

Form Support

Interjurisdictional Support Variation Application under the Divorce Act Form A.4

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

All support order applications require that you complete either Form A.3 (Support Application) if you do not already have a court order or Form A.4 (Support Variation Application) if you have an order that you want to change. Consult the tables included in the Form Support Introduction and General Information Guide or your provincial or territorial website to determine which additional Forms you need to complete.

You will use this Form (A.4) to:

- tell the court who you are;
- tell the court what you are asking for;
- give a brief summary of any court action involving support;
- give a brief history of your relationship with the Respondent; and/or
- list the other Forms you are including with your application.

After you have completed your application, you must swear to the accuracy of all the information contained in the entire application.

You may not be able to fill out this Form all at once. The choices you make on this Form will lead you to other Forms which need to be completed; these Forms are accompanied by their own Form Support Guides.

As you finish one Form, you may be asked to use information supplied or include calculations made on another Form to complete a section of this Form.

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.
- All support order applications under the *Divorce Act* require you to 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

It is very important to clearly state under which legislation you are making your application.

Use the Form Support Introduction and General Information Guide to help you determine under which legislation (ISO legislation or the *Divorce Act*) you should make your application.

You may wish to speak with a lawyer for advice about what is best in your circumstances.

Section 1

Identifying the parties in the Support Variation Application

Fill in your full name and that of the Respondent (the person responding to this application). Write the province or territory in which you reside. If you reside in a designated jurisdiction, write the State and Country in which you reside.

A designated jurisdiction is defined as a jurisdiction outside of Canada that has a reciprocal arrangement with a Canadian province or territory concerning the establishment, variation or recognition of support orders. The list of designated jurisdictions is set out in the regulation under the provincial/territorial ISO legislation in the province or territory where the respondent resides.

You need to confirm that the Respondent resides in Canada, that you were divorced in Canada and a support order was made under the *Divorce Act*. Form A.4 can be used only if the respondent resides in Canada.

If you were granted a divorce in another Country, you cannot use Form A.4.

You may wish to speak with a lawyer for advice about what is best in your circumstances.

Section 2A

I ask the court for a Support Variation Order including the following

If you are applying under the *Divorce Act* for a Support Variation Order, you will complete Form A.4. You may choose one or more of the following options.

- **A change or variation in the amount of support in the current support order, from \$____ per month, to \$____ per month**

Choose this option if you would like to change the amount of support you are being paid or are paying. You will need to complete and attach Form K and may be required to complete more Forms, depending on your circumstances.

If you are seeking support, you may wish to complete Form D in case the Respondent does not file sufficient financial information or respond to your application.

While completing Form D is not mandatory, you may wish to complete this Form as it provides the court with the financial information necessary to attribute an income for the Payor.

- **A change in the amount of unpaid support arrears owing under the current support order(s), and that the arrears be 'fixed' or set at \$____ as of ____ (date)**

Choose this option if you are owed, or owe, support arrears and would like the amount changed. You need to fill in information that you will determine by completing Forms I and K and perhaps more Forms depending on your circumstances. Attach all additional Forms.

- **The change or variation of this order to be effective as of ____ (date)**

Choose this option if you would like to request a date for the changed order to be effective – if your application for a change is successful. If the date is in the past, you will have to provide an explanation on Form K.

- **The termination of the obligation to pay support for ____ (name), as of ____ (date)**

Choose this option if you would like the court to agree that you can stop paying support. Fill in the person for whom you are paying support and the date to which the order should be effective. You will need to complete and attach Form K and may be required to complete more Forms, depending on your circumstances.

- **Other**

Choose this option if the support order for which you are applying is not listed in the options.

- **Future periodic disclosure of financial information as appropriate**

Check this box if you want the court in the Respondent's jurisdiction to include a requirement in its order that the Respondent give you updated information about his/her financial circumstances. If you receive this information, it may help you to decide if you should apply to change your support order in the future.

- **I ask that any order made and information provided in this application be provided to the relevant enforcement authority**

Check this option to request that if your application is successful, the order be registered with the Enforcement Agency in the other jurisdiction (this step is not automatic in all jurisdictions). You may be required to submit other documentation to request enforcement of this order at a later date.

Section 2B

If the province where the respondent lives has a provincial child support service, you can request to have the amount of child support recalculated by a provincial child support as an alternative to court. However, this alternative is not available in all provinces and territories.

Section 3

Person applying for an order

Fill in your complete address, phone number and other contact information.

Note: Information contained in your application, including your contact information, will be included in the package provided to the Respondent and will form part of a court file that MAY BE available to the general public.

If you are concerned about providing your own address, you may provide an alternative address where you can be contacted and where documents or correspondence may be sent. By doing this, you are agreeing that this individual or agency has the authority to receive documents on your behalf. If they receive documents for you, the court considers you to have received them.

Note: If you move, make sure to update your contact information with the Designated Authority where you submitted your application.

Section 4

Request to be notified and request to participate in hearings

Check the appropriate box to indicate whether you wish to be made aware of and/or participate in any hearings related to your claim by way of telephone or other technology. If you wish to participate by telephone or other technology, you must make yourself available to participate in all hearings.

