

Desk Divorce With Dependent Children

Court of Queen's Bench

Desk Divorce With Dependent Children



Resolution Services



Alberta
Government

**These instructions have been prepared for you by
Resolution Services. Contact us at:**

Calgary

7th floor South
Calgary Courts Centre
601 - 5 Street SW
Phone 403-476-4744

Grande Prairie

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

Red Deer

Main Floor, Court House
4909 - 48 Ave
Phone: 403-340-7187

Edmonton

8th floor, Brownlee Building
10365 - 97 Street
Phone 780-415-0404

Lethbridge

1st Floor, Court House
320 - 4 St. S
Lethbridge AB T1J 1Z8
Phone: 403-388-3102

Medicine Hat

Court House
460 First Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8716

**Outside these centres, call the
Resolution Services Contact Centre at 1-855-738-4747**

***Resolution Services and Court Staff cannot give you legal
advice, or predict the outcome of your case.***

***This booklet provides general information only. You should
speak to a lawyer for legal advice about your own situation.***

DESK DIVORCE – WITH DEPENDENT CHILDREN

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INSTRUCTIONS: UNCONTESTED DIVORCE WITH DEPENDENT CHILDREN

BEFORE YOU BEGIN

Disclaimer:

These are meant to be simple, straightforward instructions for completing a divorce on your own. There may be other ways of completing the divorce. If you want to find out if there is a different way than what is written here, or if you want any more information than what has been given, talk to a lawyer.

In these instructions, we often tell you to ask questions or get forms from Resolution Services. If there is no Resolution Services office near you, ask the Queen's Bench Clerks for the information or forms.

Were you married?

If you were living "common law", then you do not need to do anything through the courts to end your relationship. It is only if you went through an official wedding ceremony that you need to get a divorce. This may have been in Canada or outside of Canada.

Do you know where your spouse is?

Your spouse will have to be served with the initial divorce documents. If you can't find them to serve them, you should think about hiring a lawyer to do your divorce.

Do you have the correct marriage certificate?

If you were married in Canada, you need the marriage certificate that was issued by the Province after your marriage. If you have a hand-written certificate that was given to you at the time of your wedding, that is likely not the right one. If you were married in Alberta, you can order a marriage certificate from any registry office. If you were married in another province, search "marriage certificate" on the government home page for that province.



Tip:

Most people do not receive a marriage certificate from the government unless they go through the process of ordering one. It is not sent automatically after the marriage ceremony.

If you were married outside Canada, an official marriage certificate is helpful, but not required.

Have you and/or your spouse lived in Alberta for at least a year?

If not, you can't file for divorce in Alberta. You will be able to file once you (or your spouse) have lived in Alberta for a year.

Do you have grounds for divorce?

The grounds for divorce in Canada are:

- Living separate and apart for one year
- Adultery - i.e. your spouse had sexual intercourse with a person other than you. In most cases, your spouse must be willing to sign an Affidavit admitting adultery.
- Mental or Physical cruelty of such a nature as to make it impossible to continue living together.



Tip:

If you are using one year separation as your ground, you can start the divorce before the year of separation is up, but you can't ask for the Divorce Judgment until after the year is up.

Do you have an agreement on the issues of custody, access (parenting), child support and spousal support?

A written agreement is best, but a verbal agreement will often be fine.

If you do not have an agreement, you may want to speak to your spouse about mediation, or you may want to talk to a lawyer.

Have you taken the Parenting After Separation Seminar?

If you have not yet taken the seminar, you should complete the online course as soon as possible. See the Family Practice Note 1 <https://albertacourts.ca/docs/default-source/Court-of-Queen's-Bench/practice-note-1-july-20-2015.pdf?sfvrsn=2> for more information.

You can find the course at <https://www.alberta.ca/pas.aspx>

Once you complete the online course, you will be given a Certificate to print. Each of you must file this certificate with the court to complete the divorce.



Tip:

Use the Divorce Checksheet at the end of these instructions for a handy summary of the forms and photocopies you will need.

COMPLETING THE STATEMENT OF CLAIM FOR DIVORCE

Court File number

Leave this blank for now. When you file the Statement of Claim, the clerk will give you a number

Judicial Centre

This is the Court of Queen's Bench location where you will be filing your documents (eg: Calgary, Edmonton, Medicine Hat, etc.).

Plaintiff and Defendant

You are the Plaintiff. Your spouse is the Defendant

Look at your marriage certificate. Use the names exactly as they are on the marriage certificate except that if the wife has taken the husband's last name, you can use her married last name.

For example, the marriage certificate lists you as John Edward Kerry and Jane Amanda Fraser. Jane goes by Jane Kerry. You will list yourselves as John Edward Kerry and Jane Amanda Kerry.



Tip:

Whenever there is a space to write in any names on any of the forms, write in the full name.

Address for Service and Contact Information

The address that you enter here is called your "address for service" because by listing this address, you are saying to the other person that you can be served with court documents at this location. If the Defendant wants to serve you with documents responding to your Statement of Claim, they can serve you by leaving the documents at this address – they do not have to personally serve you.

Most self represented parties will use their home address as their address for service. If you want to use another address, make sure the person who lives at that address knows that documents may be left there for you.

Write in your name, the complete address for service, including postal code and daytime phone number.

