

Court of King's Bench

Desk Divorce with Dependent Children Living in Another Country



Resolution Services



Alberta
Government

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

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Grande Prairie, AB T8V 2H4
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Lethbridge, AB T1J 1Z8
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Medicine Hat

Medicine Hat Law Courts
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Medicine Hat, AB T1A 0A8
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ResolutionServices.SouthernAlberta@just.gov.ab.ca

Red Deer

Red Deer Justice Centre
1st Floor, 4810 - 48 Avenue
Red Deer, AB T4N 5L6
Phone: 403-754-3182

RDDRIInfoService@just.gov.ab.ca

Outside these centres, contact us toll free 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 LIVING OUTSIDE OF CANADA

BEFORE YOU BEGIN

Disclaimer:

These instructions apply only in cases where the Plaintiff moved to Canada, leaving their child(ren) in their former country of residence. In many cases, the Defendant also resides in the country where the child(ren) reside.

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 King'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 filed Statement of Claim for Divorce. 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 certificate of marriage that was issued by the Province after your marriage. If you have a handwritten 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 certificate of marriage 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 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.



Tip:

The Alberta Family Resolution Hub is an online tool to help you with what options you have in resolving family disputes related to parenting, child support, or divorce: <https://www.alberta.ca/family-resolution-hub>.



Tip:

Use the Divorce Check sheet on the next page of these instructions for a handy summary of the forms and photocopies you will need.

**Do not use correction tape/white out on your court documents.
If you make an error, you may cross out and initial the changes.**

DIVORCE CHECKSHEET

FIRST TRIP TO THE COURT HOUSE

- ☐ STATEMENT OF CLAIM FOR DIVORCE ORIGINAL
(\$310.00 filing fee)

SECOND TRIP TO THE COURT HOUSE

- ☐ AFFIDAVIT OF SERVICE ORIGINAL
- ☐ NOTING IN DEFAULT ORIGINAL
- ☐ REQUEST FOR DIVORCE ORIGINAL
- ☐ AFFIDAVIT OF APPLICANT ORIGINAL
- ☐ DIVORCE JUDGMENT AND COROLLARY RELIEF ORDER ORIGINAL

- **Divorce Judgment *MUST BE TYPED*.** Handwritten corrections, edits, or changes are not acceptable.
- Link: <https://www.albertacourts.ca/kb/home/notice-to-the-profession-public---handwritten-divorce-judgments>

- ☐ TWO STAMPED, SELF-ADDRESSED ENVELOPES
- one envelope addressed to YOU and one envelope addressed to the DEFENDANT.
 - **If you have provided yours and the defendant's email address on the "Checklist for Filing Desk Divorce Package," a self-addressed envelope is not required.**

Where can I download the form?

<https://www.albertacourts.ca/kb/areas-of-law/family/divorce-forms>

UNCONTESTED DIVORCE – WITH CHILDREN

COMPLETING THE STATEMENT OF CLAIM FOR DIVORCE

Court File number

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

Judicial Centre

This is the Court of King's Bench location where you will be filing your documents (e.g.: 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. The format in writing the name is: First Name, Last Name and other given name(s).

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 **OR** Jane Amanda Fraser also known as 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 for Divorce, 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, daytime phone number, and email address.

#1: The Parties

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

For marriages outside of Canada, please write the **City, Province, and Country**.

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 for Divorce. 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 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 of the marriage then state where and with whom each of the children are living. If there are more than two, you will need to add lines to the form.

6(2) You cannot make a claim for parenting now, because the children do not live in Canada. However, if you want to be allowed to make a claim for parenting if the children come to Canada in the future, you will want to state that you may make a claim for a parenting order in the future if the children reside in Canada.

6(3)(a) and (b) The *Divorce Act* requires parties to notify the other party in writing if they are planning on changing their place of residence or relocation to another location. Because the children do not live in Canada, you can write "No proposal is required as the children do not live in Canada."

