

COURT OF KING'S BENCH OF ALBERTA
FAMILY LAW PRACTICE NOTE 2
FAMILY LAW REGULAR AND SPECIAL CHAMBERS
Effective April 3, 2018

The purpose of this Practice Note is to facilitate the filing of proper application documents, in a timely manner, in the appropriate court venue, that provide only the evidence necessary to decide the issue(s).

A. GENERAL

1. This Practice Note applies to anyone applying for a Court order, before or after trial, in proceedings mentioned in rule 12.2 of the Alberta *Rules of Court* except for applications for provisional orders under rule 12.46. Applications for judicial review in family law matters must comply with Civil Practice Note 2.
2. This Practice Note is subject to Family Law Practice Note 1.
3. Self-represented litigants (SRLs) in Edmonton bringing an application for guardianship, parenting, or contact with a child under the *Family Law Act* must have met with a Family Court Counsellor before filing their application.
4. SRLs in Calgary, Red Deer, and any judicial centre that has implemented the Intake, Resolution and Caseflow Management Program, bringing an application under the *Family Law Act* respecting parenting, guardianship, contact with a child, enforcement of time with a child, child support, declaration of parentage, or exclusive possession, or under the *Extra-provincial Enforcement of Custody Orders Act* respecting the enforcement or variation of a custody order or the making of a custody order, must meet with a Family Court Counsellor for an intake interview about options and referrals before filing their application. (See Family Law Practice Note 9).

B. FILING AN APPLICATION

5. Applications that are estimated to take 20 minutes or less, including the time for the Applicant and Respondent to make submissions, the Court to ask questions, deliberate and provide a decision, may be heard in **Regular Family Chambers**.

6. Applications that are estimated to take longer than 20 minutes must be heard in **Special Family Chambers**. The Applicant must use best efforts to find a hearing date that is agreeable to all parties. If the opposing party cannot be reached within a reasonable time or the opposing party is not cooperating in the selection of a hearing date, the Applicant may select a hearing date and give notice of that date to the Respondent.
7. If the Respondent does not object to the hearing date, the Applicant's application will go ahead on the selected hearing date. If the Respondent objects to the hearing date selected by the Applicant, the Respondent must, within one week of receiving notice of the hearing date, seek leave to obtain a different hearing date (see paragraph 56).
8. Except in cases of urgency, the Court will **not** hear applications for the following matters in **Regular Family Chambers**:
 - a. a change of custody;
 - b. substantial changes to a parenting arrangement; or,
 - c. retroactive child or spousal support for a period exceeding six (6) months.
9. It is the parties' responsibility to assess the complexity of the application (and cross-application, if any) to ensure it can be heard in the time selected, including the time for the Applicant and Respondent to make submissions, and the Court to ask questions, deliberate and provide a decision. The Justice hearing the matter always has the discretion to adjourn one or more issues to a separate hearing date and order costs of the adjournment.

Application documents

10. An Applicant seeking relief under the *Divorce Act* or in an existing proceeding under the *Family Law Act* must file a Family Application, Form FL-18, along with an affidavit in support of the application. (See Rule 12.44)
11. An Applicant bringing an application in a new proceeding under the *Family Law Act* must file a Claim, Form FL-10, along with one or more statements in Forms FL-34 to FL-56, or an affidavit.

12. A Respondent who intends to provide evidence in response to an application under the *Divorce Act* must file an affidavit.
13. A Respondent who intends to respond to an application under the *Family Law Act* must file Form FL-11. The Respondent may provide evidence in support of the response by filing an affidavit or one or more reply statements in Forms FL-57 to FL-78.
14. An Applicant may file further evidence in reply to the Respondent's evidence by filing an affidavit or one or more reply statements in Forms FL-57 to FL-78. The Applicant's reply must be limited to evidence that explains, refutes, or contradicts any new evidence raised in the Respondent's affidavit or reply statements.
15. The Applicant and Respondent must file all application documents, responding documents, and supporting affidavits and statements with the Chambers Filing Clerk or equivalent in the appropriate court office in each Judicial Centre as set out in Appendix A.
16. If an application has previously been adjourned *sine die* (to no fixed date) from either Regular Family Chambers or Special Family Chambers, the letter restoring the application must indicate which applications are to be heard on the new hearing date. Likewise, if a matter is adjourned from Regular Family Chambers to a specified hearing date in Special Family Chambers, the order adjourning the matter shall identify the issues to be determined in Special Family Chambers, and shall indicate whether a cross-application will be filed.