#1: The Parties

Make sure the date and place of the marriage are the same as on your marriage certificate.

1(3) and 1(4)

- Address means the complete address, including postal code.
- Surname at birth means the last name at the time of birth.
- Surname at the time of marriage means the last name just before your marriage took place.
- Gender at the time of marriage would be one of "male", "female", or "another gender".
- Marital status of the parties at the time of the marriage would be one of "single", "divorced", or "widowed".

#2: Residence

You and/or your spouse **MUST** have lived in Alberta for one full year before you file the Statement of Claim. If you have not, you must wait. Choose either Plaintiff or Defendant here.

#3: Grounds

Choose your grounds for divorce. You can choose more than one.

#4: Reconciliation

Do not write anything in here. If you believe there IS a possibility of reconciliation, then you should not file for divorce.

#5: Bars to Divorce

If you are using grounds of one year separation only, use paragraph 5(1) only. If you are using grounds of adultery or cruelty, include both paragraphs 5(1) and 5(2).



Tips:

"Collusion" means agreeing with your spouse to make up facts so that you can get your divorce, or get divorced sooner.

"Connived" means tricking your spouse into committing adultery or cruelty.

"Condoned" means forgiving your spouse for committing adultery or cruelty.

#6: Children

6(1) Fill in the full names and dates of birth of each of your dependent children. If there are more than two, you will need to add lines to the form.

6(2) Fill in the terms of the agreement that you and your spouse have about the allocation of parenting time and decision-making responsibilities between you and your spouse. If you don't have an agreement, write in your proposal.

6(3) The *Divorce Act* requires parties to notify the other party in writing if they are planning on changing their place of residence or relocating to another location. This applies whether you are planning on moving with the children or without the children. Describe how you propose that you and your spouse will give written notice of relocations or changes in residence (e.g. by email, mail, in person, or some other method).

Example:

6(2) The Plaintiff proposes parenting arrangements for each child as follows:

The Plaintiff will make major decisions about the children's health, education, culture, language, religion, spirituality, and significant extra-curricular activities, after consulting with the Defendant.

The parties shall share parenting time equally, and the children shall spend alternating weeks with the Plaintiff and the Defendant. Transitions shall occur every Friday at 4:30pm, and the parent that is with the children for the upcoming week shall pick up the children at that time.

6(3) If written notice of a change of residence or relocation is required to be given under section 16.8 or 16.9 of the *Divorce Act* (Canada), the Plaintiff proposes that notice be given as follows:

(a) The Plaintiff will provide written notice to the Defendant by: *(specify how the written notice will be delivered to the Defendant, e.g. by mail, in person, by email, etc.)*

By email

(b) The Defendant will provide written notice to the Plaintiff by: *(specify how the written notice will be delivered to the Plaintiff, e.g. by mail, in person, by email, etc.)*

By email

6(4) Fill in the terms of the agreement that you and your spouse have about child support. You may either put in a dollar amount, or say that the paying spouse will pay “child support as set out in the Federal Child Support Guidelines.” If you don’t have an agreement, write in your proposal.



Tips:

The judge must be satisfied that the amount of child support is reasonable before they can grant your divorce. In most cases, this means that the amount of child support must be the amount calculated by the Federal Child Support Guidelines. There are very limited cases where the judge can order child support in an amount that does not follow the federal child support guidelines.

Before you fill in 6(4), you should understand how child support is calculated under the Federal Child Support Guidelines.

#7: Agreements

If you have an agreement regarding the parenting schedule, decision making responsibility regarding the children, child support, and/or spousal support, provide the type of agreement (e.g. Separation Agreement) and the date it was signed. If there is no agreement, say “none”.

#8: Court Proceedings

8(1) If you have been to court to deal with parenting schedule, decision making responsibility regarding the children, child support, and/or spousal support, state the type of order that was made, the name of the Court that made the Order, and the date the order was made (e.g. Spousal Support Order made by the Provincial Court of Alberta on March 15, 2021). If you have not been to court regarding these issues, say “none”.

8(2) If either party is involved in any court proceedings for a restraining order or protection order (e.g. EPOs), court proceedings related to child protection, or proceedings, undertakings or recognizances relating to a criminal matter, list the details here (ie: Emergency Protection Order granted by the Provincial Court of Alberta on March 5, 2021 between John Edward Kerry and Jane Amanda Fraser). If these proceedings are not applicable to your situation, say “none”.



Tip:

If you have questions about how criminal proceedings, child protection proceedings, or protection orders may affect your divorce, you should talk to a lawyer before going any further

#9: Spousal Support

Choose one of the three options, and fill in the reasons.

#10: Remedy Sought

This is a summary of what you are asking for. In most cases, you should check off at least:

- divorce judgment
- parenting arrangements as proposed above
- child support as proposed above

Statement of Plaintiff

Fill in your name. This statement outlines your duties under sections 7.1 to 7.5 of the *Divorce Act*. You must certify that you will comply with these duties prior to filing your Statement of Claim for Divorce.

Statement of Lawyer

You do not have to fill this in if you are representing yourself

FILING THE STATEMENT OF CLAIM

Print out the form.

Make 2 copies (original + 2 copies)



Tip:

Make sure all of your pages have print only on one side (no double sided printing or copying!)

