**Form FL‑23** *Alberta Rules of Court*

Rule 12.50(3)(b)

Clerk’s Stamp

|  |  |
| --- | --- |
| COURT FILE NUMBER |       |
| COURT | Court of Queen’s Bench of Alberta |
| JUDICIAL CENTRE | Choose an item. |
| PLAINTIFF |       |
| DEFENDANT |       |
| DOCUMENT | **Affidavit of Applicant for Divorce** |

|  |  |
| --- | --- |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT |       |

**AFFIDAVIT OF (name)**

**SWORN ON (date)**

I,          (name)         , of           (name of city/town)          , Alberta, swear/affirm:

**PARTIES**

1. (a) I am the

[ ]  Plaintiff

[ ]  Defendant

[ ]  Plaintiff by Counterclaim

[ ]  Defendant by Counterclaim

(b) I am the spouse of the     (Plaintiff/Defendant)      whose last known address is       (address)      and whose email address is       (email address)     .

**CLAIM FOR DIVORCE**

2. I have reviewed the [ ]  Statement of Claim for Divorce

[ ]  Counterclaim for Divorce

 filed in this action and *(check the box that applies)*

[ ]  all of the information contained in it continues to be true.

[ ]  I ask the Court’s permission to amend the [ ]  Statement of Claim for Divorce

[x]  Counterclaim for Divorce

to reflect that *(check all boxes that apply and provide the necessary details)*

[ ]  my name should be the same as it is on the marriage certificate.

[ ]  my spouse’s name should be the same as it is on the marriage certificate.

[ ]  the date of the marriage should be        (date)     .

[ ]  the place of the marriage should be (city, province and country, if outside Canada).

[ ]  the name(s) or date(s) of birth of the following child(ren) of the marriage should be         (name(s) or date(s))         .

[ ]  the child(ren),     (name(s))     , is/are over the age of majority and no longer dependent on either of us.

[ ]  other: (specify)

**SERVICE**

3. *(Check the box that applies.)*

[ ]  I identify the person in the picture attached as Exhibit ‘     ’ to the filed Affidavit of Service of the Statement of Claim for Divorce as my spouse, who is the

[ ]  Plaintiff in this action

[ ]  Defendant in this action.

[ ]  I am proceeding on the Counterclaim for Divorce which was served on the Plaintiff (Defendant by Counterclaim) in the following manner: (describe)

[ ]  I have obtained an Order granted by (name of Justice) on (date) which directed service of the

[ ]  Statement of Claim for Divorce

[ ]  Counterclaim for Divorce

as follows: (describe)

[ ]  I am the Defendant and I was served with a copy of the Plaintiff’s Statement of Claim for Divorce.

**MARRIAGE**

4. I was married to my spouse on (date) at (city, province and country, if outside Canada).

*(Check the box that applies.)*

*(If the marriage was performed in Canada, it is expected that a marriage certificate will be provided.)*

[ ]  Attached as Exhibit ‘     ’ to this Affidavit is the marriage certificate issued by (province of Canada). The information on the marriage certificate about our marriage is correct, with the following exceptions:

[ ]  none

[ ]  (specify any exceptions).

*(If the marriage was performed outside Canada, the marriage must be proven by setting out the circumstances. You may use the following statement if it is accurate or make changes to it to set out the details of your marriage. You may, but are not required to, attach the marriage certificate.)*

[ ]  The marriage ceremony was performed by     (name of officiant)   , a    (title of officiant)    who I understand had authority to perform the marriage in the country where we were married. There were two witnesses, namely (full name of witness 1) and (full name of witness 2). During the ceremony, my spouse and I exchanged promises to live together as spouses, and were pronounced to be married. After the ceremony, we lived together as spouses, considered ourselves to be legally married and held ourselves out to the community as legally married.

**RESIDENCE**

5. [ ]  I was [ ]  My spouse was habitually resident in Alberta on the date my Statement of Claim for Divorce was filed with the Court and for a period of at least one year immediately preceding that date.

**GROUNDS**

6. There has been a breakdown of the marriage as follows: *(check all boxes that apply)*

[ ]  (a) I separated from my spouse on     (date)    . My spouse and I were living separate and apart when the Statement of Claim for Divorce was filed with the Court, and we have now lived separate and apart for at least one year.

[ ]  (b) Since the date of the marriage my spouse has committed adultery as evidenced by *(check the box that applies)*

[ ]  my spouse’s Affidavit of Adultery, filed in this proceeding.