C. FILING A CROSS-APPLICATION

17. A cross-application is an application by the Respondent for a different order, rather than simply arguing that the Applicant's order should not be granted.
18. A Respondent bringing a cross-application under the *Divorce Act* must file Form FL-18, clearly indicating in the title of the document that it is a cross-application. The Respondent must provide evidence in support of the cross-application in the same affidavit as any evidence provided in opposition to the Applicant's application.
19. A Respondent bringing a cross-application under the *Family Law Act* must file either Form FL-11 or Form FL-10. Regardless of which form is used, the Respondent must

clearly indicate in the title of the document that it is a cross-application. The Respondent must provide evidence in support of the cross-application in the same affidavit as any evidence provided in opposition to the Applicant's application, or by filing one or more statements in Forms FL-34 to FL-56 in support of the cross-application and by filing one or more reply statements in Forms FL-57 to FL-78 in response to the Applicant's application.

20. If the parties anticipate that the cross-application will extend the time required for the hearing beyond the time originally scheduled (see paragraph 9) they must, within one week of the filing of the cross-application,
 - a. agree to set a new hearing date with more time for both the application and the cross-application;
 - b. agree to hear only the application on the original hearing date and seek a separate hearing date for the cross-application; or,
 - c. failing agreement, the Cross-Applicant must seek leave of the Court to obtain a hearing date for the appropriate amount of time (see paragraph 56).

If the Cross-Applicant fails to bring such an application and there is insufficient time to hear both the application and the cross-application, only the Applicant's application will proceed on the original hearing date.

21. Where a cross-application has been filed under the *Divorce Act*, the Applicant may file one further affidavit that is both a reply to the Respondent's response on the initial application and a response to the Respondent/Cross-Applicant's cross-application. The reply portion of the affidavit shall be limited to evidence that explains, refutes, or contradicts any new evidence raised in the response portion of the Respondent's affidavit.
22. The Respondent may then file one final affidavit in reply to the Applicant/Cross-Respondent's response on the cross-application. The reply shall be limited to evidence that explains, refutes, or contradicts any new evidence raised in the Applicant/Cross-Respondent's response to the cross-application.
23. Where a cross-application has been filed under the *Family Law Act*, the Applicant may file one further affidavit that is both a reply to the Respondent's response on the initial

application and a response to the Respondent/Cross-Applicant’s cross-application, with the same limitations as set out in paragraph 21, or may file one or more reply statements in Forms FL-57 to FL-78.

24. The Respondent may then file one final affidavit in reply to the Applicant/Cross-Respondent’s response on the cross-application, with the same limitations set out in paragraph 22, or may file one or more reply statements in Forms FL-57 to FL-78.

25. If a party wishes to rely on new relevant evidence that was not available at the filing of the application or cross-application, the party must file an affidavit titled “Update Affidavit” or an Update Statement in Form FL-79 (*Family Law Act* applications only), containing the new evidence.

D. AFFIDAVIT REQUIREMENTS

26. Except with leave of the Court, the affidavit filings by each party are limited to the following:

Application with no Cross-application

Party	Document	Page limits (excluding exhibits)
Applicant	One (1) Applicant’s affidavit	8 pages
Respondent	One (1) Respondent’s affidavit	8 pages
Applicant	One (1) Reply affidavit	5 pages
Applicant and Respondent	One (1) Update affidavit each (new relevant evidence only)	3 pages

Application with a Cross-application

Party	Document	Page limits (excluding exhibits)
Applicant	One (1) Applicant’s affidavit	8 pages
Respondent/Cross-Applicant	One (1) Respondent/Cross-Applicant’s affidavit	8 pages
Applicant/Cross-Respondent	One (1) Applicant’s Reply/Cross-Respondent’s response affidavit	5 pages

Respondent/Cross-Applicant	One (1) Cross-Applicant's Reply affidavit	5 pages
Applicant and Respondent	One (1) Update affidavit each (new relevant evidence only)	3 pages

The parties should clearly indicate in the title of the document, the nature of the document being filed (e.g. Respondent/Cross-Applicant's Affidavit, sworn January 1, 2018) so that the filing clerk can easily determine the page limits that apply.

27. The regulated Forms (statements) under the *Family Law Act* are exempt from these page limits, but if additional pages are attached to the statements, they shall be limited to four (4) pages, excluding exhibits.