Bring all of your copies, plus \$260 (cash, Interac, Visa or Mastercard) to the Court of Queen's Bench. In larger centres, there will be a specific registry counter for filing divorce documents.

The clerk will keep your original Statement of Claim, and will show you how to stamp and write the file number on your copies. Take the 2 filed copies with you.

SERVING THE STATEMENT OF CLAIM

Your Statement of Claim must be personally served (i.e. handed to the Defendant) by someone over the age of 18. At the same time, the Defendant must be served with the Notice of Mandatory Seminar. You cannot serve the Defendant yourself.

If it will be difficult or impossible to serve the Defendant personally, you can ask the court for an Order for Substitutional Service. Ask the staff at Resolution Services for the forms and instructions to apply for this kind of order.

If the Defendant lives outside of Canada, you must ask the court for an Order allowing you to serve them outside Canada. Ask the staff at Resolution Services for the forms and instructions to apply for this kind of order.



Tip:

We strongly recommend that you hire a process server to serve your Statement of Claim on your spouse. The process server will ensure that service is done properly, and will give you a completed, sworn Affidavit of Service. You can find a list of process servers in your yellow pages or by searching "process server alberta" on the internet.

Give the process server:

- One filed copy of the Statement of Claim.
- Two copies of the Notice of Mandatory Seminar
- A photograph of the Defendant. Put an "X" on the photo to identify the Defendant.
- Information about how to find the Defendant.

If you are not hiring a process server, here are important points to remember:

- Give the person who will be serving your spouse one filed copy of the Statement of Claim, one copy of the Notice of Mandatory Seminar and the photograph of the Defendant.
- The person serving must ask the Defendant if they are the person named (e.g. "Are you John Dennis Barker?") and use the photo to make sure they are serving the right person.
- To serve, the Statement of Claim must be HANDED TO the Defendant.
- The person who serves should make a note of the **date** that they served and the **address** where the Defendant was served.
- The person who serves must go to the Commissioner for Oaths to have the Affidavit of Service sworn.

COMPLETING THE AFFIDAVIT OF SERVICE

If you have hired a process server, they will complete the Affidavit of Service for you. If not, follow these instructions.

Court File Number
Judicial Centre
Plaintiff
Defendant



These are all the same as
in the Statement of Claim

Sworn / Affirmed by

Fill in the name of the person who served.

Sworn / Affirmed on

Fill in the date that the Affidavit of Service is sworn/affirmed.

Address for Service and Contact Information

Write in your name, complete address, including postal code and daytime phone number (not that of the person who served).

Introductory paragraph of Affidavit

Fill in the name and city/town of residence of the person who served the Statement of Claim.

#2: Fill in the date that the Statement of Claim was served, the Defendant's name, the date the Statement of Claim was filed, and the address where the documents were served.

#3: Fill in name of the Defendant. A photograph of the Defendant will be attached as Exhibit "A".

#4: If you served the Notice of Mandatory Seminar, check the second box and attach a copy of the Notice of Mandatory Seminar as Exhibit "B".

Print off the form. Put the document together like this:

- The Affidavit of Service
- The photograph, taped on to a plain piece of paper. The photograph page is to be marked as Exhibit "A".
- A copy of the Notice of Mandatory Seminar (if served). This will be marked as Exhibit "B".

The staff at Resolution Services have stamps to mark exhibits. If you are having the Affidavit sworn elsewhere, mark it like this:

This is Exhibit "____" in the Affidavit of ____ sworn before me this ____

A Commissioner for Oaths in and for the Province of Alberta

Fill in the first blank with the exhibit letter, the second with the name of the person who served and the third with the date sworn.

The person who served must have the Affidavit of Service sworn before a Commissioner for Oaths.

Make one copy of the complete Affidavit of Service, including the photograph. Copy it AFTER it has been sworn.



Tips:

- If the Defendant was served in Alberta, they have 20 days to respond to the divorce if they do not agree with the relief you are asking for.
 - If they were served elsewhere in Canada, they have one month.
 - If they were served outside Canada, they have two months.
- If they have not responded within the time period, you can go ahead with the other court forms.
- If they do respond by filing a Statement of Defence or Demand of Notice, you can still go ahead with the other court forms, but you will have to have the Defendant sign their consent on the forms. If they are not willing to consent, you should talk to a lawyer.

COMPLETING THE NOTING IN DEFAULT

Wait the number of days set out above to allow the Defendant to respond to the divorce, if they want to. If they do not respond, then you can proceed with a Noting in Default.

Court File Number
Judicial Centre
Plaintiff
Defendant



These are all the same as
in the Statement of Claim

Document

Beside the words "Noting in Default of", fill in the Defendant's name, and the word "Defendant".

Address for Service and Contact Information

Write in your name, complete address, including postal code and daytime phone number.

In the body of the form, on the first line, type in your name and the word "Plaintiff", then on the third line, type in the Defendant's name and the word "Defendant".

In the first spot with a drop down menu, select the words, "has not" and in the second spot, select the word, "is".

Print out the form and make one copy.

COMPLETING THE REQUEST FOR DIVORCE

**Court File Number
Judicial Centre
Plaintiff
Defendant**



These are all the same as
in the Statement of Claim

Address for Service and Contact Information

Write in your name, complete address, including postal code and daytime phone number.

