FORMSUPPORT

FORM K
EVIDENCE TO SUPPORT VARIATION OF A SUPPORT ORDER

A person applying to change (vary) a support order (including a registered written agreement) is called the "Applicant". This is true whether the Applicant is the person receiving support (the recipient), or paying support (the payor). If you are asking the court to change your order, you are the Applicant.

There may be a number of reasons why you want to change your support order, including:

- there may have been changes in your circumstances;
- there may have been changes in the needs of your children; and/or
- there may have been changes in the Respondent's circumstances.

The law may be different from one jurisdiction to another. You will need to make sure that your application includes the information that will be needed to enable the court to decide if it will change the support order or agreement as you are requesting. Form K gives you a way to organize that information.

NOTE: Make sure any dates included in this form are the same as those in Form A.2 or Form A.4.

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 FormSupport 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 https://www.princeedwardisland.ca/en/information/justice-and-public-safety/family-law.

If you live on PEI and have questions about the interjurisdictional support process or would like assistance to finalize your forms for child support, you may contact a Child Support Guidelines Officer at (902) 368-6220. This is a free government service. Child Support Guidelines Officers are not lawyers and do not provide legal advice.

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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.

Filling out the Form

Section 1

Start by telling the court which order or agreement that you would like to change. Fill in the court file number, order date and court location for each order or agreement.

Section 2

In the order(s) or agreement(s), I am the person required to pay support (the payor) or the person receiving support (the recipient)

The court needs to know your role in the application. If you are the person who is ordered to pay support, check the first box. If you are, or should be receiving support, you are the recipient, and you should check the second box.

Section 3

Next, check one of the two options. These choices can apply to you whether you are the recipient or payor, depending on your circumstances.

I ask the court to change the amount or end support to be paid for a child or children

Check this option if you want to change the amount of support you receive or pay.

You can also request that the change in the order come into effect on a specific date. If the date is in the past, you will have to provide an explanation in Section 6 for your request.

Example 1:

Jasmine and Tyler have a court order for child support. The court used the applicable child support guidelines to determine the amount of support that Tyler pays Jasmine. The child now has a learning disability and speech problems, and needs special tutoring and speech therapy. Jasmine would like Tyler to share the expenses and wants to add special or extraordinary expenses to the amount of support he already pays. She will fill out this Form as well as Form F.

Example 2:

Louis is having a hard time making ends meet and is behind on making his support payments. He and his new wife have just had a baby and his wife is not working. He was just laid off his job, his new job does not pay as well and he has a long commute

to work. Louis wants the court to make a new order for a smaller amount of money which takes into account his change in circumstances. He would fill out this Form as well as Form G.

Example 3:

Tom has been paying support for his daughter for years. Eight months ago, he stopped paying support because she reached the age of majority. The Maintenance Enforcement Program said he has to keep paying because she is still in school. He does not agree. He believes a child should be independent after the age of majority and wants the court to end his duty to support his daughter. He will fill out this Form as well as Form I.

These examples illustrate common, but very different, circumstances that may apply to you. In example one, Jasmine is a support recipient who wants to increase the amount of support that she receives. Louis, from example 2, is a payor who wants to decrease the amount of support that he pays. Tom, from example 3, wants to end support for one child.

I ask the court to change the amount or end support to be paid for the recipient
Choose this option if you want to end support that you currently pay, have paid, or receive.

You can also request that the change in the order come into effect on a specific date. If the date is in the past, you will have to provide an explanation in Section 6 for your request.

Example 4:

Yao has an order to pay support for his former spouse, Kim. He also pays support for their children. Kim is in a new marriage, and Yao has heard that she has finished the training she was taking and is now working and supporting herself. He has no problem paying child support, but wants to end the support for Kim. Yao will fill out this Form as well as Form I.

This example may apply to you as is demonstrates when an Applicant may want to end support.

NOTE: If you receive income or social assistance from a social assistance agency and have assigned your support (also called "maintenance") rights to the agency, you do not have the right to apply to change your order, or agree to a change, unless the agency is involved. You may wish to talk to your family maintenance worker or financial assistance worker.

Section 4

Applicant's change in circumstances
In this section, describe what has changed in your life that justifies why your order should be changed. Louis, from example 2, would use this section. Write as many details as possible and attach extra pages if you need to. If this part does not apply to you, write "N/A" or "Not Applicable".

Section 5

Child's change in circumstances
Use this section if the needs of a child have changed. Jasmine, from example 1, would use this section to describe her child's learning disability and speech problems and the need for tutoring and speech therapy. She would mention the costs and refer to her Form F which would give more details.

Tom, from example 3, could also use this section. He would say that he believes his daughter should be on her own once she has reached the age of majority.

Write as many details as possible and attach extra pages, if necessary.

Section 6

Respondent's change in circumstances

The Respondent can be the person to whom you pay support or who pays support to you. Yao, from example 4, is asking that support for his former spouse should end. It is not because something has changed in his life, or in the resides of the children, but that she no longer needs his support.

Section 7

Applicant/Payor's application to reduce or cancel arrears or change support

Check any of the statements that apply to you.

If you are paying support and you are behind in your payments, you can apply to change your order by completing this section. You must tell the court if there is any unpaid support and what efforts you have made to pay the amount.

If you have 'old' arrears (unpaid support) going back many months or years, you need to tell the court why you are applying to reduce or cancel them now, rather than when they started to add up. What was the reason for the delay?

The court will also want to know about your finances and employment in times when you did not pay support. For each year when you did not pay all the support, complete Form I and attach a copy of that year's income tax return.

Louis, from example 2, will check the first box and fill in the amount he owes. As he is also hoping for a back-dated change in the support amount that would change how much he owes, he will also check the second box. If he has made any attempts to pay off the arrears, he will give details in the third section. In the fourth section he will have to explain how he plans on paying arrears if the court orders him to do so.

Tom, from example 3, stopped paying support when his daughter turned 18, so he will have arrears. He does not think he should have to pay the arrears, so will check the first two boxes only.

Section 8

Applicant/Recipient's application to change support order

If you are receiving support and applying to change your order, fill out this section. Jasmine, from example 1, is asking for a change to add special or extraordinary expenses. Tyler is up-to-date on his support payments, so she will write $0 in the first section. She will check the second box, because she hopes the court will order that Tyler pay a share of the amounts that she has already paid for tutoring and speech therapy for their child.

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.