state when, where and before whom it was sworn.
- It must be signed by the person who administered the oath.
- Any records that are mentioned in the affidavit should be attached as an exhibit to the affidavit. For example, if you are making a child support application for extraordinary expenses, you might want to attach the receipts or other form of proof of the amount of the expense to the affidavit.



You can find more information about the formal requirements of affidavits and exhibits by going to the Alberta Rules of Court at Rule 13.19 and 13.21:

<http://www.qp.alberta.ca/1125.cfm>



There are sometimes limits to the number of affidavits that you can use for one application. You should read Family Practice Note 2:

<http://www.albertacourts.ab.ca/CourtofQueensBench/PracticeNotes/tabid/93/Default.aspx>

What kinds of facts should be in the affidavit?

Evidence must be relevant and material to your application. You should make sure that the evidence you are giving to the judge in your affidavit is on point. Your evidence should help a judge decide an issue that is raised in your application.

If your evidence is irrelevant, the judge can ignore it. If you include inflammatory, prejudicial, useless or unrelated information in your affidavit, the judge may become annoyed with you.

Can I just tell the judge what is going on?

The evidence that you are relying on must be sworn or affirmed under oath. You cannot refer to any facts that are not in sworn evidence. If you haven't mentioned something in your affidavit, then you can't talk to the judge about it.



The court forms for the *Family Law Act* tell you what kind of information you might want to include in your affidavit. You can find those forms online:

<http://www.albertacourts.ab.ca/fjs/selfhelp/forms-family-law-act/index.php>

Common applications and evidence

This section will provide you with ideas of what to include in your affidavit, based on what application is being made. You will need to tailor the list based on your situation. This section has been adapted from British Columbia's Legal Services Society:
http://www.familylaw.lss.bc.ca/resources/fact_sheets/affidavit_info_checklist.php.

What information should be included in an affidavit for spousal/partner support?

BACKGROUND

- The age and birthdates of both people

I was born on January 25, 1975 and I am currently 39 years old. The Respondent was born on March 12, 1977 and is currently 37 years old.

- When did you begin living together and/or got married?

The Respondent and I began living together in September of 1995 and were married on July 19, 1998.

- Where did you live together while you were a couple?

The Respondent and I purchased a family home together in 1997 and lived in that home for the duration of our relationship.

- What are the names and birthdates of your children?

We have two children, Nicholas, who is 11 years old and was born on May 3, 2003, and Steven, who is 7 years old and was born on April 6, 2007.

- When did you separate?

The Respondent and I separated on February 20, 2014. I moved out of the family home at that time.

Where do you and your ex live now?

I currently rent a house in the same neighbourhood as the family home. The Respondent currently lives in the family home.

Who lives with you, and with your ex?

The children divide their time equally between the two homes and no one else lives with me.

I was recently re-married and I live with my husband and his two children.

What is your level of education and current job, as well as your ex's?

I have a Communications degree, and I am employed as a Communications Manager and I currently earn \$65,000 per year. The Respondent is an electrician and he makes \$95,000 per year.

How much do you make? How much does your ex make?

See above.

Are there previous court orders? You should list them if they relate to this application.

This is the first application that has been made in relation to spousal/partner support.

ROLES DURING THE RELATIONSHIP

What were you and your ex's responsibilities and contributions to the household while you lived together?

My husband worked while I went back to school for a degree in Social Work that allowed me to get a job making more money.

We both agreed that I would stay at home full-time after the birth of our first child.

We both worked outside of the home and we were equally responsible for raising the children and maintaining the home.

THE FINANCES

What is your education and work history?

I attended the University of Alberta and I received my Bachelor of Education in 2000. I have worked for the Edmonton Public School Division since I graduated. I teach a variety of high school classes, with a focus on the sciences.

I have worked for the same company for the past 15 years where I have worked my way up from entry level clerk to assistant sales manager.

- Have there been periods where you've been away from the workforce? You should give reasons for the absence (for example, you were injured or sick, or stayed home to raise the children).

In 2004, I was diagnosed with cancer and temporarily stopped working while undergoing treatment.

When our first child was born in May 2003, I left the workforce to become a full time homemaker. This was a decision that the Respondent and I made together. I have not returned to work yet, as I have been focused on raising the children.

- What is your current job? How much do you make?

I am currently employed at a non-profit as a program coordinator where I make \$53,000.

- What is your household budget? How much money do you need to meet your needs?

To meet my household needs, I require an additional \$600 per month. I have attached my household budget as Exhibit ___.

- Are there reasons why you are not self-supporting?