1:

Fill in your name

2:

Fill in the name of the person who served the Statement of Claim, and the date that the Statement of Claim was served.

If you were granted an order for substitutional service (allowing you to serve the Defendant without using personal service), you can fill out this paragraph explaining how the Statement of Claim was served. For example, you could say "The Statement of Claim was served on my spouse by email on September 2, 2021, as indicated in the Affidavit of Service, which has been filed."

4:

Check off the boxes that apply to you. You may check off more than one box (e.g. if the Defendant has filed a response to the divorce and is now consenting).

5:

Fill in the DEFENDANT's complete address, including postal code.

6:

Fill in the Defendant's lawyer's complete address. If the Defendant has no lawyer, fill in "none".

7:

Fill in YOUR lawyer's complete address. If you have no lawyer, fill in "none"

Print out the form and make one copy.

THE CHILD SUPPORT CALCULATION

Resolution Services staff can do a child support calculation for you based on the income information in the Affidavit of Applicant. They will attach the calculation to a Review Memo.



Tips:

- Proof of income is required in most cases. IF you think you have an unusual case where the financial information is not required, talk to the Resolution Services staff. The fact that you have an agreement on child support (or that there is to be no child support) is NOT an unusual case.
- If the Defendant will not give you proof of their income, you can serve them with a Notice to Disclose.
- Use the same incomes and special expense amounts in your Affidavit of Applicant and your Divorce Judgment.

COMPLETING THE AFFIDAVIT OF APPLICANT FOR DIVORCE



Tips:

- This form is quite complex, and you may need to add information that does not fit in the spaces provided. If that happens, you should use the Word version of Form FL-23, on the Queen's Bench section of the albertacourts.ca website.
- Fill out all of the parts of this form, unless the instructions tell you otherwise.

Court File Number
Judicial Centre
Plaintiff
Defendant



These are all the same as
in the Statement of Claim

Address for Service and Contact Information

Write in your name, complete address, including postal code and daytime phone number.

Affidavit of

Fill in your name.

Sworn on

Fill this in after you swear the Affidavit of Applicant.

Introductory paragraph of Affidavit:

Fill in your name and city/town of residence.

#1: Parties

Check off your role in the proceedings (usually "Plaintiff").

#2: Claim for Divorce

Check off the document that you have filed and are relying on to complete the divorce (usually "Statement of Claim for Divorce").

Go back and read over your Statement of Claim. If there are no mistakes, check off the first box

If there are any mistakes in it, check off the second box and check the appropriate box(es) to specify the changes that are required.

#3: Service

If the Statement of Claim was served personally on the Defendant, check the first box. Check the Affidavit of Service to see what exhibit letter was used for the Defendant's photograph and put that exhibit letter in the blank.

If you are proceeding by counterclaim or if you obtained an order allowing service other than through a process server, check the second or third box and fill in the details.

#4: Marriage

Enter in the date and place of your marriage.

There are two checkboxes. If you were married in Canada, use the first checkbox. If you were married outside Canada, use the second checkbox.

First Checkbox (marriage in Canada)

- The marriage certificate will be Exhibit "A".
- Beside the words "issued by", fill in the Province or Territory where you were married.
- If there are errors in your marriage certificate, please specify. Otherwise check "none".



Tips:

- If you were married in Canada, you must have a marriage certificate to complete this step.
- You must attach the original marriage certificate (as you received it from the provincial government office), not a photocopy.

Second Checkbox (marriage outside Canada)

- Fill in the name and title of the person who conducted your marriage ceremony.
- Fill in the names of the people who witnessed your marriage ceremony.
- You may make changes to this statement to reflect the details of your marriage ceremony. You will probably need to use the Word version of the FL-23 form to do this, and may want to speak to a lawyer about this.

- If you have a marriage certificate, or some other document proving your marriage, you may attach it as Exhibit "A". You will probably need to use the Word version of the FL-23 form to do this.



Tips:

- If you cannot remember the name of the person who conducted your marriage ceremony, say "unknown", but it is helpful to describe the person (e.g. "a government official who we believed to have the authority to conduct marriages").
- If your marriage certificate is not in English or French, you will have to have it translated by a person who will swear before a Commissioner for Oaths that they have properly translated it into English. Attach the translation of the marriage certificate as Exhibit "B".

#5: Residence

Choose either you or your spouse to show which of you had lived in Alberta for at least one year before the Statement of Claim was filed. This must match #2 of the Statement of Claim.

#6: Grounds

Check the one box that applies. The grounds must match those in #3 of the Statement of Claim.

First box – separation of one year. Fill in the date that you separated (must be more than one year ago!) and the place that you were living at the time that you separated.

Second box – adultery. In most cases, the Defendant must be willing to sign an Affidavit admitting the adultery. If they are not willing to admit, you should talk to a lawyer.

Third box – mental or physical cruelty. Explain what the Defendant did that was cruel, how that affected you, when you separated, and how you have felt since the separation.

#7 – 9: Bars to Divorce

If your grounds are one year separation, leave the boxes in #8 and #9 blank.

If your grounds are adultery or cruelty, check off all the boxes in 7 and 8.