28. Any third parties who are properly before the Court making submissions or providing relevant evidence in the application ("Third Parties"), including but not limited to Child and Family Services, the Director of Maintenance Enforcement, or counsel for a child, may file one (1) affidavit limited to 8 pages, excluding exhibits.

29. Affidavits must meet the following requirements:

- a. 8½" by 11" paper with one inch margins;
- b. 12-point font, Times New Roman (or equivalent);
- c. 1.5 line spacing;
- d. single-sided; and,
- e. handwritten affidavits must be legible.

Exhibits and Attachments

30. Exhibits appended to affidavits and attachments appended to statements must abide by the following:

- a. they must be relevant, material, and not repetitive of materials already on the Court file (see paragraph 48 regarding the Disclosure Statement);
- b. except with leave of the Court, they must not exceed 40 pages, consecutively numbered;

- c. they must be preceded by a table of contents identifying each exhibit by its page number;
- d. relevant passages of exhibits must be highlighted; and,
- e. the original copy of an affidavit with exhibits should have the exhibits separated by tabs.

31. Other affidavits in the same action must not be appended as exhibits.

32. Exhibits must be supportive only and cannot provide further narrative or be used to extend affidavit page limits. The Court may award costs against a party who includes non-relevant and extraneous documents as exhibits.

33. Electronic exhibits (CDs, DVDs, flash drives, etc.) must not be included in an affidavit, except with leave of the Court (see paragraph 56).

Evidence the Court may consider

34. Subject to paragraph 37, the Court will not consider evidence that is not contained in an affidavit or statement.

35. The Court will not consider evidence contained in additional affidavits or statements that are not permitted by this Practice Note, unless the party has obtained leave of the Court (see paragraph 56).

36. The Court may not consider hearsay evidence contained in letters or unsworn statements authored by third parties that are appended to affidavits.

37. Oral evidence may be heard in Regular Family Chambers in exceptional circumstances only. Oral evidence may be heard in Special Family Chambers with leave of the Court (see paragraphs 56.f and 58).

38. The Applicant's and Respondent's evidence, whether contained in affidavits or statements, filed for an application or cross-application in Regular Family Chambers that is adjourned to Special Family Chambers, shall serve as the Applicant's and Respondent's primary evidence for Special Family Chambers.

E. CONCISE LETTER FOR SPECIAL FAMILY CHAMBERS

39. Each party must file and serve upon the other, one Concise Letter addressed to the attention of the Court Coordinator or equivalent with whom the hearing was booked (see Appendix A).
40. No response or reply to the opposing party's Concise Letter may be filed.
41. Where there is no cross-application, Concise Letters must be no longer than five (5) pages.
42. Where there is a cross-application, Concise Letters must be no longer than eight (8) pages.
43. Concise Letters must meet the following requirements:
 - a. 8½" by 11" paper with one-inch margins;
 - b. 12-point font, Times New Roman (or equivalent);
 - c. 1.5 line spacing;
 - d. single-sided; and,
 - e. handwritten Concise Letters must be legible.
44. The Concise Letter must provide a concise summary of the party's position. It must:
 - a. identify the parties and any counsel acting for a party;
 - b. identify any preliminary matters that must be addressed before the application is heard;
 - c. identify the order(s) sought or opposed;
 - d. identify the issues raised in the application (and cross-application, if any);
 - e. identify the relevant facts, as verified by the affidavits or statements filed in relation to the application (and cross-application, if any);
 - f. explain the party's position on the issues;

- g. cite any relevant cases; and,
- h. estimate the time required for that party's argument.

45. The following shall be consecutively numbered and appended to the Concise Letter, preceded by a table of contents, and will not count in the page limits for the Concise Letter:

- a. a copy of the current application document (and cross-application document, if any), supporting affidavits or statements, and if necessary, relevant portions ONLY of previously filed affidavits or statements, with the relevant portions highlighted;
- b. copies of relevant previous orders, with the relevant portions highlighted;
- c. copies of any relevant portions of transcripts;
- d. copies of the relevant cases or, depending on their length, the relevant excerpts only, with the relevant portions highlighted;
- e. any information sheets designated by the Court from time to time, such as child support calculations, spousal support calculations, and monthly cash projections; and,
- f. for retroactive support claims, a concise summary or table of the calculations for the retroactive support amount being claimed.