I am not self-supporting because I have been a full time stay at home parent for the past 9 years and have not had a job in that time. The Respondent worked full time outside of the home.

I am not able to fully support myself because I am primarily responsible for getting the children to and from school and their activities. The Respondent worked full time outside of the home and was the primary breadwinner. I have only had time to work part time for the past four years. I currently make \$27,000 per year. I have attached a copy of my most recent notice of assessment as Exhibit ___.

I am not able to financially support myself because I have a disability that leaves me unable to work full time. I have attached a report from my doctor as Exhibit ___.

I am not financially self-sufficient because I need to upgrade my employment skills so that I can earn a higher wage. I have attached my letter of acceptance into the Licensed Practical Nurse program as Exhibit ___.

- If you are not able to fully support yourself, what steps would you need to take to be able to support yourself?

In order to become self-sufficient, I have applied and been accepted into the Licensed Practical Nurse program at ABC College. The program starts in September and it is expected that I would graduate in April of 20___. The program costs for the first year are \$_____ and I anticipate that the costs will be similar for the other years of the program. I have attached a letter as Exhibit ___ from ABC College that sets out details of the program, including the cost.

- What's your ex's education and work history? What is their present job and how much do they make?

The Respondent began working at ABC Oil Company 10 years ago in an entry level position. He has been promoted many times over the years and is currently a site manager. I was responsible for completing our taxes during our relationship and he makes over \$100,000 per year.

The Respondent worked manual labour jobs for the first few years when we were married. He went back to school four years ago for a two year course to become an engineer technician. I worked full time to support the family while he went to school. Based on his financial disclosure, he makes \$80,000 a year.

REMEDY REQUESTED

- What are you asking the court to do?

I am asking that the Respondent be ordered to pay me \$700 per month in spousal support. I have attached the Spousal Support Guideline calculation as Exhibit ___.



What information should be included in an affidavit for parenting or custody?

BACKGROUND

- The age and birthdates of both people

I was born on January 25, 1975 and I am currently 39 years old. The Respondent was born on March 12, 1977 and is currently 37 years old.

- When did you begin living together and/or got married?

The Respondent and I began living together in September of 1995 and were married on July 19, 1998.

- Where did you live together while you were a couple?

The Respondent and I purchased a family home together in 1997 and lived in that home for the duration of our relationship.

- What are the names and birthdates of your children?

We have two children, Nicholas, who is 11 years old and was born on May 3, 2003, and Steven, who is 7 years old and was born on April 6, 2007.

- When did you separate?

The Respondent and I separated on February 20, 2014. The Respondent moved out of the family home at that time.

- Where do you and your ex live now?

I currently live in the family home, and the Respondent rents a house in the same neighbourhood.

- Who lives with you, and with your ex?

The children divide their time equally between the two homes and no one else lives with me.

The children live with the Respondent for the majority of the time, and they stay with me every Wednesday and every other weekend.

I was recently re-married and I live with my husband and his two children.

- What is your level of education and current job, as well as your ex's?

I have a Communications degree, and I am employed as a Communications Manager and I currently earn \$65,000 per year. The Respondent is an electrician and he makes \$95,000 per year.

- How much do you make? How much does your ex make?

See above.

- Are there previous court orders? You should list them if they relate to this application.

This is the first application that has been made in relation to parenting.

There was an interim court order issued on May 12, 2014 that ordered that the children divide their time equally between the Respondent and me.

THE CHILDREN

- What are the names and birthdates of the children? Repeat this information if you've stated it earlier in the affidavit.

We have two children, Nicholas, who is 11 years old and was born on May 3, 2003, and Steven, who is 7 years old and was born on April 6, 2007.

- Where do the children go to school? Daycare?

Nicholas is in Grade 6 at Smith School. He is doing very well in school and consistently earns high marks. Steven is in Grade 2 at Apple School. He is having some problems in school paying attention and his grades are below average. After school, both children are bused to a day home in our neighbourhood where they have gone for the past three years. I pick them up when I am off of work, around 5:00 pm.

- What activities are the children involved in?

Nicholas goes to swimming lessons once a week at a west end pool. He has played hockey in the winter for the past two years and wants to continue playing in the future. In the spring and summer, he plays soccer in our neighbourhood league. He also goes to a camp for a week every summer. I have attached all of the expenses for the past year for Nicholas' activities.

- Do the children have any medical problems or special needs?

Steven has dental and vision problems and will need braces within the next year. He will need new glasses this year as well. I have attached the estimates from the dentist and optometrist as Exhibit ___.

PARENTING ROLES DURING THE RELATIONSHIP

- What were you and your ex's responsibilities and contributions to the household while you lived together?