Tips:

- Read the bars to divorce in #7 - 9 carefully to ensure that they are true. If they are not true for you, then you should talk to a lawyer before going any further.
- #7 talks about making an agreement to deceive the court. An example of this would be if you and your spouse had only recently separated, but agreed to lie to the court and say that you had been separated for a year.
- #8 talks about encouraging your spouse to commit adultery or cruelty.
- #9 talks about forgiving your spouse for committing adultery or cruelty.

#10: Reconciliation

Read the statement and ensure that it is true for you.

#11: Corollary Relief

Check the first box if your Divorce Judgment and Corollary Relief Order will include parenting arrangements, child support, or spousal support.

If the issues of parenting arrangements, child support, and spousal support have been severed from the divorce by an order, check the second box and enter the details of the order.

#12: Protection Orders, Child Protection Orders or Criminal Proceedings

12(a) List the details of any current criminal charges against you, the details of any conditions you are required to follow in relation to a criminal proceeding, and any criminal charges or conditions against your spouse.

12(b) List the details of any current involvement of you, your spouse, or your children in the child protection system.

12(c) List the details of any protection orders (eg: EPOs) or restraining orders involving you or your spouse.



Tip:

If you have questions about how criminal proceedings, child protection proceedings, or protection orders may affect your divorce, you should talk to a lawyer before going any further.

#13 – 17: Children, Parenting and Financial Arrangements for the Children

If there are dependent children, 13 – 17 MUST be completed.

#13: Children

Check the second box and fill in the names and dates of birth of each child. Add or remove rows as necessary. Fill in the name and city/town of residence of the person that each child resides with.

#14: Court Orders Relating to the Children of the Marriage

If there are no court orders relating to the children (including orders under the *Family Law Act* or relating to a child protection matter), check the first box.

If there are court orders relating to the children, check the second box and attach all of the orders as an Exhibit to the Affidavit.

#15: Agreements Relating to the Children of the Marriage

If there are no written agreements relating to the children (including orders under the *Family Law Act* or relating to a child protection matter), check the first box.

If there is a written agreement between the parties relating to the children, check the second box.

The agreement must be attached as an Exhibit to the Affidavit. You can choose to attach only the relevant portions of the agreement, rather than the full agreement. If you are only attaching relevant portions of the agreement, you must include the first page, the signature pages, the certificates of independent legal advice and all pages relating to the children of the marriage.

#16: Parenting Arrangements

16(a) Check the first box if your spouse has signed the Divorce Judgment and Corollary Relief Order.

Check the second box if your spouse has not signed the Divorce Judgment and Corollary Relief Order, but the parenting arrangements reflect the written agreement signed by both parties.

Check the third box if your spouse did not respond to the Statement of Claim for Divorce and has been noted in default.

16(b) Explain how the parenting arrangements are in the best interests of the children. Refer to the information on the next page regarding the best interests of the child.

16(c) Check the appropriate box regarding notification method for any future changes of residence or relocations. If you and your spouse have agreed upon the method of notification, check either box 1 or box 2. If your spouse has been noted in default, check box 3.

Best Interest of the Child

Section 16 of the *Divorce Act* says that the court shall take into consideration only the best interests of the child of the marriage in making a parenting order.

Primary consideration is given to the child's physical, emotional and psychological safety, security and well-being.

The following factors are to be considered:

- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
- (b) the nature and strength of the child's relationship with each spouse, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
- (c) each spouse's willingness to support the development and maintenance of the child's relationship with the other spouse;
- (d) the history of care of the child;
- (e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;
- (f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
- (g) any plans for the child's care;
- (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;
- (i) the ability and willingness of each person in respect of whom the order would apply to communicate and cooperate, in particular with one another, on matters affecting the child;
- (j) any family violence and its impact on, among other things,
 - i. the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and
 - ii. the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; and
- (k) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.



Tip:

If you have questions about the factors the Court considers when determining what is in the best interests of your children, especially in situations of family violence, you should talk to a lawyer.

#17: Child Support Arrangements

17(a) Fill in your annual income.

If you are using a previous tax return to estimate your income, check the first box and write in the year of the tax return.

If you are using paystubs to calculate your annual income, check the second box.

If you are calculating your income another way, check the third box and provide an explanation.

17(b) Fill in your spouse's annual income.

If you are using a previous tax return to estimate your spouse's income, check the first box and write in the year of the tax return.

If you are using paystubs to calculate your spouse's income, check the second box.

If you are calculating your spouse's income another way, check the third box and provide an explanation.



Tip:

Line 150 / Line 15000 is usually used as a person's annual income for child support if that person's only source of income is through their employment. If your or your spouse's income is more complicated (e.g. your spouse earns money through a corporation), then you may want to speak to a lawyer or an accountant about how to calculate the income.

17(c)

If there is no claim for special or extraordinary expenses, check the first box.

If there is a claim for special or extraordinary expense, check the second box, and check the box for each type of expense being claimed. Make sure that you fill out the total annual expense for each type of expense that is checked off. *The expenses listed here must match your Child Support Guideline calculation.*

17(c)(ii) If there are health related, education or extracurricular activities, you must provide a description of the expenses.

17(d)

If child support is based on a standard Child Support Guideline calculation, check the first box.

