

Form Support

Request for Child Support Different than Child Support Table Amount

Form E

Important: This Form Support does not contain legal advice. You may wish to talk to a lawyer for help in making or responding to an application.

Instructions

If you are completing this Form, you checked a box in Form C that said you are claiming a child support amount different than the child support guidelines table. This Form will tell the court why the order should be a different amount and what you think it should be. You are asking the court to decide the amount of support, and there are no guarantees.

Tips

- The Forms you submit as part of your application will organize your information for the court. You should include as much information as possible so that the court can make an informed decision.
- If you are making your application under provincial or territorial ISO legislation, you must complete either Form A.1 or A.2. If you are making your application under the *Divorce Act*, then you must complete either Form A.3 or A.4.
- Use the tables included in the Form Support Introduction and General Information Guide or consult your provincial or territorial website to determine the additional Forms you need to complete.
- Use a working copy and a final copy when completing these Forms. To ensure that the final copy is neat and legible, only complete the final copy when satisfied with your responses.
- Include all copies of receipts, documents and other evidence that will help prove statements and claims you make. Documents provided will form part of the evidence for the matter and cannot be returned.
- Receipts and documents may contain address information that you may wish to remain confidential. If you choose to conceal the address information, ensure that you keep the originals in case the court requires that you provide them.
- After completing all of your Forms, you must swear to the accuracy of all the information that you provided – just like if you were in court providing the evidence in person.

For more information on family justice matters, visit www.justice.gc.ca or your province or territory's family justice website.

Filling out the Form

The court might consider one or more of the reasons set out on this Form to decide that an amount different than the guidelines table amount should be ordered.

Note: If one of the parties resides in Québec and you are making your application under the *Interjurisdictional Support Order Act*, different rules may apply. Please refer to the Justice Québec website for more information: <http://www.justice.gouv.qc.ca/english/accueil.asp>

Also, the rules explained in this Form may not apply if one of the parties resides in another country.

As this is a claim for an amount that is different than the child support guidelines table amount, you will need to attach documents to show why the amount should be different.

Section 1

Child over the age of majority

If your child is at or over the age of majority, you may choose to treat the situation as if the child were below the age of majority. If you think the guidelines are not suitable, you may request a different amount of child support having regard to the child's needs, means and other circumstances, and your and the other parent's financial ability to contribute.

If you cannot agree whether a child who has reached the age of majority is a dependent for whom child support should be paid, either parent can ask a judge to decide. If the judge finds that the child is entitled to support, then he or she may apply the guidelines amount or set another amount after taking into account the age of the child and the means, needs and other circumstances of the child and the income of you and the other parent. If you check this box, complete and attach Form J and fill out the table on this Form with information for each child.

Note: The age of majority is usually determined by the laws of the jurisdiction where the child resides.

Example

Ebrahim and Tarifa have three children. Their eldest daughter, Yusra, now 20, goes to university full time, and resides in another city in campus housing. She received a scholarship which covers her tuition, but requires additional assistance to pay for text books and living expenses. Tarifa and Ebrahim both agree that he should continue to pay the guidelines table amount for the two younger children, but they want to change the order so that he pays a different amount for Yusra, taking into consideration her change in circumstances.

Child Support Guidelines in Canada

Child support guidelines are a set of rules and tables to apply when determining child support. The guidelines include very detailed tables, specific to each province and territory, which provide the amount parents should pay.

The courts must follow the applicable child support guidelines, unless there are special circumstances.

The Department of Justice Canada has a publication, *The Federal Child Support Guidelines: Step-by-Step*, which contains general information about child support, including guidance on determining which guidelines apply to you. The publication may be accessed from the following website: www.justice.gc.ca.

Section 2

Split custody / Split parenting time

This means that **there are two or more children, and at least one child resides with each parent**. When this happens, each parent has a duty to support the child(ren) that reside with the other parent.

Check this box if you have a split custody / parenting arrangement. Describe your custody / parenting arrangement or attach a copy of your custody / parenting order. Then fill in the table and calculate how much support may be payable to you from the other parent. You will need to complete and attach Form D to determine and prove the Respondent's income.

Example

When Peter and Brittany separated, they decided that one of their children would reside with Peter and two of their children would reside with Brittany.

Brittany, who is making a claim for support, makes \$31,000 per year. Peter has moved to another province, and he makes \$45,000 a year.