My husband worked while I went back to school for a degree in Social Work that allowed me to get a job making more money.

We both agreed that I would stay at home full-time after the birth of our first child.

We both worked outside of the home and we were equally responsible for raising the children and maintaining the home.

- What parenting jobs did each parent do prior to the separation? Who was the primary caregiver to the children? Who changed diapers? Gave night feedings? Attended school events? Went to the doctor? Went to extracurricular activities? Did one parent do most of the child care work? Was the work evenly shared?

The Respondent and I shared parenting of the children equally between us. Both of us have attended school events and their activities. I arrange the children's medical appointments, but then we both have attended at the appointments depending on who was available to take the children.

I have been the children's primary caregiver throughout their lives. I have been their primary caregiver since they were born, and did all of the feeding and nightly soothing. I volunteer at the children's school on a regular basis and attend all of the school events. I arrange for and attend all of the medical appointments, and take the children to their sports.

- Who went grocery shopping and prepared the meals?

I did the majority of the cooking for the family, and the Respondent did most of the grocery shopping.

- Who are the children most closely bonded with? What have you witnessed that makes you say that?

The children are bonded very closely with both parents and rely on both parents for emotional support.

The children are bonded very closely with me, as I have spent the majority of time with the children since they were born. The Respondent has a good relationship with the children too, but they rely more on me for their emotional needs. When Nicholas was being teased at school, he came to me for help instead of the Respondent.

While the children are closely bonded with their mother, my bond with the children is special too. I was working full time, but that does not mean that I don't share a special bond with the children. I have tucked the children into bed and read them a story every night since they were born. The children come to get me when they can't sleep or have nightmares.

- What steps have you taken, if any, to minimize the effects of the separation on the children?

When I moved out of the matrimonial home, I found a place to rent in the same neighbourhood. This means that the children can still go to the same dayhome after school when they are staying with me.

The Respondent and I have worked very hard to make sure that the children still do things with their extended families. For example, the children spend time with both sets of grandparents every third weekend. Certain holidays have always been spent with specific family members, and we've continued to do that.

The Respondent calls every night at 7:30 to say good night to the boys, and I make sure that we are home for the boys to receive the call.

How much time have the children spent with both parents since the separation?

The children currently divide their time equally between our homes.

Since the separation, the children have resided primarily with me in the family home. They visit with the Respondent on the weekends, but they do not stay over at her place because she does not have enough bedrooms for all of the children.

Are there things going on in your life, or your ex's life, that affect your ability to spend time with the children?

I work out of town on rotating shifts. I will work for 10 days in northern Alberta, and then I am back for 4 days. My shift work needs to be taken into account when we are coming up with a parenting schedule.

I am going to school to upgrade my skills. I will be taking night classes on Tuesday and Thursday evenings.

Are there special occasions when you want the children with you?

I would like the children with me on Mother's Day, and the children can be with the Respondent on Father's Day.

My extended family goes camping together every July long weekend. The children have camped on this weekend since they were born. It is important for the children to keep the relationships with their extended family and share in family traditions.

REMEDY REQUESTED

What are you asking the court to do?

I am asking that joint custody be awarded and that parenting time be split equally between myself and the Respondent.

I am asking that joint custody be awarded and that the children reside primarily with me, and that the Respondent be granted access every other weekend and every Tuesday.

I am asking for sole custody to be awarded, with access to the Respondent every second Saturday.

I am asking the court to set a parenting schedule. I have suggested a schedule which is attached as Exhibit ___.

Remember that these forms are just examples.

You will have to tailor these suggestions to suit your situation.

What information should be included in an affidavit for child support?

BACKGROUND

The age and birthdates of the parents

I was born on January 25, 1975 and I am currently 39 years old. The Respondent was born on March 12, 1977 and is currently 37 years old.

When did you begin living together and/or got married?

The Respondent and I began living together in September of 1995 and were married on July 19, 1998.

Where did you live together while you were a couple?

The Respondent and I purchased a family home together in 1997 and lived in that home for the duration of our relationship.

What are the names and birthdates of your children?

We have two children, Nicholas, who is 11 years old and was born on May 3, 2003, and Steven, who is 7 years old and was born on April 6, 2007.

When did you separate?

The Respondent and I separated on February 20, 2014. The Respondent moved out of the family home at that time.

Where do you and your ex live now?

I currently live in the family home, and the Respondent rents a house in the same neighbourhood.

Who lives with you, and with your ex?

The children divide their time equally between the two homes and no one else lives with me.

The children live with the Respondent for the majority of the time, and they stay with me every Wednesday and every other weekend.

I was recently re-married and I live with my husband and his two children.