If child support is different than the Child Support Guidelines amount, check the second box. *If this is the case, then you must complete 17(g).*

17(e) If you are seeking an order that dental and medical insurance be maintained for the children, fill out this part. If not, leave this part blank.

17(f) Attach the child support calculation sheet as an Exhibit to the Affidavit. Fill in the exhibit letter here. If you were given a review memo by Resolution Services staff, you may include that as part of the Exhibit.

17(g) Check this box only if you are using a child support amount that is different from the Child Support Guideline calculation. The PDF document may add several paragraphs when you check the box, and these paragraphs will provide space for you to explain why you are not using the Child Support Guidelines. You **MUST** provide an explanation in if you are not following the Guideline calculation.



Tip:

The following are possible reasons why you may not be following the Child Support Guideline calculation:

- Children are over the age of majority - *fill in 17(g)(i)*
- Shared parenting - *fill in 17(g)(ii)*
- Payor's income is over \$150,000 - *fill in 17(g)(iii)*
- Undue hardship - *fill in 17(g)(iv)*
- Spouse standing in place of a parent - *fill in 17(g)(v)*
- Other reason - *fill in 17(g)(vi)*

Further information can be provided in *17(g)(vii)*

#18: Spousal Support

If you and your spouse do not have a written agreement for support, check off the first box. Select the appropriate check box for your situation. If you are claiming or proposing to pay a specific amount of support (check box 3 or 4), specify the amount, whether that amount is a lump sum or a monthly amount, and the reasons for why that amount is to be paid.

If you and your spouse have a written agreement, and you received independent legal advice on the agreement, check off the second box and indicate whether spousal support is waived or whether spousal support is payable. If spousal support is payable, specify how much support is payable, and whether it is lump sum or monthly support.

#19: Relief Requested

Check off the items that you are wanting in the Divorce Judgment. In most cases, you should check off at least:

- An order for a parenting arrangement
- An order for child support

If you requested permission to amend the Statement of Claim in #2, you must check off the fifth box.

Print off the form.

Put the Affidavit of Applicant together as follows:

- All pages of the Affidavit
- Your marriage certificate, taped onto a plain piece of paper
- The English translation of the marriage certificate (if applicable)
- Copies of orders (if applicable)
- Copies of agreements (if applicable)
- Child Support Calculation

The documents attached to your Affidavit of Applicant will be marked as Exhibits "A", "B", etc.

Sign your Affidavit in front of a Commissioner for Oaths. The Clerk at the Court of Queen's Bench Divorce Counter or the staff at Resolution Services can act as a Commissioner for Oaths for you.

Make one copy of the Affidavit of Applicant and all exhibits AFTER it is sworn.

COMPLETING THE DIVORCE JUDGMENT AND COROLLARY RELIEF ORDER



Tip:

As this document can be quite complex, you may want to use the Word versions of Form FL-26 on the Queen's Bench section of the albertacourts.ca website.

Court File Number
Judicial Centre
Plaintiff
Defendant



These are all the same as
in the Statement of Claim

Address for Service and Contact Information

Write in your name, complete address, including postal code and daytime phone number.

Date on which Judgment is granted
Location of Adjudication
Name of Judge who granted...



Leave all of these
blank

Introductory paragraphs (also called the Preamble)

Fill in the guideline income of the two parties.



Tips:

- Remember to put the Defendant's income first.
- These incomes must be the same as in the Affidavit of Applicant and the Child Support Calculation.

Fill in the full names and dates of birth of the dependent children.

For the next paragraph ("The Parties have agreed to depart..."), if the two of you have agreed to an amount of child support that is different from the guideline amount, write in the reason why you have agreed to a different amount. If you are using the guideline amount of support, delete or cross out this paragraph.

For the next paragraph ("There is an agreed upon parenting plan..."), if you and your spouse have a written parenting plan setting out parenting time, decision-making responsibility, or contact with the children, then you can attach it as a schedule to the Divorce Judgment and Corollary Relief Order. If you do not have a parenting plan, delete or cross out this paragraph.

For the next paragraph ("The Parties have agreed to waive..."), if the two of you have:

- A written agreement in which you both have waived spousal support, AND
- You each had a lawyer sign the agreement with you (Certificate of Independent Legal Advice)

then leave this paragraph in. Otherwise, delete or cross out this paragraph.

IT IS ADJUDGED THAT

#1: Fill in the date and place of your marriage (city and province / country).

IT IS ORDERED THAT

#2: Fill in the details of your parenting schedule (ie: specific days and times that the children will be with each parent).

#3: Fill in the allocation of major decision-making responsibility here.

Example 1:

IT IS ORDERED THAT pursuant to the *Divorce Act* (Canada):

1. The Plaintiff and the Defendant shall have parenting time with the child(ren) of the marriage as follows:
 - (a) The parties shall share parenting time equally, and the children shall spend alternating weeks with the Plaintiff and the Defendant.
 - (b) Transitions shall occur every Friday at 4:30pm, and the parent that is with the children for the upcoming week shall pick up the children at that time.
2. The decision-making responsibilities for the child(ren) of the marriage shall be allocated between the Plaintiff and the Defendant as follows:
 - (a) The Plaintiff will make major decisions about the children's health, education, culture, language, religion, spirituality, and significant extra-curricular activities, after consulting with the Defendant.