Note: This request is discretionary and not automatically granted. It may also not be permissible or available in all jurisdictions.

Section 5

As a government or government agency may need to be informed of and/or participate in this application (if its laws allow it) please indicate as appropriate

Check the appropriate box If you are receiving income assistance (this can also be called social assistance or welfare), or the Respondent is, or may be, or has in the past.

When a person receives income or social assistance, certain rights with respect to support may be assigned to the government. If you check one of these boxes, the relevant income or social assistance agency may be notified that an application has been made.

You may not have the right to claim or apply to change support for times when you received assistance unless the government is involved. You may want to contact your family maintenance worker or financial assistance worker to seek clarification.

Section 6

Person responding to this application

Fill in the Respondent's contact information. In order to use Form A.4, the respondent needs to reside in Canada. Use the most recent street and city address you have. If you become aware of a change in the Respondent's address, make sure to update his/her contact information with the Designated Authority where you submitted your application.

Before the court can make an order, the Respondent is given formal notice that a court hearing is going to happen. The information you provide here is very important. It helps the court find the Respondent and give him/her notice that you have applied for an order. If the Respondent cannot be found and given notice, a hearing cannot take place and no order can be granted.

In addition to Form A.4, you need to complete the **Additional Locate Information Form** and file it with your application. The Additional Locate Information Form is required in all files and should be filed with but **not** attached to your sworn application. This will provide information to help locate the Respondent in the other jurisdiction.

Section 7

Child(ren)

Write the full names of the children involved in your application, their residence for the past six months and their birth dates. If you have children who are not part of your claim (for example, an adult child), do not list them.

Section 8

Information about previous court orders, agreements or related proceedings

In this section, you can inform the court of existing orders and agreements involving the Respondent and you.

Read the list provided and select any that apply. Depending on your circumstances, more than one of the choices may apply.

You will need to attach a copy of your Divorce Order to this form. You will also need to provide the date of your marriage and also indicate in which province or territory your divorce was granted.

You will need to confirm that there is a child support order under the *Divorce Act*. You will also need to confirm that there are no undecided variation proceedings in a court in a province or territory for support under the *Divorce Act*. This may be complicated to answer. You may wish to speak with a lawyer for advice about your circumstances.

If you are asking to get or vary a spousal support order, you will need to indicate by checking the appropriate box and confirm that there are no undecided variation proceedings in a court in a province or territory for spousal support under the *Divorce Act*.

If you are already divorced and a spousal support order was not made at that time of your divorce, you will need to explain why spousal support was not granted at the time. Again, you may wish to speak with a lawyer for advice about your circumstances

Note: In some cases, you will have to provide certified copies of an order. Certified copies are copies stamped in a special way by the court that prove that they are exact copies of the original. For example, a certified copy **is required** if the order you wish to vary was **not** made by a court in the jurisdiction where you are sending this application. A certified copy **is not required** if the order you wish to vary was made by a court in the jurisdiction where you are sending this application.

Section 9

Attached documents

When you have completed the other Forms you need, complete this section. You can use it as a checklist when you put your package of documents together. Check all the Forms you are including.

If you have attached any additional documents list them under “other”.

Section 10

Jurat

Do Not Sign Form A.4 as it must be signed in the presence of a Notary Public or a Commissioner of Oaths

Form A.4 and all other Forms that accompany it are considered evidence and must be sworn or affirmed. Read the part of the Form Support Introduction and General Information Guide titled “Swearing/Affirming your application” for more information.

Note: Many jurisdictions will only accept interjurisdictional documents that have been sworn before a Notary Public. Contact your Designated Authority to determine whether an alternative is available. The Form Support Introduction and General Information Guide includes information on making copies and what happens next. Make sure that all Forms you have been asked to complete and documents you have been asked to provide are attached to your application.

Section 11

Legal authority

The following general information may help you understand the issues surrounding the question of which law would be most appropriate, given your circumstances, and whether it would be appropriate to seek legal advice.

- A. If the Respondent resides in another province or territory in Canada**, and if you are making your application under the *Divorce Act*, the court in the province or territory where the respondent resides will determine the application under the Canadian *Divorce Act* and the Federal Child Support Guidelines. The *Divorce Act* is the same in every province and territory.
- B. If the Respondent resides outside Canada**, this application is not available to you under the *Divorce Act*. You may wish to speak with a lawyer for advice about what is best in your circumstances.
- C. If you reside in a designated jurisdiction, the respondent resides in a province or territory and you were granted a divorce in Canada**, you can file an application with the responsible authority in your jurisdiction. The court in the province or territory where the respondent resides will determine the application under the Canadian *Divorce Act* and the Federal Child Support Guidelines. The *Divorce Act* is the same in every province and territory.
- D. If you were granted a divorce in another Country**, you cannot use this form to obtain an order under the Canadian *Divorce Act*. You may wish to speak with a lawyer for advice about what is best in your circumstances.