[ ]  other: (explain, providing only information that is within your personal knowledge)

[ ]  (c) Since the date of the marriage my spouse has treated me with mental and/or physical cruelty that has made it intolerable for us to continue to live together. The details of the cruelty are:

(specify the details of the conduct that you allege establishes the existence of mental and/or physical cruelty).

**BARS TO DIVORCE**

7. In applying for this divorce, I have not made a plan or agreement with my spouse or another individual, directly or indirectly, to lie or hide evidence or to deceive the Court.

*(Check the boxes for paragraphs 8 and 9 only if paragraph 6(b) or (c) indicates the breakdown of the marriage occurred as a result of adultery or mental and/or physical cruelty.)*

8. [ ]  I have not encouraged my spouse to act in the manner described in paragraph 6(b) and/or (c) above, nor have I done anything that could reasonably have led my spouse to believe that I would agree to or not object to such acts.

9. [ ]  I have not forgiven my spouse for committing the acts described in paragraph 6(b) and/or 6(c) above.

**RECONCILIATION**

10. There is no possibility of reconciliation between my spouse and me.

**COROLLARY RELIEF***(parenting, child support and/or spousal support)*

11. Regarding the issues of corollary relief in these proceedings, *(check the box that applies)*

[ ]  I am requesting an order for corollary relief as part of my application for a divorce judgment.

[ ]  an order to sever the corollary relief proceedings from the divorce proceedings was granted by the Honourable Justice (name of Justice) on (date), which was
*(check the box that applies)*

[ ]  less than 6 months ago.

[ ]  6 months ago or more.

*(If an order to sever the corollary relief proceedings from the divorce proceedings was granted, you may need to adjust paragraphs 12 to 18 below to apply to your situation.)*

**PROTECTION ORDERS, CHILD PROTECTION ORDERS OR CRIMINAL PROCEEDINGS OR ORDERS**

12. (a) **Criminal proceedings or orders** *(check the box that applies)*

*(Criminal charges are charges for offences under the Criminal Code (Canada) or other federal Acts such as the Controlled Drugs and Substances Act (Canada). Proceedings related to criminal charges take place in criminal court.)*

(i) The details of any current criminal charges against me are as follows:

[ ]  None

[ ]  (specify)

(ii) The details of any conditions *(for example, under a judicial interim release (bail) order, recognizance (peace bond), probation order or parole order)* that I am required to follow in relation to a criminal proceeding are as follows:

[ ]  None

[ ]  (specify)

(iii) To the best of my knowledge, the details of any criminal charges against my spouse or conditions *(for example, under a judicial interim release (bail) order, recognizance (peace bond), probation order or parole order)* that my spouse is required to follow in relation to a criminal proceeding are as follows:

[ ]  None

[ ]  (specify)

(b) **Child protection proceedings or orders** *(check the box that applies)*

*(The function of the child protection system (or child welfare system) is to protect children from harm and help parents care for their children.)*

To the best of my knowledge, the details of any current involvement of the child protection/child welfare system with me, my spouse or any child(ren) of the marriage are as follows:

[ ]  None

[ ]  (specify)

(c) **Civil protection proceedings or orders** *(check the box that applies)*

(*A civil protection order is an order made against a person to protect another person’s safety, for example, a protection order under the Protection Against Family Violence Act, a civil or family law restraining order or a proceeding in relation to such an order.)*

To the best of my knowledge, the details of any civil protection orders or proceedings (including protection orders under the *Protection Against Family Violence Act* or civil or family restraining orders) involving me or my spouse are as follows:

[ ]  None

[ ]  (specify)

**CHILDREN**

13. **Children of the marriage, as defined by the *Divorce Act* (Canada)**
*(check the box that applies)*

[ ]  There are no children of the marriage.

[ ]  The children of the marriage are:

|  |  |  |
| --- | --- | --- |
| **Full name** | **Birthdate** | **Lives with** (include location) |
|       |       |       |
|       |       |       |
|       |       |       |
|       |       |       |

*(List all children of the marriage who have lived with the spouses at any time during the spouses’ cohabitation, even if no claim is being made with respect to that child. If a child is living with someone other than the spouses, identify where and with whom the child is living.)*

**PARENTING AND FINANCIAL ARRANGEMENTS FOR CHILDREN**

14. **Court orders relating to the children of the marriage**
*(check the box that applies)*

[ ]  There are no court orders in place relating to the child(ren) of the marriage.

