

Change Custody and Access

# Court of Queen's Bench

Application to Change Custody and Access

# Instructions

## Changing Custody

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### **Before you Begin:**

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

### **Gather up the documents you will need to prove your case**

- You will need a copy of the Order that you want to change.
- Think about which documents will help your case. 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.
- 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.

### **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 Family Justice Services / Family Law Information Centre. Contact us at:**

**Calgary**

Family Justice Services  
7<sup>th</sup> floor, Calgary Courts Centre  
601 - 5 Street SW  
Phone 403-297-6981

**Edmonton**

Family Law Information Centre  
Main Floor, Law Courts  
1A Sir Winston Churchill Square  
97 Street & 102A Avenue  
Phone 780-415-0404

**Grande Prairie**

Law Information Centre  
Main Floor, Court House  
10260 - 99 St.  
Phone: 780-833-4234

**Lethbridge**

Family Justice Services  
1<sup>st</sup> Floor, Court House  
320 - 4 St. S  
Lethbridge AB T1J 1Z8  
Phone: 403-388-3102

**Red Deer**

Family Justice Services  
Main Floor, Court House  
4909 - 48 Ave  
Phone: 403-755-1468

**Medicine Hat**

Family Justice Services  
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 \_\_\_\_\_

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE \_\_\_\_\_

APPLICANT \_\_\_\_\_

RESPONDENT \_\_\_\_\_

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**

An order changing the custody and access set out in the Order granted by the Honourable Justice \_\_\_\_\_ on \_\_\_\_\_  
(Name of Justice)

\_\_\_\_\_  
(Date your most recent order for custody and / or access was granted)

**Changes to Custody and Access:**

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

_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)

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

_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)

**If you are asking to change custody so that one parent will have sole custody and primary residence of the children, please describe the parenting time that you would like ordered for the parent who 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	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)

**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 be living.**

- The children will live with me most of the time and have parenting time with the other parent. Please describe the parenting time that you would like ordered for the other parent: *(Specify)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- The children will live with the other parent most of the time and have parenting time with me. Please describe the parenting time that you would like ordered yourself: *(Specify)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- One or more children live with me most of the time and one or more children will live with the other parent most of the time.

The children that live with me are:

_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)
_____	, born	_____
(Name of child)		(Month / Day / Year)

The children that will live with the other parent are:

_____ , born _____
(Name of child) (Month / Day / Year)
_____ , born _____
(Name of child) (Month / Day / Year)
_____ , born _____
(Name of child) (Month / Day / Year)
_____ , born _____
(Name of child) (Month / Day / Year)

- The children will live with me 50% of the time and with the other parent 50% of the time.
- An order preventing me and / or the other parent from travelling outside of the province of Alberta with the children.
- An order allowing me, the other parent, and / or a third party to travel outside of Canada with the children, without the other parent's consent.
- An order allowing me and / or the other parent to apply for a passport for the child, without the other parent's consent.
- An Order allowing the police to enforce my access to the child(ren).
- Other: *(Please describe the arrangement you want for the residence of the children if it does not fall into one of the above categories)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 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 you are relying on)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. APPLICABLE RULES:**

Rule 13.5 Variation of time period

Other: *(Please indicate Rule Number)*

\_\_\_\_\_  
\_\_\_\_\_

**5. APPLICABLE ACTS AND REGULATIONS:**

*Divorce Act (Canada)*

Other: *(Please indicate other Acts / Regulations)*

\_\_\_\_\_  
\_\_\_\_\_

**6. ANY IRREGULARITY COMPLAINED OF OR OBJECTION RELIED ON:**

Not applicable

Specify: \_\_\_\_\_



**7. HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:**

*(Specify)*

*(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.)*

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**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 rely on an affidavit or other evidence when the application is heard or considered, you must:

- Swear or affirm an affidavit;
- File the affidavit or other evidence with the Court; and
- Serve the affidavit or other evidence on the applicant a reasonable time before the application is scheduled to be heard or considered.