Example:

CHILDREN

6(1) The particulars of child of the marriage are as follows:

John George Smith, born August 1, 2011, living with Mabel Jones, the maternal grandmother, in Atlantis, Xanadu.

(2) The Plaintiff proposes parenting arrangements for each child as follows:
The Plaintiff may make a claim for a parenting order if the child resides in Canada in the future.

(3) If written notice of a change of residence or relocation is required . . . :
(a) The Plaintiff will provide .. No proposal is required.
(b) The Defendant will provide.. No proposal is required.

(4) The Plaintiff proposes financial arrangements for each child as follows:
The Plaintiff will pay \$321 per month to Mabel Jones for the support of the child starting on December 1, 2020.

6(4) Fill in the terms of the agreement that you are proposing for the amount that you will pay for child support to the person who is caring for the children.



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

You will state that there are no parenting arrangements because the children do not live in Canada.

You will also state the agreement made between the parties regarding the support of the children, if any.

#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 outside of Canada, please state the type of order that was made and the name of the country where the orders were made. If there are no orders, please say "none". **Do not write N/A or not applicable.**

8(2) If either party is involved in any court proceedings for a restraining order or protection order, court proceedings related to child protection, or proceedings, undertakings or recognizances relating to a criminal matter outside of Canada, please state the name of the country where the orders were made. If there are no orders, please say "none". **Do not write N/A or not applicable.**

**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 where applicable.

If spousal support is payable, specify:

- The amount payable;
- The payment schedule – i.e. monthly or lumpsum;
- The frequency of payment – i.e. payable every 1st, 15th, or last day of each and every month;
- The commencing date – i.e. starting January 1, 2025

#10: Remedy Sought

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

- ☒ divorce judgment
- ☒ child support as proposed above

You are not checking off the “parenting arrangements as proposed above,” because the children do not live in Canada.

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.



Tip:

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

Bring all your copies, plus \$310.00 (cash, debit, or credit cards) to the Court of King's Bench. In larger centres, there will be a specific registry counter for filing divorce documents.

The clerk will file your Statement of Claim for Divorce and return the filed (stamped) copy to you. You will need to make a copy to personally serve the Defendant. **The service must be done by a third party (not by the plaintiff).**

SERVING THE STATEMENT OF CLAIM

Your Statement of Claim for Divorce must be personally served (i.e. handed to the Defendant) by someone over the age of 18. **You cannot serve the Defendant yourself.**

If it is 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 or affirmed 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 for Divorce.
- A photograph of the Defendant. Put an "X" on the photo to identify the Defendant, if there are more than one person in the photo.
- 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 for Divorce 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 for Divorce **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 or Notary 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
for Divorce

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, daytime phone number, and email address (**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 for Divorce.

#1: Fill in the date that the Statement of Claim for Divorce was served, the Defendant's name.

- Check the first box and write the date the Statement of Claim for Divorce was filed.
- At the end of Paragraph 1, select: by delivering the "copy" to and leaving "it" with the Defendant, and write the Defendant's name, and the address where the Defendant was served.

#2: Fill in the name of the Defendant. Select "he" or "she" to refer the Defendant.

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

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

- The Affidavit of Service
- The photograph taped on a plain piece of paper. The photograph page is to be marked as Exhibit "A".

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.



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 for Notice, you can still go ahead with the other court forms, but you will have to have the Defendant sign their consent on the Divorce Judgment and Corollary Relief Order. If they are not willing to consent, you should talk to a lawyer.
- If there is an Order for Substitutional Service, please use the Affidavit of Service form included in the Application for Substitutional Service package provided by Resolution Services staff.

COMPLETING THE NOTING IN DEFAULT

Wait for 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
for Divorce

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, daytime phone number, and email address.

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".