[ ]  Attached as Exhibit ‘     ’ to this Affidavit are copies of all court orders in place relating to the child(ren) of the marriage, including any orders under the *Family Law Act* or the *Child, Youth and Family Enhancement Act*.

15. **Agreements relating to the children of the marriage**
*(check the box that applies)*

[ ]  There are no written agreements between my spouse and me or with a third party relating to the child(ren) of the marriage.

[ ]  There is a written agreement between my spouse and me or with a third party relating to the child(ren) of the marriage. Attached as Exhibit ‘     ’ to this Affidavit is a copy of *(check the box that applies)*

[ ]  the entire written agreement.

[ ]  the relevant portions of the written agreement.
*(Include the first page, the signature pages, the certificates of independent legal advice and any pages relating to the child(ren) of the marriage.)*

16. **Parenting arrangements**

(a) I ask the Court to allow the parenting arrangement set out in the proposed Divorce Judgment and Corollary Relief Order, because *(check the box that applies)*

[ ]  my spouse has signed their consent on the proposed Divorce Judgment and Corollary Relief Order.

[ ]  my spouse has not signed their consent on the proposed Divorce Judgment and Corollary Relief Order, but these arrangements are set out in the written agreement referred to in paragraph 15 above.

[ ]  my spouse has not signed their consent on the proposed Divorce Judgment and Corollary Relief Order, but these arrangements were proposed in the Statement of Claim and my spouse has been noted in default.

[ ]  other: (explain)

(b) I believe that the proposed parenting arrangement is in the best interests of the child(ren) of the marriage because:

(explain)

*(Refer to the factors set out in section 16 of the Divorce Act (Canada), and in particular the physical, emotional and psychological safety, security and well‑being of the child(ren).)*

(c) I understand that sections 16.8 and 16.9 of the *Divorce Act* (Canada) require people with parenting time and decision‑making responsibility to notify each other, in writing, regarding proposed changes in residence or proposed relocations. The method my spouse and I will use to provide written notice to each other in the event of a proposed change in residence or proposed relocation is (*check one*)

[ ]  set out in our consent Divorce Judgment.

[ ]  set out in the written agreement referred to in paragraph 15.

[ ]  proposed in my Statement of Claim and my spouse has been noted in default.

17. **Child support arrangements***(Information regarding income and expenses must be current at the date this Affidavit is sworn/affirmed.)*

(a) My Guideline income is $(Guideline income amount), based on the following:
*(check all boxes that apply)*

[ ]  income tax return for the (year) taxation year;

[ ]  an estimate of annual income based on current pay stubs;

[ ]  other: (specify)

(b) I believe my spouse’s Guideline income is $(Guideline income amount), based on the following: *(check all boxes that apply)*

[ ]  income tax return for the (year) taxation year;

[ ]  an estimate of annual income based on current pay stubs;

[ ]  other: (specify)

(c) Special or extraordinary expenses for the child(ren) of the marriage: *(check the box that applies)*

[ ]  There are no special or extraordinary expenses being claimed at this time.

[ ]  Special or extraordinary expenses are being claimed as follows:

(i) The special or extraordinary expenses that are set out in the proposed Divorce Judgment and Corollary Relief Order are *(Check all boxes that apply. Provide gross annual amounts paid, unless they are shared as they arise.)*

[ ]  child care expenses of $(yearly amount) per year incurred as a result of [ ]  my  [ ]  my spouse’s employment, illness, disability or education or training for employment.

[ ]  medical/dental insurance premiums related to the children of $(yearly amount) per year.

[ ]  health‑related expenses, which exceed insurance reimbursement by at least $100.00 per year, of $(yearly amount) per year.

[ ]  extraordinary education expenses of $(yearly amount) per year for primary or secondary school education or for any other educational programs that meet the child’s particular needs.

[ ]  post‑secondary education expenses of $(yearly amount) per year.

[ ]  extraordinary expenses of $(yearly amount) per year for extracurricular activities.

(ii) I provide the following information regarding the special or extraordinary expenses identified above: *(Include a description of each health‑related, education and extracurricular activity expense
being claimed.)*

(describe)

(iii) I acknowledge that the Director of Maintenance Enforcement is unable to enforce special or extraordinary expenses if they are not properly identified in the Divorce Judgment and Corollary Relief Order (for example, if the judgment does not include a fixed dollar amount, or if the judgment requires the parties to pay a percentage or proportionate share of expenses but does not clearly state which expenses are to be shared).

(d) The child support that is set out in the proposed Divorce Judgment and Corollary Relief Order is *(check all boxes that apply)*

[ ]  based on the standard Federal Child Support Guidelines calculation.