In the chart, Brittany would write down Peter's income and use the applicable child support guidelines table for the province where he resides to determine how much child support he would pay her for the two children living with her. Next, Brittany would use the applicable child support guidelines table for the province where she resides to determine how much child support she would pay Peter, for the one child living with him.

She would then subtract her amount from Peter's amount and write the figure in the chart. The new figure would represent how much child support Brittany thinks Peter should pay her.

Section 3

Shared custody / Shared parenting time

This means the person paying support must **have the children in his/her care for at least 40 percent of the time over the year**. This is not all that common when parents reside in different jurisdictions.

For shared custody / shared parenting time, the court will look at:

- the table amount for each parent;
- the increased costs of shared custody/parenting arrangements; and
- the conditions, means, needs and other circumstances of the child, and of each parent.

You can ask for a support amount and the court will decide whether it is reasonable, or if another amount is appropriate. If you choose this option, describe the custody/parenting arrangement or attach a copy of your custody/parenting order and complete the table to indicate how much child support you are asking for.

Example

Michelle and Robin have one child, Ethan. The parents reside only a few kilometres apart, but in different provinces.

Ethan spends 6 weeks each summer and 2.5 days each non-summer week with Robin. Robin and Michelle have not been able to decide on an amount of support that one should pay the other, so Michelle is asking the court to decide.

One possible way of calculating how much time Ethan spends with Robin would look like this:

Summer Days			
Number of weeks with Robin	X	Number of days per week with Robin	= Total days with Robin
Non-Summer Days			
Number of weeks with Robin	X	Number of days per week with Robin	= Total days with Robin

Since there are 52 weeks in a year, and Ethan spends 6 weeks each summer with Robin, that leaves 46 weeks where he spends 2.5 days per week with Robin. Ethan spends 157 total days (115 + 42) per year with Robin. Since there are 365 days in a year, they can determine the percentage of days he spends with Robin by dividing 157 into 365 = 43%.

Note: This is just one example. You could choose another means of determining the time spent with each parent.

Section 4

Undue hardship claim

If, as the person requesting support, you make a claim for undue hardship, you are asking the court to order support that is **higher** than the table amount because of special circumstances that may cause undue hardship according to child support guidelines.

The court looks at undue hardship claims in two parts. The first is whether the guidelines table amount would, or does, cause you, or your child(ren), undue hardship. The second is if your household standard of living would be, or is, lower than the Respondent’s household standard of living if the guidelines table amount is or was ordered.

If you are filing an undue hardship claim, check the box for Section 4. Next, you will see a list of circumstances that may cause undue hardship according to the child support guidelines. Check the boxes for the reasons that apply to you. You may check more than one. Provide additional information and/or documents as requested. If you file an undue hardship claim, you must also complete Form I.

If you can show that one or more of the circumstances in the list apply to your situation, the court will look at the standards of living for the households of both parents. You must provide information about the income of every person who resides with you and specify the number of adults and children residing in your household. The court will not change the guidelines amount, if the standard of living of your household is higher than the standard of living of the Respondent's household.

Example

When Tammy and Alex separated, their two children stayed with Tammy and Alex moved to another province. Tammy re-married and had another child (now 6 months old). Her new husband is off work on long term disability. Alex now resides in a common-law relationship with a very successful businesswoman, Joan. Alex works part-time.

Tammy is asking for child support and says that the table amount would cause her and her children undue hardship because she pays to send the kids to see Alex, is raising a baby, and has to support her disabled husband who has limited ability to contribute to their household income. Tammy is claiming that Alex should pay more than the child support guidelines table amount based on his income.

As you can tell, a claim for undue hardship can be complex, and involves looking at the incomes of everyone in both households. You may wish to talk to a lawyer if you are considering making a claim for undue hardship.

Section 5

Respondent's income over \$150,000 a year

If the Respondent's income is more than \$150,000 per year, you or the court may choose to use the guidelines table amount which includes a percentage calculation for incomes over \$150,000. You can use this percentage to claim an amount in Section 5. If you or the court considers that approach to be inappropriate, you or the court can apply the table amount for the first \$150,000 and for the balance, set an appropriate amount based on the conditions, means and other circumstances of the children and financial ability of you and the other parent to contribute to the support of the child(ren). See www.justice.gc.ca for more information about how to make these calculations.

Finish the Form

Finish completing the Form by signing where indicated. Make sure you attach all additional Forms and documents that you were requested to complete.