

Substitutional Service

Court of King's Bench

Application for Substitutional Service



Resolution Services



Alberta
Government

Instructions

Substitutional Service

Before you Begin:

- You must have a court action in the Court of King's Bench to use these forms. If you do not, talk to us about how to start.
- You can apply for substitutional service if:
 - It would be **impractical** to serve personally or by recorded mail; and
 - The way the you are wanting to serve will **likely** bring the court forms to the attention of the Respondent.
 -



Tips:

If you are able to personally serve the other party, then you should do so.

"Personal service" does not mean the YOU have to do the serving. It just means that someone has to hand the documents directly to the other party, and be willing to swear an Affidavit of Service setting out the date when they served and the address where the service took place.

- See our booklet "Making an Ex Parte (Without Notice) Application in the Court of King's Bench" for more information about how to prepare, file and serve court forms and how to present your case in court.
- The application may be made to a special kind of judge called a Application Judge, or it may be made to a King's Bench Justice. The Clerk can tell you who will hear your application in your location. In these instructions, we will refer to the Application Judge or Justice as "the judge".

Examples of cases of substitutional service:

1. Pearl wants to apply for a parenting order. Joe, the father, works on the rigs, so is hard to track down. But, Joe's mother lives in the city and is in regular contact with Joe. Pearl asks the judge to let her serve Joe by delivering the court forms to his mother.
2. Alex wants to apply for a spousal support order against Betty. He has tried to serve her at her house, but she refuses to answer the door. Alex asks the judge to let him serve Betty by taping the court forms to her door.

3. Pete wants to reduce his child support but has had no contact with Melissa, the mother, for years. He has no idea where she lives and never did know her family. However, Maintenance Enforcement is enforcing the child support order, so they must be in contact with Melissa. Pete asks the judge to let him serve Melissa through Maintenance Enforcement.

NOTE: Maintenance Enforcement has a fee of \$50 if you serve in this way.

4. Iris wants to apply for a court order allowing her to get a passport for the child without the consent of Bill, the child's dad. Bill lives in the Yukon, and they are in regular contact by e mail. Iris cannot afford to hire a process server in the Yukon. Iris asks the judge to let her serve Bill by scanning the court forms and sending them to Bill by e mail.



Tips:

If you do not know where the other party is, you must look for them before asking for substitutional service.

You do not have to tell the other party ahead of time that you are going to serve them with court documents. Simply put the documents in an envelope and when they answer the door, hand them to them.

It is usually best to have someone other than you serve the court documents. You can hire a Process Server to do this for you. Look in the yellow pages under "process servers".

If you want to ask for an Order to serve through Maintenance Enforcement (MEP), call them first. Tell them that you want to apply for a Substitutional Service Order to serve through them and ask them to check your file to make sure they have an address for the other party. If they don't, then you can't serve through them.

Substitutional service through teachers or minor children will NOT be acceptable to the Court.

Fill in the Court forms that you are wanting to serve

- If you are filing for divorce, fill in and file your Statement of Claim.
- If you are making a court application (for example, to change your child support), fill in the court forms that you will need to make that application. **Do**

not file them yet – the judge will tell you how much notice you will need to give the other party.

Fill in the Affidavit form

- Follow the instructions on the form and in the “Making an Ex Parte Application” booklet.
- This form has been prepared with the information that the court is likely to want to see. You can, if you wish, change the content of the form to set out the information in a way that you think is best.
- **Do not make any changes to the Affidavit after it is sworn.**

Fill in the Order

- Do not fill in the judge’s name or the date, until you go to court.
- Ask the Resolution Services or court staff how much of the Order you should fill in. Judges in different court locations have different requirements.

After you get your Substitutional Service Order, file the documents that you want to serve, then serve the Respondent:

- File the court forms for the action or application that you want to make. The clerk can help you pick a court date, keeping in mind the times set out in your Substitutional Service Order.
- Follow the instructions from the judge to serve the Respondent.
- In addition to the court forms (e.g. Statement of Claim, Application, etc), you must also serve the Respondent with:
 - A filed copy of the Substitutional Service Order
 - A filed copy of the Affidavit – Substitutional Service



Tip:

Make a note of which documents you served – you will need to know this when you fill in the Affidavit of Service.

After the other party has been served, fill in the Affidavit of Service form

- Follow the instructions on the form and in the “Making an Ex Parte Application” booklet.



Tip:

If you served the other party by recorded mail, get a copy of their signature from Canada Post or the courier company that delivered the letter for you.

