

About the *Family Law Act*

Court Services

You can use the *Family Law Act* and the instructions in this booklet for:

- guardianship of child(ren)
- parenting of child(ren)
- contact with child(ren)
- child support
- spousal or partner support
- declaration of parentage
- enforcement of time with a child
- other matters found in the *Family Law Act*

You **cannot** use the *Family Law Act* if there is an order or judgment under the *Divorce Act* addressing the same issue.

For information about whether the *Family Law Act* applies to your situation, you should speak with a lawyer.

BEFORE YOU BEGIN ANY PAPERWORK

1) Consider discussing this matter with a lawyer

- A lawyer may give you options for solutions that you may not have considered.
- If you do not have a lawyer, you must put in the time and effort. You will be doing the work of a lawyer without a lawyer's training.

2) Look at other options besides the court system

- Consent - do you agree with the order the other person wants, or does the other party agree with the order you want? Can you talk the situation over with the other party?
- Mediation - a mediator helps you and the other party to come to your own agreed solution, as an alternative to having a judge decide the solution for you.

3) Decide if you can apply

- Do you qualify to apply for the order you want? Read the instruction sheets for your specific application. They have information about who can apply.

4) Decide what court you will use

- **For most matters, you can apply to either the Provincial Court or the Court of Queen's Bench.** You cannot apply in one court if an application has already been made in the other court. You must not jump back and forth between the courts.
- If any other application involving the respondent(s) or the child(ren) has been assigned to a case management judge, this application must be made in Court of Queen's Bench and you must advise the clerk.

5) For the following matters, you must apply to the Court of Queen's Bench:

- Exclusive Possession of a Home or Household Goods
- Declaration of Parentage
- Declaration of Irreconcilability
- Financial support orders that deal with property

6) Attend Parenting after Separation Seminar

- This seminar is highly recommended for all separating parents. For some people, it is mandatory. Is the seminar mandatory for you? See the Notice of Mandatory Seminar sheet, available from the courthouse or visit: www.albertacourts.ab.ca

(Click on "Court Services" header, then "Family Justice Services" category and finally choose "Course/Seminars for Parents and Families").

Remember to print neatly if you are filling in the forms by hand!**1) Complete a Claim**

The Claim sets out your requests to the court and the respondent(s)

- Provide your full name (and the full name of any other applicants).
- Provide the full name of the respondent(s). The instruction sheets for your specific application will help you decide who you should name as the respondent(s). Generally, other adults who are affected by your application should be named as respondents.
- Provide an address for service. **If your address changes, you must tell the court and the applicant(s) in writing or on the record during your hearing.** If you do not want to give the applicant the address where you live, you must provide an address where you can receive documents.
- You do not need to complete the "Notice to Respondent" at this time.
- Check boxes for the order(s) you want the Court to grant. **You can ask for more than one order at one time.**
- List all children and **clearly note their birthdates.**
- Indicate whether you have been involved in other legal proceedings with the respondent(s) or the child(ren).
- Summarize what you are asking for, and why you are asking for it. Also list the Statement(s) or Affidavit(s) you intend to use in support of your Claim.

2) Complete a Statement for each order you request (or complete an Affidavit)

- You may use the Statements provided at the courthouse or on the internet at: www.albertacourts.ab.ca/familylaw. Or you may prepare a sworn/affirmed affidavit to support your Claim. This is the evidence the court will use to decide your matter.
- Copy the parties' names from the Claim to the top of each Statement or Affidavit
- Correctly copy the Court File number (if you have one).
- Provide details. This is your opportunity to tell your story to the judge.
- Attach copies of all documents that you refer to in the Statement(s) or Affidavit.
- Number the pages and list the total number of pages including documents you have attached to the Statement or Affidavit.
- Swear/affirm each Statement or Affidavit is true before a Commissioner for Oaths or Notary Public. **There are serious consequences if you do not tell the truth.** All lawyers, notaries public, and certain staff at the courthouse may act as Commissioners for Oaths. No fee is charged at the courthouse for this service. You may be asked for personal identification.
- The respondent(s) or their lawyers may ask you questions under oath about anything you include in your Statement or Affidavit.