COMPLETING THE REQUEST FOR DIVORCE

Court File Number
Judicial Centre
Plaintiff
Defendant



These are all the same as
in the Statement of Claim
for Divorce

Address for Service and Contact Information

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

1:

Fill in your name

2:

Fill in the name of the person who served the Statement of Claim for Divorce, and the date that the Statement of Claim for Divorce 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 for Divorce was served. For example, you could say "The Statement of Claim for Divorce was served on my spouse by email or the method of services on September 2, 2021, as indicated in the Affidavit of Substitutional 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". **Do not write N/A or not applicable.**

7:

Fill in YOUR lawyer's complete address. If you have no lawyer, fill in "None". **Do not write N/A or not applicable.**

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 King's Bench website: <https://albertacourts.ca/kb/areas-of-law/family/family-law-forms/word-forms>
- Fill out all 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
for Divorce

Address for Service and Contact Information

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

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

- (a) Check off your role in the proceedings (usually "Plaintiff").
- (b) Check off the role of the other party (usually "Defendant"). Write the Defendant's address on the first line and email address on the next line.

#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 for Divorce. 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 for Divorce 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 the date and place of your marriage.

For marriages outside of Canada, please write the **City, Province, and Country**.

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 but are not required to.



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 for Divorce was filed. This must match #2 of the Statement of Claim for Divorce.

#6: Grounds

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

First box – separation of one year. Fill in the date that you separated (must be more than one year ago!).

Second box – adultery. In most cases, the Defendant must be willing to sign an Affidavit admitting adultery. If they are not willing to admit, please provide explanation in “other”.

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 #8 and #9.



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 child support and/or spousal support.

If the issues of child support and/or 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 criminal proceedings, 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 (e.g.: 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 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 "other," and you will state that parenting arrangements are not included in the Divorce Judgment because the children do not live in Canada."

You may leave 16(b) and (c) unanswered.

#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.

Remember that you, the Plaintiff, are a payor of child support, because the children do not live with you.

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.

If you could not obtain the Defendant's income information, you may state that it is "unknown."

**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. (This is the most common scenario.)

If there is a claim for special or extraordinary expenses, 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 from 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. (This section is typically left 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 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)*

Example:**17. Child support arrangement**

- (a) My guideline income is \$40,000, based on the following:
- income tax return for the 2024 taxation year
- (b) I believe my spouse's Guideline income is unknown, based on the following:
- other: I was unable to obtain the income information of the Defendant who resides outside of Canada.
(if you do know the income of the Defendant, you should indicate the amount and what that amount is based on – i.e. information from the Defendant or a recent tax return or other source)
- (c) Special or extraordinary expenses for the children of the marriage:
- There are no special or extraordinary expenses being claimed at this time.
- (d) The child support that is set out in the Divorce Judgment and Corollary Relief Order is:
- Based on the standard Federal Child Support Guidelines calculation.
- (e) Medical and dental insurance (Do not complete unless you are asking for an order requiring you or the Defendant to provide medical and dental insurance for the children.)
- (f) Attached as Exhibit "A" to this Affidavit is the Federal Child Support Guidelines Calculation Sheet.
- (g) Complete this section only if you are asking to pay an amount of child support that is different than the amount required by the Federal Child Support Guidelines.

#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:

- the amount payable;
- the payment schedule – i.e. monthly or lumpsum;
- frequency of payment – i.e. payable every 1st, 15th, or last day of each and every month, if monthly;
- commencing date – i.e. starting January 1, 2025

Please ensure that the Certificates of Independent Legal Advice for both parties are included in the parties' agreement, which was marked as Exhibit (as referred to #15).

#19: Relief Requested

Check off the items that you want 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 for Divorce in #2, you must check off the fifth box.

Print off the form.

Put the Affidavit of Applicant for Divorce 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 for Divorce will be marked as Exhibits "A", "B", etc.

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

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 King'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
for Divorce

Address for Service and Contact Information

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

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



Leave all 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 this paragraph.

For the next paragraph ("There is an agreed upon parenting plan..."), delete or cross out this paragraph.

Add this paragraph to the preamble: "The Court does not take jurisdiction with respect to parenting arrangements for the children."