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

Calgary

7th floor, Calgary Courts Centre
601 - 5 Street SW
Phone 403-297-6981

Edmonton

8th floor, Brownlee Building
10365 – 97 Street
Phone 780-415-0404

Grande Prairie

Main Floor, Court House
10260 - 99 St.
Phone: 780-833-4234

Lethbridge

1st Floor, Court House
320 - 4 St. S
Lethbridge AB T1J 1Z8
Phone: 403-388-3102

Red Deer

Main Floor, Court House
4909 - 48 Ave
Phone: 403-340-7187

Medicine Hat

Court House
460 First Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8716

**Outside these centres, phone the
Resolution Services Contact Centre at 1-855-4747**

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT **Court of King's Bench of Alberta**

JUDICIAL CENTRE _____
(City or town where court is located)

PLAINTIFF / APPLICANT _____
(Print your full name, as on other court documents)

DEFENDANT /
 RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit – Substitutional Service**

SWORN / AFFIRMED BY: _____
(Name of person making this Affidavit)

SWORN / AFFIRMED ON: _____
(Date Affidavit sworn / affirmed)

ADDRESS FOR SERVICE
 AND CONTACT
 INFORMATION OF PARTY
 FILING THIS DOCUMENT _____
(Name of party filing this document)

(Full address of party filing this document)

 ()

I, _____, of _____, Alberta,
(Your name) (Name of City / Town)

SWEAR / AFFIRM AND SAY THAT:

1. I am the Applicant. I have personal knowledge of the facts set out below, except where I say that they are based on information and belief. In that case, I believe the facts to be true.

SUBSTITUTIONAL SERVICE

2. I am asking the Court for an Order allowing me to serve the Defendant / Respondent in a way other than personal service. Throughout the rest of this Affidavit, I will refer to the Defendant / Respondent as "the Respondent".

3. The Respondent lives in _____
(Name of city and province / territory where Respondent lives)

4. The documents that I want to serve are:
(Check only those that apply and write in any additional documents.)

- Statement of Claim for Divorce
- Statement of Claim for relief other than Divorce
- Application form
- Originating Application form
- Affidavit
- Claim
- Statement _____
(State what kind of Statement – e.g. “Parenting” or “Recipient’s Statement – Vary Child Support”)
- Disclosure Statement
- _____
- _____

5. I believe it is impractical to personally serve the Respondent because:
(Explain why it is impossible or impractical for you to either personally serve yourself, or arrange to have someone else personally serve the Respondent.)

6. *(Choose one)*

- I know that the Respondent lives at the following address: *(Write out the complete address.)*

I know this is the correct address because:

- The Respondent has told me that this is the correct address.
- I have been at this address and have seen that the Respondent lives there.
- I have sent mail to the Respondent at this address and the Respondent has either told me that the mail was received or has responded to the mail.
- Other: *(Provide your reasons why you know this is where the Respondent lives.)*

- I know the Respondent works at the following address: *(Write out the complete address.)*

I know this is the correct address because:

- The Respondent has told me that this is the correct address.
- I have been at this address and have seen that the Respondent works there.
- Other: *(Provide your reasons why you know this is where the Respondent works.)*

- The Respondent's e mail address is: _____
(Respondent's e mail address)

I know this is the correct e mail address because:

- I have received e mail from the Respondent, using that e mail address. I have attached, as Exhibit "A", a copy of an e mail from the Respondent, showing that e mail address.
- I have sent e mail to the Respondent, using that address, and it was not returned "undelivered".
- Other: *(Provide your reasons for believing that this is an accurate e mail address for the Respondent.)*

7. The way I would like to serve these documents is:

- Handing the documents to an adult person at the Respondent's residence, or if there is no adult present, posting them to the documents to the door.
- Sending the documents to the Respondent by registered mail or by courier to the address listed, **with the signature of the Respondent required upon delivery.**
- Sending the documents to the Respondent by regular mail or by courier to the address listed above **without the requirement of a signature.**
- Scanning the documents and sending them to the Respondent by e mail at the e mail address listed above.
- Other method: *(Describe how you propose to serve.)*

8. I believe that if I serve the documents in the way I have proposed, they will likely come to the attention of the Respondent because: *(Explain how you believe the other party will find out about the documents, if you deliver them in the way that you are suggesting.)*

9. I have the following other information in support of my application:

Sworn (OR Affirmed) before me

at _____, Alberta
on _____, 20 _____

Commissioner for Oaths in and for the Province of Alberta,
Justice of the Peace or Notary Public
Print Name and Expiry / Lawyer / Student-at-Law



(Signature of person swearing / affirming Affidavit)

ID Verified _____

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT **Order for Substitutional Service**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT _____
(Applicant's Name)

(Full address)

()

DATE ON WHICH ORDER WAS PRONOUNCED: _____

LOCATION OF HEARING OR TRIAL _____

NAME OF Application Judge WHO MADE THIS ORDER:

THE COURT HAS REVIEWED the affidavit filed in support of this application and is satisfied that

- a. personal service of the court documents listed in this Order would be impractical; and
- b. the method of service set out in this Order is likely to bring the documents to the attention of the Respondent.