Example 2:

IT IS ORDERED THAT pursuant to the *Divorce Act (Canada)*:

1. The Plaintiff and the Defendant shall have parenting time with the child(ren) of the marriage as follows:
 - (a) The children shall live primarily with the Plaintiff, and the Plaintiff shall have parenting time at all times except during the times that the Defendant has parenting time as set out in this order.
 - (b) The Defendant shall have parenting time from 4:00pm to 7:00pm every Wednesday, and every second weekend from 4:00pm on Friday until 8:00am on Monday.
 - (c) The Defendant shall be responsible for transporting the children to and from his parenting time.
2. The decision-making responsibilities for the child(ren) of the marriage shall be allocated between the Plaintiff and the Defendant as follows:
 - (a) The parties will jointly make major decisions about the children's health, education, and significant extra-curricular activities. The Plaintiff shall have sole decision-making responsibility regarding culture, language, religion, and spirituality.

#4: If you have a parenting plan, and you and your spouse have agreed to include some of the terms in the Order, then list those terms here. Be sure to attach a copy of the parenting plan to the Divorce Judgment and Corollary Relief Order.

#5: Fill in the name of the party paying child support, the party receiving child support, the monthly amount of support, and the start date for support.

#6: If there are special or extraordinary expense amounts to be paid from one party to the other, fill in the name of the paying party, the name of the party receiving the payment, the monthly amount payable, and the start date for the payments.

In the table, list the details of the expense(s), including the name of the child that the expense relates to, a summary of the expense, and the percentage or amount of the expense.

If there are no special or extraordinary expenses, delete or cross out this paragraph.

Example:

6. The Defendant, John Edward Kerry, shall pay to the Plaintiff, Jane Amanda Fraser, the sum of **\$45 per month** for additional expenses for the child(ren) of the marriage, payable on the first day of each month, commencing April 1, 2021, allocated as follows:

Name of child	Nature of add-on	Amount or percentage
James Kerry	Baseball - \$430 annual total	50% (\$215 annual)
Jenny Kerry	Soccer - \$650 annual total	50% (\$325 annual)

#7: Fill in this paragraph if one of the parties will be required to provide medical and dental insurance for the children. Otherwise, remove this paragraph.

#8: Fill in this paragraph if there is support to be paid for an adult child. If this is not applicable, remove this paragraph.

#9: Fill in this paragraph if there is a claim to pay reduced child support due to undue hardship. If this is not applicable, remove this paragraph.

#10: If spousal support is to be paid, fill in the name of the party paying spousal support, the name of the party receiving spousal support, the monthly payment, and the start date for support. If there is no spousal support, remove this paragraph.

#11: If you want to add extra terms to your Judgment, put them here. Number the paragraphs in order.

#12 – 13: Do not remove these paragraphs as they MUST be included in all support orders.

#14 – 15 Choose one of these paragraphs. For all orders containing child support, one of these paragraphs MUST be included and the other MUST be removed. For more information on the Child Support Recalculation program, go to <http://alberta.ca> and search "child support recalculation".

#16 – 18 These paragraphs **MUST** be included in all orders that involve parenting time or decision-making responsibility. Fill in all three paragraphs with the agreed-upon methods of notification, or the methods of notification proposed in #6(3) of the Statement of Claim.

Signatures

Both parties must sign the Divorce Judgment and Corollary Relief Order in front of a witness, and the witness must sign an Affidavit of Execution before a Commissioner for Oaths. The staff at Resolution Services or the Queen’s Bench clerks will be able to assist with this.

If the Defendant was noted in default, then they do not have to sign, and their signature line can be removed.

“THE SPOUSES ARE NOT FREE TO REMARRY”

Do not remove this paragraph.



Tips:

- This is your Court Order that is going to govern your parenting and child support for the future. Be careful deciding how it should be worded. Get help from a lawyer if necessary.
- Write out the terms of the Judgment as if it is the Judge telling you what is going to happen.
- Use “The Plaintiff” to refer to you and “The Defendant” to refer to your spouse.
- Use complete sentences.
- Do not word your Judgment like an agreement. For example, saying “IT IS ORDERED that the parties agree that they will share custody” is wrong. The court cannot order parties to agree.
- If there were mistakes in the Statement of Claim, you must include clauses granting leave to amend the Statement of Claim. (e.g. “Leave is granted to amend paragraph 1(1)(a) of the Statement of Claim to show the marriage date as August 23, 1997”)

Make 1 copy of the Judgment for your own records.

FILE THE REQUEST FOR DIVORCE AND SUPPORTING DOCUMENTS

Bring to the court house:

- Completed "Checklist for Filing of Desk Divorce Packages"
- Affidavit of Service (+ 1 copy)
- Noting in Default (+ 1 copy)
- Request for Divorce (+ 1 copy)
- Affidavit of Applicant (+ 1 copy) – including child support calculation and all other exhibits
- Parenting After Separation Certificate or Exemption form (+1 copy)
- Divorce Judgment and Corollary Relief Order
- 9 x 12 inch envelope addressed to you with sufficient postage (not required if you have provided your email address on the "Checklist for Filing of Desk Divorce Packages")
- Business size (#10) envelope addressed to the Defendant with sufficient postage

The clerks will return filed copies of all of the documents, except the Divorce Judgment to you.