[ ]  an amount different from the standard Federal Child Support Guidelines calculation. *(Complete the portion of paragraph (g) that applies.)*

[ ]  other: (specify)

(e) *(Complete only if you are seeking an order that insurance coverage be maintained for the child(ren) of the marriage.)*

(i) Medical and/or dental insurance is available to [ ]  me and/or [ ]  my spouse through employment or otherwise at a reasonable rate.

(ii) I am seeking an order that coverage be obtained or maintained for the child(ren) under [ ]  my and/or  [ ]  my spouse’s medical and/or dental insurance policy(ies) so long as coverage is available.

(f) Attached as Exhibit ‘     ’ to this Affidavit is the Federal Child Support Guidelines Calculation Sheet.

(*Complete (g) only if the proposed amount of child support is different from the child support guidelines calculation.)*

(g) [ ]  I have proposed an amount of child support for the child(ren) that is different from the standard Federal Child Support Guidelines amount. I believe it would be inappropriate to use the standard Federal Child Support Guidelines amount for the reasons set out below. I provide the following information relevant to the proposed child support arrangements: *(check all boxes that apply)*

[ ]  (i) **Children over the age of majority** *(18 years of age or older)*

I believe it would be inappropriate to calculate child support as if the child(ren) who is/are 18 years of age or older were under 18 years old because:

(explain)

*(Explain why you chose the proposed amount and why you believe that using the Federal Child Support Guidelines amount would be inappropriate. Include information about the condition, means, needs and other circumstances of the child(ren) and the financial ability of each spouse to contribute to the support of the child(ren).)*

[ ]  (ii) **Shared parenting***(Shared parenting arrangements do not result in an automatic set‑off of child support amounts. The Court needs information to assess whether a set‑off is required and/or appropriate.)*

(A) Under the proposed parenting arrangement outlined above, the child(ren) will be in my care approximately      % of the time and in my spouse’s care approximately      % of the time.

(B) The increased costs to me and/or my spouse resulting from this proposed shared parenting arrangement are:

(specify)

(C) I provide the following additional information regarding the condition, means, needs and other circumstances of the child(ren) for whom child support is requested and of the spouses:

(explain)

*(Explain why you chose the proposed amount and why you believe that using the Federal Child Support Federal Guidelines amount would be inappropriate. Include information about the condition, means, needs and other circumstances of the child(ren), the financial ability of each spouse to contribute to the support of the child(ren), who pays the day‑to‑day expenses for the child(ren), who lives in each household, the standard of living for the children in each household, etc.)*

[ ]  (iii) **Payor’s income over $150 000 per year**

The payor’s income is over $150 000 per year. I believe it would be inappropriate to use the standard Federal Child Support Guidelines amount because:

(explain)

*(Explain why you chose the proposed amount and why you believe that using the Federal Child Support Guidelines amount would be inappropriate. Include information about the condition, means, needs and other circumstances of the child(ren) and the financial ability of each spouse to contribute to the support of the child(ren).)*

[ ]  (iv) **Undue hardship**

(A) The child support amount that would be payable under the Federal Child Support Guidelines would cause undue hardship to *(check all boxes that apply)*

[ ]  me [ ]  my spouse [ ]  the child(ren)

because of

[ ]  unusually high levels of debt. The debts came from supporting our family before my spouse and I separated or from expenses incurred for [ ]  me [ ]  my spouse to earn a living. Details of these debts are:

(explain)

*(Provide details of the debts, when and why they were incurred, amounts owing and monthly payments required.)*

[ ]  unusually high expenses for [ ]  me [ ]  my spouse
to visit the child(ren). Details of these expenses are:

(explain)

*(Provide details of the expenses, when and why they are incurred and by which spouse.)*

[ ]  a legal duty under a judgment, order or written agreement for
[ ]  me [ ]  my spouse to support another child and/or adult person. A copy of the judgment, order or written agreement is attached as Exhibit ‘     ’ to this Affidavit.

