

July 31, 2018



## **COURT OF QUEEN'S BENCH OF ALBERTA**

### **ANNOUNCEMENT FOR CONSULTATION**

#### **Proposed Revisions to Form FL-23 - Affidavit of Applicant Feedback Desired**

Following an extensive review process by the Family Law Rules Advisory Committee, comprised of members of the Court, Family Law Bar, Alberta Justice, and the Canadian Bar Association, the Court is seeking feedback on proposed revisions to Form FL-23 Affidavit of Applicant in divorce proceedings. Feedback may be provided in writing to [Family.QB@albertacourts.ca](mailto:Family.QB@albertacourts.ca) by September 15, 2018.

The proposed revised Form FL-23 is attached.

The main goal of the proposed revisions is to ensure that when a desk divorce application is submitted, Applicant/Counsel have addressed all matters that should be considered, and provided the Court with the best evidence for the application. It is subsequently anticipated that processing times for desk divorce applications will be improved through a reduction in the number of rejections. We look forward to receiving your feedback.

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH  
OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT

Clerk's Stamp

## AFFIDAVIT OF APPLICANT

ADDRESS FOR SERVICE  
AND CONTACT INFORMATION  
OF PARTY FILING THIS  
DOCUMENT

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Affidavit of [name]

Sworn (or Affirmed) on [date], 20[year]

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*(Change Statement of Claim to Counterclaim, Defendant to Plaintiff, and Plaintiff to Defendant, as required, depending on who is applying for the divorce.)*

I, [name], of [city], Alberta, swear/affirm:

### STATEMENT OF CLAIM FOR DIVORCE

1. I have read the filed Statement of Claim for Divorce and all of the information continues to be true, with the following exceptions:

- ☐ I ask for permission to amend the Statement of Claim for Divorce to reflect that:
- ☐ My name should be the same as on the marriage certificate.
  - ☐ My spouse's name should be the same as on the marriage certificate.
  - ☐ The date of marriage should be [date].
  - ☐ The place of marriage should be [city, state/province and country].
  - ☐ The name or date of birth of the following child(ren) of the marriage should be \_\_\_\_\_.
- ☐ The child(ren) \_\_\_\_\_ are over the age of majority and no longer dependent on either of us.
- ☐ Other: \_\_\_\_\_.

### SERVICE

(Complete this paragraph if there is a picture of your spouse attached as an exhibit to the filed Affidavit of Service)

2. ☐ I identify the person in the picture attached as an exhibit to the filed Affidavit of Service of the Statement Claim as my spouse, who is the [Plaintiff/Defendant] in this action.

### MARRIAGE

3. I was married to my spouse on [date] at [city, state/province and country].

(If married in Canada, it is expected that a marriage certificate will be provided)

- ☐ Attached as Exhibit "\_\_\_\_\_" is the marriage certificate issued by the province/territory in Canada. The information on the marriage certificate about my marriage is correct (except \_\_\_\_\_).

(If the marriage took place outside of Canada, then the marriage must be proved by setting out the circumstances of the marriage. You may use the following paragraph, or make changes to set out the details of your own marriage.)

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

- ☐ Attached as Exhibit "\_\_\_\_\_" is a copy of the: (attach these documents, if available)
- ☐ marriage certificate issued by the jurisdiction
  - ☐ marriage license, or
  - ☐ certificate from a religious marriage ceremony.

### RESIDENCE

4. I was [or my spouse was] ordinarily resident in the Province of Alberta on the date the Statement of Claim was filed, and for at least one year immediately before that date.

### GROUND S

5. There has been a breakdown of our marriage as follows: (choose those which apply)

- ☐ (a) I separated from my spouse on [date]. My spouse and I were living separate and apart when the Statement of Claim was filed with the court, and have now lived separate and apart for at least one year.
- ☐ (b) Since the date of our marriage, my spouse has committed adultery as evidenced by:
- ☐ My spouse's Affidavit filed in this proceeding;
  - ☐ Other: [explain, providing only information that is within your personal knowledge].

- ☐ (c) My spouse has treated me with mental 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 the applicant alleges establishes the existence of mental and/or physical cruelty]

## **BARS TO DIVORCE**

6. In applying for a divorce, I have not made a plan or agreement with my spouse or with a third party, directly or indirectly, to lie or hide evidence or to deceive the Court.

*[The following two paragraphs are applicable only if the breakdown of the marriage occurred as a result of adultery or mental and/or physical cruelty]*

7. ☐ I have not encouraged my spouse to act in the manner described in paragraph 5(b) and/or 5(c) above, nor have I done anything which would have led my spouse to believe that I would agree or not object to such acts;
8. ☐ I have not forgiven my spouse for committing the acts described in paragraph 5(b) and/or 5(c) above.