Your divorce will then be reviewed. This may take a day or two in smaller centres, and up to several weeks in larger centres.

If you have made mistakes, your divorce will be rejected, and you will be told what to correct. You will have to correct the mistakes, then re-submit the corrected documents. Do not feel badly if your documents are rejected, as it happens frequently.

If the paperwork is all correct, a Justice will sign the Divorce Judgment.

You will then receive the Divorce Judgment in the mail or by email. A copy will also be mailed to the Defendant.

THE REQUEST FOR THE CERTIFICATE OF DIVORCE

Wait 31 days from when the Divorce Judgment was signed, then you may request the Certificate of Divorce using the following web-based form: <https://albertacourts.ca/qb/areas-of-law/family/divorce-forms/request-for-certificate>

Court File Number
Court Location
Names of Both Parties



These are all the same as
in the Statement of Claim

Your Name, Address, Phone and Email

Write in your name, complete address (including postal code), daytime phone number, and email address.

Fill in the number of copies required

Indicate why you need the Certificate of Divorce using the checkboxes beside A, B, and C.

Click "Request Certificate of Divorce"



Tips:

- You will need this Certificate if you want to re-marry.
- If you are unable to complete the online request form, you may be able to get a paper request from the Queen's Bench clerks

YOU ARE FINISHED!

DIVORCE CHECKSHEET

FIRST TRIP TO THE COURT HOUSE

- STATEMENT OF CLAIM FOR DIVORCE.....ORIGINAL & 2 Copies
(\$260 filing fee)
-

SECOND TRIP TO THE COURT HOUSE

- AFFIDAVIT OF SERVICE.....ORIGINAL AND 1 COPY
- NOTING IN DEFAULT.....ORIGINAL AND 1 COPY
- REQUEST FOR DIVORCE.....ORIGINAL AND 1 COPY
- REVIEW MEMO AND CHILD SUPPORT CALCULATION (ATTACH TO AFFIDAVIT OF APPLICANT)
- AFFIDAVIT OF APPLICANT.....ORIGINAL AND 1 COPY
- PARENTING AFTER SEPARATION CERTIFICATE OR EXEMPTION FORM (ORIGINAL AND 1 COPY)
- DIVORCE JUDGMENT AND COROLLARY RELIEF ORDER.....ORIGINAL
- TWO STAMPED, SELF ADDRESSED ENVELOPES

9 x 12 inch envelope addressed to you (not required if you have provided your email address on the "Checklist for Filing of Desk Divorce Packages")

Business (#10) envelope addressed to your spouse

ONLINE FORM - REQUEST FOR CERTIFICATE OF DIVORCE



Submissions must be prepared in accordance with the filing announcements as **noted in the filing requirements links below**, and when submitted, must be accompanied by this completed and signed Checklist. This document can be signed electronically. Any updates to the filing requirements will be posted on Courts website
Failure to complete and submit this Checklist, along with documents for filing, **will** result in the submission being rejected.

Please note effective March 1, 2021 the Divorce Act and the Alberta Rules of Court have been updated and amended. All Divorce packages must be in the updated format. Document samples can be found here:
<https://www.albertacourts.ca/qb/areas-of-law/family/divorce-forms>

Divorce Package is in the correct form for submission after March 1, 2021

All forms comply with the **filing requirements** as stated here:
<https://www.albertacourts.ca/qb/resources/announcements/new-email-filing-procedure> and
<https://www.albertacourts.ca/qb/court-operations-schedules/guidelines-for-documents-filed-by-email-or-digital-upload>

Divorce Package:

- Request for Divorce
- Affidavit of Applicant (Counsel to retain original marriage certificate)
- Divorce Judgment
- Any relevant supplementary or additional affidavits that correct errors to your divorce package
- Child support calculation (if there are children)
- Certificate of Parenting After Separation (if there are children under 16) **OR** Exemption from the Court

Joint Divorce Package:

- Joint Request for Divorce
- Joint Affidavit of Applicants (Counsel to retain original marriage certificate)
- Divorce Judgment
- Any relevant supplementary or additional affidavits that correct errors to your divorce package
- Child support calculation (if there are children)
- Certificate of Parenting After Separation (if there are children under 16) **OR** Exemption from the Court

Previously Filed Documents to be included with Package for all packages (applies to all Packages)

- Statement of Claim, **OR** Counterclaim (if Defendant is submitting Package) **OR** Joint Statement of Claim
- Affidavit of Service (not required for Joint Divorce Package)
- All other pleadings (Statement of Defence, Noting in Default, Demand for Notice, Counterclaim)
(not required for Joint Divorce Package)
- Any previously filed orders relating to service, severing of corollary relief or orders granted under rule 12.50

Divorce Judgment Requirements:

- Divorce Judgment (with consent of opposing party where required)
- Parenting Plan attached as Schedule to Divorce Judgment (if parties have submitted a Parenting Plan)

Mailing address for return of Divorce Judgment.
Plaintiff **Email** Address: _____
Plaintiff **Mailing** Address: _____
Defendant **Email** Address: _____
Defendant **Mailing** Address: _____

I certify that the documents I am submitting are being filed as per the above outlined requirements.

Signature of person submitting documents