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 this paragraph.

IT IS ADJUDGED THAT

#1: Fill in the date and place of your marriage (city, province, and country if marry outside of Canada).

IT IS ORDERED THAT

#2: Parenting time with the child – delete this paragraph.

#3: Decision-making responsibilities for the children – delete this paragraph.

#4: Parenting plan attached as Schedule "A" – delete this paragraph.

#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 expenses 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 not special or extraordinary expense – delete this paragraph.

#7: Fill in this paragraph if one of the parties is required to provide medical and dental insurance for the children. Otherwise, remove this paragraph, which is the most common scenario.

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

#13: Please effect the following changes:

For as long as there is a "child of the marriage" as defined in the *Divorce Act* (Canada), the Plaintiff shall provide the following information on an annual basis:

- (a) On or before June 30 of each year, the Plaintiff party must provide the other party with a complete copy of the Plaintiff's personal income tax return, any Notice of Assessment or Reassessment from the Canada Revenue Agency for the preceding tax year, the Plaintiff's two most recent pay stubs. If the Plaintiff has not filed an income tax return for the preceding year, then the Plaintiff must, by June 20, provide the other party with copies of the Plaintiff's T4 slips and all other tax slips and information disclosing all sources of income for the preceding tax year.
- (b) A Plaintiff that is a shareholder in a corporation, is self-employed, is a partner in a partnership, or is a beneficiary under a trust must also provide the information required by paragraphs 21(1)(d), (e), (f), and (g) on the *Federal Child Support Guidelines* (SOR/97-175) for the preceding tax year.

#14: This paragraph is not applicable and must be deleted.

#15: This paragraph is applicable and must be included in the Divorce Judgment. (i.e. "This Order shall not be recalculated by the Alberta Child Support Recalculation Program.")

#16 and #17: These two (2) clauses relating to parenting are not applicable and must be deleted.

#18: This clause relating to contact is not applicable and must be deleted.

FILE THE REQUEST FOR DIVORCE AND SUPPORTING DOCUMENTS

Bring to the courthouse:

- ☐ Completed "Checklist for Filing of Desk Divorce Packages"
- ☐ Affidavit of Service
- ☐ Noting in Default
- ☐ Request for Divorce
- ☐ Affidavit of Applicant – including child support calculation and all other exhibits
- ☐ Divorce Judgment and Corollary Relief Order ***MUST BE TYPED***
- ☐ TWO STAMPED, SELF-ADDRESSED ENVELOPES – one for you and one for the defendant. This is not required if you have provided yours and the defendant's email addresses on the Checklist for Filing Desk Divorce Package Form.

The clerks will return all the filed documents to you, except the Divorce Judgment to you. You need to keep the filed documents for future reference.

Your divorce package will then be reviewed. This may take more than a month.

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 bad if your documents are rejected, as this is a common occurrence within the application process.

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

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

ONLINE REQUEST FOR THE CERTIFICATE OF DIVORCE

Wait 31 days from when the Divorce Judgment was granted, then you may request the Certificate of Divorce using the following web- based form below:

<https://albertacourts.ca/kb/areas-of-law/family/divorce-forms/certificate-of-divorce---request-form>

**Court File Number
Court Location
Names of Both Parties**



These are all the same
as in the Statement of
Claim for Divorce

Indicated why you need the Certificate of Divorce. Select the appropriate "Reason for Request."

Select the number of copies required.

Your Name, Address, Phone and Email

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

Click "Submit"



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 King's Bench clerks
- If urgent, it may be faster to appear in-person at the Judicial Centre which the Divorce was granted.

Please keep all your filed Divorce documents for future reference.

YOU ARE FINISHED!



Court of King's
Bench of Alberta

Cour du Banc du
Roi de l'Alberta

Checklist for Filing of Desk Divorce Packages

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 **MUST BE TYPED**

☐ 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 **MUST BE TYPED**

☐ 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) **MUST BE TYPED**

☐ 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