46. Each party shall file two (2) copies of the Concise Letter and attachments with the Court and each party shall serve the Concise Letter and attachments on the opposing party.

47. Any Third Parties making submissions in the application must file and serve upon the Applicant and Respondent a Concise Letter that is no longer than five (5) pages and that meets the requirements set out in paragraphs 43 and 44. Third Parties should provide as attachments only the documents set out in paragraph 45 that are relevant to their position.

48. An Applicant or Respondent who filed a Disclosure Statement that is current and relevant may request, in a prominent place at the beginning of the Concise Letter, that the Disclosure Statement (identified by date sworn) be made available to the Justice along with the Concise Letter.

49. The Applicant and Respondent shall advise the Court in writing as early as possible if some issues have settled and will no longer form part of the hearing.

F. FILING AND SERVICE DEADLINES FOR SPECIAL FAMILY CHAMBERS

50. The date upon which the Applicant secures a hearing date from the Court, preferably on consent as described in paragraph 6, will be known as the Triggering Date.

51. The filing and service deadlines for Special Family Chambers are as follows:

Application with no Cross-application

Party	Document(s)	Deadline
Applicant	Applicant's application and affidavit/statement(s)	Two (2) weeks after the Triggering Date
Respondent	Respondent's affidavit/statement(s)	Four (4) weeks after the Triggering Date
Applicant	Reply affidavit/statement(s)	Five (5) weeks after the Triggering Date
Third Parties (if any)	Third Parties' affidavit(s) (if any)	Five (5) weeks after the Triggering Date
Applicant, Respondent and Third Parties (if any)	Concise Letter	Seven (7) weeks after the Triggering Date
Applicant and Respondent	Update affidavits/statements (if required)	Two (2) weeks before the Hearing Date

Application with a Cross-application

Party	Document(s)	Deadline
Applicant	Applicant's application and affidavit/statement(s)	Two (2) weeks after the Triggering Date
Respondent	Respondent's cross-application and affidavit/statement(s)	Four (4) weeks after the Triggering Date
Applicant/Cross-Respondent	Applicant's reply/Cross-Respondent's affidavit/statement(s)	Six (6) weeks after the Triggering Date
Cross-Applicant	Cross-Applicant's reply affidavit/statement(s)	Seven (7) weeks after the Triggering Date
Third Parties (if any)	Third Parties' affidavit(s) (if any)	Seven (7) weeks after the Triggering Date

Applicant, Respondent and Third Parties (if any)	Concise Letter	Nine (9) weeks after the Triggering Date
Applicant and Respondent	Update affidavits/statements (if required)	Two (2) weeks before the Hearing Date

52. If the Applicant (including the Cross-Applicant on a cross-application), does not meet the filing deadline for the initial application and affidavit or for the Concise Letter, the Court Coordinator or equivalent, or the filing clerk may remove that party's application or cross-application from the schedule.

53. A party who cannot meet a filing deadline, or who has missed a filing deadline, must seek leave of the Court to extend the deadline (see paragraph 56). If the Court grants leave and changes a deadline, it is the responsibility of the party who sought the revised deadline to immediately notify the Court Coordinator or equivalent of the revised deadline(s) and provide a copy of the applicable order. The Court may impose costs consequences for missed deadlines. If the deadline has passed, the other party may proceed without the defaulting party's evidence or submissions, or may apply to have the application struck.

54. For deadlines that fall on a holiday, the deadline is the working day immediately **before** the holiday.

55. The deadlines and requirements for Special Family Chambers applications set out in this Practice Note apply to files under the Court's case management program unless the case management justice or case management counsel has varied them. (See Notice to the Profession and the Public NP#2016-03).

G. OBTAINING LEAVE

56. A party seeking leave to:

- a. obtain a different hearing date;
- b. file after the deadlines set out above;
- c. file affidavits or exhibits exceeding the page limits;
- d. file additional affidavits;

- e. file electronic exhibits; or,
- f. present oral evidence in Special Family Chambers

must seek leave of a Justice in Regular Family Chambers or, if a Justice has already been assigned to the hearing, then the party must seek leave of the hearing Justice. In all cases, the party seeking leave must provide reasonable notice to the opposing party.

57. In the case of 56.b. through e., a fiat granting permission to file a document that does not comply with the Rules or this Practice Note must be placed on the document that is being filed.