## **RECONCILIATION**

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

*[If an order to sever the corollary relief proceedings from the divorce proceedings in this action was granted less than 6 months before filing the request for divorce, then you are not required to complete paragraphs 10 to 16. If the order severing corollary relief was granted more than 6 months before filing the request for divorce, then you must complete paragraphs 10 to 16 as applicable.]*

## **CHILDREN, CHILD CARE AND FINANCIAL ARRANGEMENTS FOR CHILDREN**

10. **Children of the marriage, as defined by the *Divorce Act* (Canada)**

- ☐ There are no children of the marriage.
- ☐ The children of the marriage are:

Full name	Birthdate	Lives with (include location)

*(List all children that meet the definition of "child of the marriage" in the Divorce Act (Canada), even if no claim is being made with respect to that child. If a child is living with someone other than the parties, then you must identify where and with whom they are living.)*

*"child of the marriage" means a child of two spouses who, at the material time,*  
*(a) is under the age of majority and who has not withdrawn from their charge, or*  
*(b) is the age of majority or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessities of life,*

and includes any child for whom the spouses both stand in the place of parents, or for whom one spouse is the parent and the other spouse stands in the place of a parent.)

11. **Court orders relating to the children of the marriage**

(This paragraph must be completed if the parties are not consenting to a corollary relief order relating to the children as part of the application for divorce, or if you are asking to sever the corollary relief from the divorce proceeding.)

- ☐ There are no court orders in place relating to the children of the marriage.
- ☐ Attached as Exhibit "\_\_\_\_" are copies of the current court orders in place relating to the children of the marriage, including any court orders made under the *Child, Youth and Family Enhancement Act*.

12. **Agreements relating to the children of the marriage**

(This paragraph must be completed if the parties are not consenting to a corollary relief order relating to the children as part of the application for divorce, or if a request is made to sever corollary relief from the divorce proceeding.)

- ☐ There are no written agreements between my spouse and me or with a third party relating to the children of the marriage.
- ☐ There is a written agreement between my spouse and me or with a third party relating to the children of the marriage. Attached as Exhibit "\_\_\_\_" is a copy of:
- ☐ 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 children of the marriage.)

13. **Parenting arrangements**

I ask the Court to allow the parenting arrangement set out in the proposed Divorce Judgment and Corollary Relief Order, because (Choose one)

- ☐ the other party has signed their consent on the Divorce Judgment and Corollary Relief Order.
- ☐ the other party has not signed their consent on the Divorce Judgment and Corollary Relief Order but these arrangements are set out in the written agreement referred to in paragraph 12 above.
- ☐ the other party has not signed their consent on the Divorce Judgment and Corollary Relief Order but these arrangements were proposed in the Statement of Claim, and the other party has been noted in default.
- ☐ other: [explain].

14. **Child support arrangements**

(Information regarding income and expenses must be current as of the date the Affidavit of Applicant is sworn/affirmed).

(a) My guideline income is **[\$[Guideline income amount]]**, based on:

- ☐ 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:

☐ Tax return for the year [taxation year];

☐ An estimate of annual income, based on current pay stubs;

☐ Other: [specify].

(c) The special expenses that I propose to include in the Divorce Judgment and Corollary Relief Order are: *(provide gross annual amounts paid, unless they are shared as they arise)*

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

☐ 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 annually, 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 for extracurricular activities of \$[yearly amount] per year.

I have the following additional information regarding the special expenses identified above:  
*(include a description of each health, education and extracurricular expense being claimed)*

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I acknowledge the Director of Maintenance Enforcement is unable to enforce special 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 Divorce Judgment and Corollary Relief Order is:  
(choose all that apply):

- ☐ Based on the child support guideline calculation.
- ☐ An amount that is different from the child support guideline calculation. (Complete the portion of paragraph 15 that applies)

(Complete only if you have made a claim for an order that insurance coverage be maintained for the child(ren) of the marriage)

- (e) ☐ Medical and/or dental insurance is available to ☐ me ☐ my spouse through employment or otherwise at a reasonable rate. I am seeking an order that coverage be obtained or maintained for the child(ren) under ☐ my ☐ my spouse's medical/dental insurance policy(ies).

(Complete only if your proposed child support is different from the child support guideline calculation)

15. I have the following additional information relevant to the proposed child support arrangements:  
(choose all that apply):

- ☐ **Child(ren) over the age of majority** (18 years of age or older)  
I have proposed an amount of child support different from the child support guideline amount for the child(ren) who are age 18 or older. I believe it is not appropriate to calculate child support as if the child(ren) were under 18 years old because: [explain]. (Explain why you have chosen this amount. 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).)