[ ]  a legal duty for [ ]  me [ ]  my spouse to support (a) child(ren) other than the child(ren) of the marriage. Details of this legal duty are:

(explain)

*(Provide details of the child(ren) supported, which spouse pays the support, the amounts of support and the source of the legal duty.)*

[ ]  a legal duty for [ ]  me [ ]  my spouse to support a person who is unable to be self‑supporting due to an illness or disability. Details of this legal duty are:

(explain)

*(Provide details of the person supported and the nature of their illness or disability, which spouse pays the support, the amounts of support and the source of the legal duty.)*

[ ]  other: (explain)

(B) I provide the following information to compare my household standard of living with that of my spouse:

(I) The details of all individuals in my household are as follows: *(Provide this information for every member of the household.)*

|  |  |  |
| --- | --- | --- |
| **Full name** | **Annual income** | **Employed at** |
|       |       |       |
|       |       |       |
|       |       |       |
|       |       |       |

(II) The details of all individuals in my spouse’s household, to the best of my knowledge, are as follows: (*Provide this information for every member of the household.)*

|  |  |  |
| --- | --- | --- |
| **Full name** | **Annual income** | **Employed at** |
|       |       |       |
|       |       |       |
|       |       |       |
|       |       |       |

(III) Attached as Exhibit ‘     ’ to this Affidavit is the completed Comparison of Household Standards of Living Using Calculated Child Support.

[ ]  (v) **Spouse standing in place of a parent**

(A) [ ]  I stand [ ]  my spouse stands in the place of a parent for the following child(ren):

(specify)

(B) The details of any other parent’s legal duty to support the child(ren) are as follows:

(explain)

(C) I believe an amount of $      per month payable

[ ]  by me to my spouse, or

[ ]  by my spouse to me

is an appropriate amount of child support for the child(ren), having regard to the Federal Child Support Guidelines and any other parent’s duty to support the child(ren), because:

(explain)

[ ]  (vi) **Deviation from the Federal Child Support Guidelines**

I believe that the amount of child support set out in the proposed Divorce Judgment and Corollary Relief Order is appropriate because: *(check all applicable boxes)*

[ ]  my spouse and I have consented to the proposed child support arrangement. I believe that this is a reasonable arrangement for the support of the child(ren) of the marriage because:

(explain)

[ ]  there are special provisions in the

[ ]  order,

[ ]  judgment,

[ ]  written agreement,

a copy of which is attached as Exhibit ‘     ’ to this Affidavit, regarding

[ ]  the financial obligations of my spouse and me, and/or

[ ]  the division or transfer of our family property

that directly or indirectly benefit the child(ren) of the marriage. Details of these special provisions, and why I believe it would be inequitable to apply the Federal Child Support Guidelines, are:

(explain)

[ ]  other special provisions have been made for the benefit of the child(ren). Details of these special provisions and why I believe it would be inappropriate to apply the Federal Child Support Guidelines are:

(explain)

[ ]  (vii) **Other information**

(explain)

*(Provide any other information you believe is relevant for setting child support.)*

**SPOUSAL SUPPORT**

18. *(Check the box that applies.)*

[ ]  There is no agreement between me and my spouse regarding spousal support, and
*(check the box that applies)*

[ ]  I am not claiming spousal support from my spouse.

[ ]  I am not claiming spousal support from my spouse at this time, but I wish to reserve my right to apply for spousal support in the future.

[ ]  I am claiming spousal support from my spouse in the amount of $(specify amount and whether it is to be paid periodically or in a lump sum) because (explain).

[ ]  I am willing to pay spousal support to my spouse in the amount of $(specify amount and whether it is to be paid periodically or in a lump sum) because (explain).

[ ]  to the best of my knowledge, my spouse is not claiming spousal support from me.

[ ]  My spouse and I have entered into an agreement, with independent legal advice, and the agreement provides that *(check the box that applies)*

[ ]  my spouse and I are both waiving any right to claim spousal support.

[ ]  spousal support is payable

[ ]  by me to my spouse, or

[ ]  by my spouse to me

as follows: (explain)

[ ]  Other: (explain the proposal respecting spousal support and the reasons for it)

**RELIEF REQUESTED**

19. **This Affidavit is made in support of an application for a divorce judgment and**
*(check all boxes that apply)*

[ ]  an order for a parenting arrangement;

[ ]  an order for child support;

[ ]  an order for spousal support;

[ ]  an order that [ ]  the Plaintiff [ ]  the Defendant [ ]  both parties

maintain the [ ]  health and/or [ ]  dental insurance coverage available through employment or otherwise for the child(ren) of the marriage;

[ ]  an order granting permission to amend the Statement of Claim, as set out in paragraph 2;

[ ]  Other: (specify any other relief that is requested)

[ ]  costs of this action.

|  |  |  |
| --- | --- | --- |
| SWORN / AFFIRMED BEFORE ME at , Albertaon , 20 .  Commissioner for Oaths in and for Alberta | )))))))) |  Signature of Applicant |