IT IS ORDERED THAT:

(Application Judge, please initial all items

checked off)

1. The Plaintiff / Applicant is at liberty to substitutionally serve this Order along with the following documents in the within action:: *(Select all that apply)*

- An Application Form and supporting Affidavit(s)
- A Claim and supporting Statement(s)
- An Originating Application and supporting Affidavit(s)
- Notice to Disclose
- Statement of Claim
- Other _____
- And all other documents in this action

by the following method *(Select the way the judge has said to serve)*

- by leaving the documents with an adult person at the following address:

(Complete street address, including city/town and province)

- by posting the documents on the door of the respondent's / defendant's home at:

(Complete street address, including city/town and province)

- by leaving the documents with _____
(Name of person who will be given the documents)

- by scanning the documents and sending them by e mail to the following address:

(E mail address)

- by registered mail (with a signature to prove receipt) to the following address:

(Complete street address, including city/town and province)

- by regular mail to the following address:

(Complete street address, including city/town and province)

- by scanning or photographing the documents and delivering them to the Respondent / Defendant through Facebook.

- by sending the documents, along with the required service request form and fee to the Alberta Maintenance Enforcement Program.

- by posting an advertisement in the _____ newspaper for _____ day(s), with the wording of the advertisement as set out in Schedule A to this Order.

- Other: *(Describe method of service)* _____

2. The following deadlines shall apply: *(Check the box that the judge directs.)*
- The Respondent shall be served at least _____ days before the date scheduled in the Application or Claim.
 - The Defendant shall have _____ days to respond to the Statement of Claim.

(Cross out unless serving a Statement of Claim for Divorce)

3. The requirement in Rule 12.57 that a photograph be attached to the Affidavit of Service is waived.
4. Service by the method set out in paragraph 1 above shall be deemed to be good and sufficient.
5. In the event that the Defendant / Respondent does not file a response to the documents served, the Applicant shall be at liberty to apply for any relief deemed appropriate by the Court without further Order of the Court.

Application Judge of the Court of King's Bench
of Alberta

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT / PLAINTIFF _____
(Print your full name, as on other court documents)

RESPONDENT /DEFENDANT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit of Substitutional Service**

SWORN / AFFIRMED BY: _____
(Name of person making this Affidavit)

SWORN / AFFIRMED ON: _____
(Date Affidavit sworn / affirmed)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT _____
(Name of party filing this document)

(Full address of party filing this document)

()

I, _____, of _____, Alberta,
(Name of person who served) (Name of City / Town)

SWEAR / AFFIRM AND SAY THAT:

- 1. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true.

2. On _____ I served the Respondent / Defendant
(Date)
_____ with the following documents:
(Name of Respondent or Defendant)

(Check off all that apply and fill in the date the document was filed with the court)

- Substitutional Service Order filed _____
(Date filed)
- Affidavit (in support of substitutional service order) _____
(Date filed)
- Application form _____
(Date filed)
- Originating Application form _____
(Date filed)
- Claim _____
(Date filed)
- Statement _____
(Date filed)
- Statement of Claim for Divorce _____
(Date filed)
- Statement of Claim for relief other than divorce _____
(Date filed)
- Other: _____
(Name of document and date filed with the court. If not filed, attach it as an Exhibit to this Affidavit)

3. I served the documents listed above using the following method: (Choose one)

- by leaving the documents with an adult person at the following address:

(Complete street address, including city/town and province)
- by posting the documents on the door of the respondent's / defendant's home at:

(Complete street address, including city/town and province)
- by leaving the documents with _____
(Name of person who will be given the documents)
- by scanning the documents and sending them by e mail to the following address:

(E mail address)

by registered mail (with a signature to prove receipt) to the following address:

(Complete street address, including city/town and province)

Attached as Exhibit “_____” is the receipt from the post office where I mailed envelope, and attached as Exhibit ‘_____’ is a copy or computer printout from Canada Post showing the Respondent’s / Defendant’s signature, obtained when the envelope was delivered to the Respondent / Defendant.

by regular mail to the following address:

(Complete street address, including city/town and province)

by scanning or photographing the documents and delivering them to the Respondent / Defendant through Facebook.

by sending the documents, along with the required service request form and fee to the Alberta Maintenance Enforcement Program.

by posting an advertisement in the _____ newspaper.
(Name of newspaper)

Attached as Exhibit “_____” is a copy of the advertisement, which was printed on the following dates: _____
(Dates)

Other: *(Describe method of service)* _____

Sworn (OR Affirmed) before me
at _____, Alberta
on _____, 20 _____

Commissioner for Oaths in and for the Province of Alberta,
Justice of the Peace or Notary Public

Print Name and Expiry / Lawyer / Student-at-Law



(Signature of person swearing / affirming Affidavit)

ID Verified _____