58. In the case of 56.f., the party must comply with Notice to the Profession 2014-2 (Template Oral Hearing Order). (See Announcements on the Court of King's Bench website.)

H. ADJOURNING APPLICATIONS SET FOR SPECIAL FAMILY CHAMBERS

59. Prior to the filing deadline for the Concise Letter and with the consent of the opposing party, a party may adjourn a Special Family Chambers hearing by filing a letter with the filing clerk and Court Coordinator.

60. After the filing deadline for the Concise Letter or if the opposing party does not consent, the party seeking an adjournment must appear before a Justice in Regular Family Chambers to request the adjournment, or if a Justice has already been assigned to the hearing, then the party must seek an adjournment from the hearing Justice. In all cases, the party seeking an adjournment must provide reasonable notice to the opposing party.

61. If the file is under the Court's case management program in Calgary or Edmonton, the parties should direct any request for an adjournment to the Case Management Coordinator.

62. When a matter is adjourned to a new Special Family Chambers date, the adjournment letter or order confirming the new date must identify the applications to be heard on the new Special Family Chambers date. If the matter is adjourned *sine die*, the parties must comply with paragraph 16 when the matter is re-scheduled.

I. FILING ORDERS

63. All orders filed with the Court should be on pale green paper (pale enough that it photocopies well) or should include a green document corner.

J. FAILURE TO COMPLY WITH THIS PRACTICE NOTE

64. If a party does not comply with this Practice Note, the presiding Justice may refuse to hear the application and/or award costs against the non-complying party.

APPENDIX A

Appropriate filing venues for Regular Family Chambers and Special Family Chambers applications in each Judicial Centre

All Judicial Centres other than the Judicial Centre of Edmonton:

If your application will take **20 minutes or less**, you must file your application and supporting affidavit/statement(s), if any, with the Chambers Filing Clerk in your judicial centre.

If your application will take **more than 20 minutes**, you must contact the Court Coordinator for available dates, find a date that is agreeable to all parties (paragraphs 6 and 7 apply) and then schedule that date with the Special Chambers Court Coordinator (Calgary) or the Court Coordinator (Drumheller, Fort McMurray, Grande Prairie, Lethbridge, Peace River, Red Deer, St. Paul, Medicine Hat, and Wetaskiwin).

If you are a Self-Represented Litigant (SRL) in Fort McMurray, Medicine Hat, or St. Paul, you must appear first in Regular Family Chambers where the presiding Justice may set the application for Special Family Chambers.

If you are in Calgary and your application will be **more than a half (1/2) day**, you must schedule it with the Civil Court Coordinator. It would be wise to obtain several mutually agreeable dates from the opposing party in case the chosen date is not available.

Judicial Centre of Edmonton:

If your application will take **less than one (1) hour or between one (1) hour and a half (1/2) day**, you must schedule your application with the Special Chambers Court Coordinator.

If your application will be **more than a half (1/2) day**, you must schedule it with the Civil Court Coordinator. It would be wise to obtain several mutually agreeable dates from the opposing party in case the chosen date is not available.

You must file all applications and supporting documentation with the King’s Bench Family Clerk.

For all applications that will take more than 20 minutes, you must select a date that is agreeable to all parties (paragraphs 6 and 7 apply).

Contact Information:

The phone numbers for all of the above-mentioned clerks and coordinators’ offices are listed below:

Location	Contact	Phone number
Calgary	Special Chambers Court Coordinator Civil Court Coordinator	(403) 297-7405 (403) 297-6258
Drumheller	Court Coordinator	(403) 820-7306 or (403) 820-7300 (main line)
Edmonton	Family Law Special Chambers Booking Line (for 1 hour applications with no oral evidence) Special Chambers Court Coordinator (for one-half day applications with no oral evidence) Civil Court Coordinator (for applications that are one day or more and all applications where the Court has granted leave for oral evidence)	(780) 422-2313 (780) 422-2313 (780) 422-2311

Fort McMurray	Court Coordinator	(780) 743-7136
Grande Prairie	Court Coordinator	(780) 538-8921
Lethbridge	Court Coordinator	(403) 381-5455
Medicine Hat	Court Coordinator	(403) 529-8710
Peace River	Court Coordinator	(780) 624-6385
Red Deer	Court Coordinator	(403) 340-5360
St. Paul	Court Coordinator	(780) 645-6387
Wetaskiwin	Court Coordinator	(780) 361-1258