Clerk's Stamp

COURT FILE NUMBER \_\_\_\_\_  
COURT Court of Queen's Bench of Alberta  
JUDICIAL CENTRE \_\_\_\_\_  
APPLICANT \_\_\_\_\_  
RESPONDENT \_\_\_\_\_



DOCUMENT: **Affidavit – Changing 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*  
\_\_\_\_\_  
*Full address*  
\_\_\_\_\_  
( ) \_\_\_\_\_

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I, \_\_\_\_\_, of \_\_\_\_\_, Alberta,  
*Your name* *Name of City / Town*

**SWEAR / AFFIRM AND SAY THAT:**

1. 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.

**GENERAL INFORMATION**

2. I am: *(Choose one)*

married to the Respondent. We separated on \_\_\_\_\_, \_\_\_\_\_.  
*Date* *Year*

divorced from the Respondent. We were divorced on \_\_\_\_\_, \_\_\_\_\_.  
*Date* *Year*

3. The following chart gives basic information about the child(ren) in this case:  
(List all children involved in this case)

Child's full legal name	Age	Birthdate (dd / mm / yyyy)

**CUSTODY AND ACCESS**

4. The Order that contains the terms(s) that I want changed was granted on \_\_\_\_\_  
*Date*  
by Justice \_\_\_\_\_, and is attached to this Affidavit as Exhibit ' \_\_\_\_\_'.  
*Name of judge that granted the order*

5. The existing custody and access arrangements for the child(ren) are as follows:  
(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 granted, there have been the following changes of circumstance which have impacted the existing custody and access arrangements:  
(List every change since the date of the last Order for custody and/or access)

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

An order that \_\_\_\_\_  
*Name of party(ies) or person(s)*

shall have  sole custody  joint custody of the following child(ren):

\_\_\_\_\_  
*Names of children*

An order for the following custody and/or access arrangements for the child(ren):

*(Give complete details of the proposed arrangements, including where the child(ren) will live, when each parent will visit with the child(ren), any conditions which will apply to these residential/access arrangements, etc. Be sure to specify dates and times, if applicable.)*

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8. My plan for the day-to-day care of the children is as follows:

*(Give details if you are asking for the children to live with you, 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.)*

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**Other Requests**

*(Check #9 to #12 only if you are also asking for these orders and provide detailed reasons)*

9.  I am also asking that the order prevent me and/or the other parent from travelling outside of the province of Alberta with the children, because: *(Give your reasons for asking for this Order)*

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10.  I am also asking that the order allow me, the other parent and/or another person to travel outside of Canada with the child(ren), because: *(Give your reasons for asking for this Order)*

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11.  I am also asking that the order allow me to apply for a Passport for the child without the consent of the other parent, because: *(Give your reasons for asking for this Order)*

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12.  I am also asking for an order allowing the police to enforce my custody of or access to the child(ren), because: *(Give your reasons for asking for this Order)*

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13.  I am also asking for an order for the following other things related to custody and access: *(What are you asking for and why are you asking for it)*

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14. I believe the order I am asking the Court to make is in the best interests of the child(ren) because:  
(Give details)

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15. I have the following other information in support of my application: (Give details)

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**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 \_\_\_\_\_

Clerk's Stamp

COURT FILE NUMBER \_\_\_\_\_  
COURT Court of Queen's Bench of Alberta  
JUDICIAL CENTRE \_\_\_\_\_  
APPLICANT \_\_\_\_\_  
RESPONDENT \_\_\_\_\_

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 \_\_\_\_\_  
Full address \_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_, Alberta,  
*(Name of person who served)* *(Name of City / Town)*

**SWEAR / AFFIRM AND SAY THAT:**

- 1. 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. I am 18 years of age or older.
- 3. On \_\_\_\_\_, I served the  Applicant OR  Respondent  
*(Date)*

\_\_\_\_\_ with the following documents:  
*(Name of the Applicant or Respondent)*

- Application form filed \_\_\_\_\_  
*(Date filed)*
- Originating Application form filed \_\_\_\_\_  
*(Date Filed)*

Affidavit filed \_\_\_\_\_  
(Date Filed)

Claim filed \_\_\_\_\_  
(Date Filed)

Statement filed \_\_\_\_\_  
(Date Filed)

Order filed \_\_\_\_\_  
(Date Filed)

Other:  
(Name of document and date filed with the Court. If not filed, attach a true copy of the document 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 OR  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 \_\_\_\_\_