What is your level of education and current job, as well as your ex's?

I have a Communications degree, and I am employed as a Communications Manager and I currently earn \$65,000 per year. The Respondent is an electrician and he makes \$95,000 per year.

How much do you make? How much does your ex make?

See above.

Are there previous court orders? You should list them if they relate to this application.

This is the first application that has been made in relation to parenting.

There was an interim court order issued on May 12, 2014 that ordered that the children divide their time equally between the Respondent and me.

Have any voluntary child support payments been made?

The Respondent has not made any child support payments since we separated.

The Respondent has made child support payments in the amount of \$500 per month since we separated.

THE CHILDREN

What are the names and birthdates of the children? Repeat this information if you've stated it earlier in the affidavit.

We have two children, Nicholas, who is 11 years old and was born on May 3, 2003, and Steven, who is 7 years old and was born on April 6, 2007.

Where do the children go to school? Daycare?

Nicholas is in Grade 6 at Smith School. He is doing very well in school and consistently earns high marks. Steven is in Grade 2 at Apple School. He is having some problems in school paying attention and his grades are below average. After school, both children are bused to a day home in our neighbourhood where they have gone for the past three years. I pick them up when I am off work, at around 5:00 pm.

Are you claiming special expenses? What activities are the children involved in?

Nicholas goes to swimming lessons once a week at a west end pool. He has played hockey in the winter for the past two years and wants to continue playing in the future. In the spring and summer, he plays soccer in our neighbourhood league. He also goes to a camp for a week every summer. I have attached all of the expenses for the past year for Nicholas' activities as Exhibit ___.

Do the children have any medical problems or special needs that result in special expenses?

Steven has dental and vision problems and will need braces within the next year. He will need new glasses this year as well. I have attached the estimates from the dentist and optometrist as Exhibit ___.

Do either of the parents have health care benefit programs for the children?

The Respondent has a health care plan from his new employer that the children are not currently registered under. I would ask that the Respondent be ordered to enroll the children as dependents under the health plan.

- Is a child going into post-secondary? Is it full time?

Cliffton is starting university in the fall, where he will be a full time student. He will be a student in the Faculty of Engineering. He will not be able to work while he is in school, but he will work over the summer months.

PARENTING ARRANGEMENTS

- What is the living arrangement for the children?

The Respondent and I have joint custody of the children. The children share their time equally between the two homes on a weekly rotation.

The Respondent and I have joint custody of the children. The children reside primarily with me, and they stay with the Respondent every second weekend and on Tuesdays.

The Respondent and I have joint custody of the children. Nathan lives with the Respondent full time, while Stacy lives with me full time. The children spend every third weekend with the other parent.

I have joint custody of the children. The Respondent has access to the children every second Sunday for four hours.

The Respondent and I share parenting time equally.

FINANCIAL INFORMATION

- What is your current income if it's relevant to the application? If the children live primarily with you for over 60% of the time, then only your ex's income is needed.

My income per year is \$56,000. I have attached my most recent Notice of Assessment to this affidavit as Exhibit ___.

- How much does your ex make?

Barry makes \$68,000 per year. I've attached Barry's Notice of Assessment to this affidavit as Exhibit ___.

- Are there any inaccuracies or information missing in your ex's financial information?

Sam owns her own business and I think that she makes more money than her Notice of Assessment states. I have requested but not yet received the tax records for the business.

- Are you claiming special expenses? If you mentioned special expenses previously in your affidavit, just say that.

As previously mentioned, there are special expenses for the children. The total amount of the special expenses is \$3,568. The invoices are attached as Exhibit ___.

REMEDY REQUESTED

What are you asking the judge to do?

I am requesting that the Respondent be ordered to pay child support in the amount of \$548 per month, as per the Child Support Guidelines. The child support calculation sheet is attached as Exhibit ___. I would also ask that the Respondent be ordered to pay his share of the special expenses, proportional to our incomes.



What is an adjournment?



An **adjournment** is a suspension or postponement of an application.

An **adjournment** is a suspension or postponement of an application. If your application has been adjourned, then it means that the application will not go ahead on the scheduled day, but will go ahead on a different day. Essentially, the application has been put on hold for some reason. An application might be adjourned to a specific date, or indefinitely (called “*sine die*”).

What are some reasons for an adjournment?

An application might be adjourned if one side isn't ready to go forward, or has not had time to prepare for the application. Sometimes new evidence comes to light right before an application and more time is needed for one or both sides to figure out how the new evidence affects their case. One side might also be trying to get a lawyer, and can ask a judge to postpone the hearing until a lawyer is retained.

Do both sides have to agree to an adjournment?