3) Do you have enough copies? You need:

- The original for the court.
- A copy for you (and a copy for any other applicants).
- A copy for *each* respondent. (You may need a copy to serve on the Maintenance Enforcement Program or the Director Child, Youth and Family Enhancement Act. See the Instructions for your specific applications). If you are applying for guardianship or a declaration of parentage, you will need a copy to serve on *each* child 16 years old or over. See the Instructions for those applications.
- An extra copy for the judge who may not have a copy on the court file at your hearing.

4) File the Claim and Statement(s) (or Affidavit) with the court clerk

- Select a court date with the help of the clerk. You need time to serve the respondent and give the respondent at least **20 days** to respond to your application or **1 month** to respond to a **written request for financial information**.
You do not count the day of the court hearing.
- Let the clerk know if a particular judge has already been assigned to your file.
- Complete the "Notice to Respondent" on the Claim.
- Receive copies of all filed documents from the clerk. They must have a court stamp on them.

5) Serve these documents on the respondent(s) at least 20 days before the court date: (at least 1 month before the court date if you are asking for financial information)

- Claim (filed).
- Statement(s) or Affidavit (filed).
- Notice of Mandatory Attendance - Parenting after Separation Seminar (where applicable).

You may need to serve a copy of the documents on other individuals (or government departments). See #3 above.

YOU MUST:

- make sure the filed documents are personally served on the respondent(s), by having someone hand the documents directly to the respondent(s). Get another person to do this for you, to prevent a dispute about whether the respondent(s) received the documents. You may hire a process server (listed in the Yellow Pages).
- make sure the respondent(s) has/have at least 20 days to respond to your application and 1 month to respond to a Request for Financial Information.

6) Complete an Affidavit of Service for each applicant and any other respondent(s)

- Filled out by the individual who served the respondent(s) (eg. process server or friend).
- The person who served the documents must swear/affirm the Affidavit of Service is true before a Commissioner for Oaths or Notary Public.
- File the completed Affidavit of Service (signed and sworn/affirmed) with the clerk before the court date.

7) Changing the Court Date

- If you and the other parties agree to change your court date to a later date (for example, to attend mediation), phone the clerk's office where you filed your Claim and ask how to adjourn (change) the court date.
- If one of the parties does not agree to change the court date you must appear in court.

8) Attend Court

Bring with you

- all of your paperwork and documents (including your filed Affidavits of Service)
- pen and paper to take notes

Note: If the Respondent files a Response and asks for additional orders, the court may grant those orders if you do not appear at court on the court date.

NOTES

QUICK CHECKLIST

FILING A CLAIM

- Consider discussing the matter with a lawyer
- Consider options for solutions besides the court system (eg. consent or mediation)
- Attend the Parenting After Separation Seminar (may be mandatory)
- Complete a Claim
- Complete your Statement(s) or an Affidavit and swear/affirm them to be true before a Commissioner for Oaths
- Make enough copies of your Claim and Statement(s) or Affidavit
- File Claim and Statement(s) or Affidavit with the clerk at the courthouse
- Serve these documents on the Respondent(s) (and any other persons that must be served):
 - Claim
 - Statement(s) or Affidavit
 - Notice of Mandatory Attendance - Parenting After Separation Seminar (if applicable)
- File an Affidavit of Service for each person served

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HELP IS AVAILABLE

1. Lawyers

Lawyer Referral Service (Alberta)
Dial-A-Law

Tel: 403-228-1722
Tel: 403-234-9022
Toll Free: 1-800-661-1095

**Calgary
Calgary**

Legal Aid Alberta

Tel: 403-297-2260
Tel: 780-427-7575

**Calgary Legal Services Centre
Edmonton Legal Services Centre**

Toll Free: 1-866-845-3425 **Elsewhere in Alberta**

2. Family Justice Services

Family Law Information Centres (FLIC)

Tel: 403-297-6981*
Tel: 780-415-0404*
Tel: 780-833-4234*
Tel: 403-388-3102*
Tel: 403-529-8715*
Tel: 403-755-1468*

**Calgary
Edmonton
Grande Prairie
Lethbridge
Medicine Hat
Red Deer**

Family Mediation

Tel: 403-297-6981*
Tel: 780-427-8329*
Tel: 403-340-7187*

**Calgary
Edmonton
Elsewhere in Province**

3. Websites

www.albertacourts.ab.ca
<http://acjnet.org/abservices/legal.aspx>

**** call any of the numbers toll-free through the RITE line by dialing 310-0000
Check your courthouse for more detailed information about services available in your area.***