- ☐ **Shared parenting/custody**  
(Shared parenting/custody arrangements do not result in an automatic set-off of child support amounts. The Court needs information to assess if 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/custody arrangement are: [explain]
- (c) I have the following information regarding the conditions, means, needs and other circumstances of me, my spouse, and any child(ren) for whom child support is requested: [explain] (Provide 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), including 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.).

- ☐ **Payor's income over \$150,000**  
I have proposed an amount of child support different from the child support guideline calculation because the payor's income is over \$150,000. I believe it is not appropriate to follow the child support guideline calculation because: [explain]. (Explain why you have chosen the amount. 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).)

☐ **Undue hardship**

(a) The child support amount that otherwise would be payable under *the Federal Child Support Guidelines* would cause ☐ me, ☐ my spouse, or ☐ the child(ren) undue hardship because of:

- ☐ unusually high levels of debt. The debts came from supporting our family before my spouse and I separated, or due to expenses for ☐ me ☐ my spouse to earn a living. Details of these debts are: [explain]. *(Give details of the debts, when they were incurred and why, amount owing, monthly payments required.)*
- ☐ unusually high expenses to visit the child(ren). Details of these expenses are: [explain] *(Give details of these expenses and why they are incurred.)*
- ☐ a legal duty to support another child and/or adult person. This duty is in a judgment, order, or written agreement. A copy is attached as Exhibit "\_\_\_\_\_".
- ☐ a legal duty to support a child other than the child(ren) of the marriage. The child is under the age of majority or, if over the age of majority, is not able to be self-supporting. Details of this legal duty are: [explain]. *(Give details of any other child(ren) supported by you or your spouse, including any amounts paid in support.)*
- ☐ a legal duty to support a person who is not able to be self-supporting due to an illness or disability. Details of this legal duty are: [explain]. *(Give details of any person you or your spouse support, including their illness/disability, and any amounts paid in support.)*
- ☐ Other: [explain]

(b) The information needed to compare my household standard of living to that of my spouse is:

- ☐ The details of all individuals in my household, not including the child(ren) of the marriage, are: *(repeat this information for each individual in your household)*  
Full name: \_\_\_\_\_  
Annual income: \_\_\_\_\_ Employed at: \_\_\_\_\_
- ☐ The details of all individuals in my spouse's household, not including the child(ren) of the marriage, are: *(repeat this information for each individual in your spouse's household)*  
Full name: \_\_\_\_\_  
Annual income: \_\_\_\_\_ Employed at: \_\_\_\_\_

☐ **Spouse standing in place of a parent**

(a) I stand [or My spouse stands] in place of a parent for the following child(ren): [specify]

(b) The details of any other parent's legal duty to support these child(ren) are: [specify]

(c) I believe a child support amount of \$[monthly amount] per month payable by ☐ me ☐ my spouse is an appropriate amount for these child(ren), having regard to the *Federal Child Support Guidelines* and any other parent's legal duty to support the child(ren), because: [explain].



☐ **Deviation from the Federal Child Support Guidelines**

I believe the amount of child support in my proposed Divorce Judgment and Corollary Relief Order is appropriate because:

- ☐ 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] attached as Exhibit "\_\_\_\_" regarding:
  - ☐ the financial obligations of me and my spouse,
  - ☐ the division or transfer of our matrimonial propertythat 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 inequitable to apply the Federal Child Support Guidelines, are: [explain].

☐ **Other information:**

[Provide any other information that you feel is relevant for setting child support]

**SPOUSAL SUPPORT**

16. The following arrangements have been made for spousal support: *(Choose one)*

- ☐ there is no agreement between me and my spouse for spousal support, and:
  - ☐ I am not claiming spousal support from my spouse at this time;
  - ☐ I am claiming spousal support from my spouse in the sum of \$ \_\_\_\_\_ because \_\_\_\_\_;
  - ☐ I am willing to pay spousal support to my spouse in the sum of \$ \_\_\_\_\_ because \_\_\_\_\_;
  - ☐ 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 that agreement provides that:
  - ☐ my spouse and I are both waiving any claim for spousal support; or
  - ☐ spousal support is being paid by \_\_\_\_\_ as follows: [explain]
- ☐ Other: *(explain arrangements that have been made for spousal support)*

**RELIEF REQUESTED**

17. This Affidavit is made in support of an application for:

- ☒ a divorce judgment;
- ☐ an order for a parenting arrangement;
- ☐ an order for child support;
- ☐ an order for spousal support;
- ☐ an order that the [plaintiff/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 for Divorce, as set out in paragraph 1;
- ☐ Other: [add such other relief as required];
- ☐ Costs of this action.

SWORN/AFFIRMED BEFORE ME on  
\_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_, Alberta.

\_\_\_\_\_  
Commissioner for Oaths  
in and for Alberta

\_\_\_\_\_  
(Signature of Applicant)