The person who wants the application put on hold should try to get consent from the other person. If both sides agree to an adjournment, then they can pick a new date to go forward with the application. If the reason for the application is not urgent or serious, and if waiting won't hurt your case, then you might want to consent to the adjournment to save the time and money of appearing in court.

If there is no consent to the adjournment, the person can ask the judge to order an adjournment to another day. The other side will be able to argue against the adjournment. If the person has a good reason for the adjournment, then it is usually granted. The judge can put certain conditions on the adjournment. For example, if the person asking for the adjournment says that they want to hire a lawyer, then the condition might be that a lawyer is hired within a specific period of time. If the situation is urgent, then the judge can make an interim order. For example, if one person needs financial support, the judge can order an interim amount of financial support for a short period.

You have the right to argue against an adjournment. If there have been multiple adjournments already, you should bring this to the judge's attention.

Going to court

How do I prepare for talking in court?

The best way to prepare for talking in court is to watch other people make applications. You can go to the courthouse and sit in the courtroom to watch the applications being made. It is best to do this at least a few days ahead of your application, so that you can prepare your speaking notes for your own application.

Do I have to dress up?

You don't have to wear a suit and tie or a dress, but you might want to wear something similar to what you would wear if you were going to a job interview.



For more information about making a chambers application, go to the Canadian Legal FAQs website:

http://www.law-faqs.org/wiki/index.php/Pre-Trial_Applications





You can watch a video about courtroom etiquette on the Pro Bono Law Alberta website:

http://www.pbla.ca/news/article.434114-Courtroom_Etiquette

WHAT ARE SOME TIPS FOR THE DAY THAT I MAKE THE APPLICATION?

On the day of your application

- Show up early and leave yourself a lot of time on the day of your application.** Your courthouse might have security, which can take time to get through, and you'll have to find the right courtroom.
- Find the right courtroom.** If there is an electronic notice board in the lobby, then you should look for your matter and room number on there. If you can't find your matter on the board, then ask at the information desk.
- Find out what number your application is.** Each courtroom has a list that shows all of the applications that are being heard and in what order. Sometimes this list is outside of the courtroom in paper or electronic form. You can also ask the Clerk inside the courtroom. This will give you an idea of when your matter will be heard.
- Introduce yourself to the Clerk.** Once the courtroom is open, introduce yourself to the Clerk. Let the Clerk know what matter you are involved in.

Once your number is called

- Stand up and move forward to the large desks.
- Introduce yourself and your matter.

When you are speaking to the judge

- You should always stand when you are speaking to a judge.
- Call the judge "Sir" or "Madam."
- Do not interrupt the judge.
- Do not interrupt when the other person is speaking. You will have a chance to respond. You can take notes while the other side is talking, so that you make sure you respond on point.

Contacts

Legal Aid Alberta - Service Centres

Offers information, referral and representation services to those who meet financial guidelines across Alberta.
1 866 845 3425

ADR Institute of Alberta

Has a roster list of private mediators.
www.adralberta.com
1 800 232 7214

Collaborative Divorce in Alberta

Has a list of lawyers who practice collaborative law in Alberta.
www.collaborativepractice.ca

Law Society of Alberta Lawyer Referral Service

Can provide the contact information for three lawyers you can contact. You should receive a half hour free consultation.
1 800 661 1095

Family Justice Services

Offers a variety of low cost and free programs to help individuals find solutions to family law issues.
www.albertacourts.ab.ca/fjs/index.php

Family Law Information Centre

Can help you with court procedure, forms and child support calculations, as well as provide you with information and referral.
www.albertacourts.ab.ca/fjs/flic.php

Legal Clinics

Clinics can provide you with legal information and advice.

Calgary Legal Guidance

403 234 9266
clg@clg.ab.ca

Central Alberta Community Legal Clinic

1 877 314 9129
info@communitylegalclinic.net

Children's Legal & Educational Resource Centre (CLERC)

403 207 9029
clerc@clerc-calgary.ca

Edmonton Community Legal Centre

780 702 1725
intake@edcc.ca

Lethbridge Legal Guidance

403 380 6338

Grande Prairie Legal Guidance

780 882 0036
gplg@thecommunityvillage.ca

Student Legal Assistance (Calgary)

403 220 6637

Student Legal Services (Edmonton)

780 492 8244

The **Families and the Law** series has several booklets to help you understand Family Law in Alberta:

- Child Custody and Parenting
- Financial Support
- Property Division for Married and Unmarried Couples
- Representing Yourself in Family Court
- Young Parents

To find these booklets and more, go to www.cplea.ca

Families and the Law

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