



# Enforcing Family Court Orders in Manitoba:

## A Guide to Enforcing Child Support, Spousal Support and Custody/Access Orders

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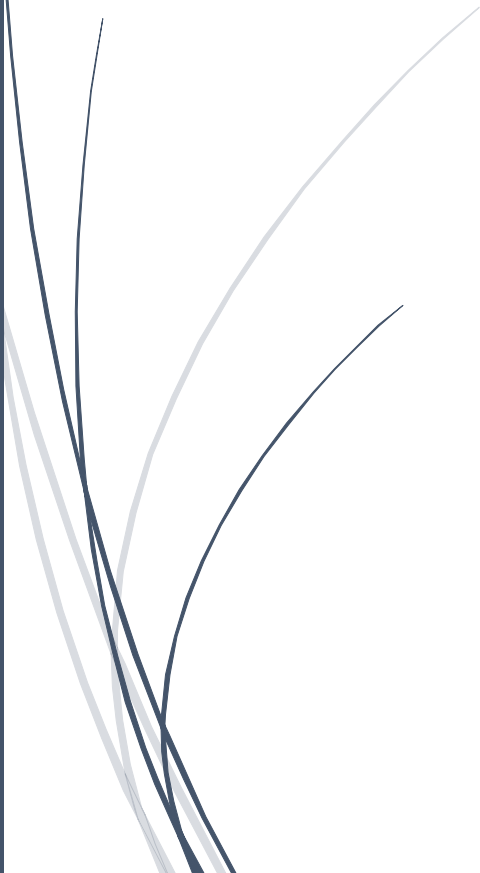
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This booklet is intended as legal information only, not as advice. Every situation is unique, and involves individual legal issues. If you have been charged with an offence, or want legal advice about some other matter, call a lawyer. If you need help finding a lawyer, call our Lawyer Referral Service at 943-2305 or 1-800-262-8800 (IF PHONING FROM OUTSIDE WINNIPEG).

Community Legal Education Association

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## ABOUT THIS GUIDE

This guide is for people in Manitoba who need information on enforcing Court Orders for child support and spousal support or custody/access.

It contains explanations about the options that are available to a person who is having difficulties enforcing the terms of a Court Order or agreement.

While the guide is intended for parents who have a Court Order or agreement for custody/access or a Court Order for financial support, it may be useful for parents who do not have a Court Order or agreement, but who have informal custody/access arrangements.

This guide also recognises that there are other parties such as grandparents who may have custody/access rights. Those persons will also find this guide useful.

This guide is for information purposes. It is not intended to provide legal advice. You should talk to a lawyer about your specific circumstances.

## HIRING A LAWYER

Although you can represent yourself in court, it is best to be represented by a lawyer if you are having difficulties enforcing a Court Order. A lawyer can give you legal advice and represent you in court if necessary, explain the options you may have in enforcing your Court Order and explain the legal process to you.

In some cases, for example, if your Court Order for financial support is registered with the Maintenance Enforcement Program (MEP), the program will enforce your Court Order without any payment from you.

The Child support recalculation service is a program that is offered by Manitoba Justice to those parents who have final or interim child support orders made under *The Family Maintenance Act* or final orders under the *Divorce Act*. If there is a change in the income of the parent who is paying child support, the service allows for the amount of child support payable by that parent to be reviewed and recalculated. If your Court Order does not provide for the recalculation service to be used you can apply through the court for the service to be used. The Recalculation Service Office can be reached at 204-945-2293 or toll free at **1-800-282-8069 (Ext. 2293)** or by email: [CSRS@gov.mb.ca](mailto:CSRS@gov.mb.ca)

If your child has been abducted, the lawyers at the **Family Law Section, Legal Services Branch** of Manitoba Justice may be able to assist in having your child returned to you. They can be reached at **204-945-0268** or toll free **1-800-282-8069 (Ext.0268)**.

Community Legal Education Association has a **Law Phone-In & Lawyer Referral Program** that provides general legal information and advice over the phone. They can also provide you with a referral to a lawyer who will advise you in an interview for up to 30 minutes free of charge. They can be reached at **204-943-2305** or toll free **1-800-**

**262-8800** (from outside Winnipeg only), by email: [info@communitylegal.mb.ca](mailto:info@communitylegal.mb.ca) or by using the following link to contact them by email: <http://www.communitylegal.mb.ca/contact/>

This guide will indicate when it would be best to consult a lawyer.

## GLOSSARY

**Access** - This means that a parent has the right to spend time with a child where the other parent has sole custody. The access times are often set out in a Court Order or agreement.

**Care and control** – This applies when parents share joint custody of a child. The child usually lives with one parent who has “primary care and control” and the other parent usually has care and control. The definitions for joint custody and shared custody are below.

**Central Authority** - In Manitoba the Central Authority for The Hague Convention on the Civil Aspects of International Child Abduction is the Manitoba Department of Justice. Canada and each province and territory has its own Central Authority. Central Authorities are responsible for managing *The Hague Convention on the Civil Aspects of International Child Abduction*.

**Court of Queen’s Bench Rules** – Regulations that set out the rules and forms of the Manitoba Court of Queen’s Bench, including how forms and evidence must be presented to the court.

**Court Order for financial support or custody/access or care and control** – This is a legal document from a court which states parties’ rights and responsibilities about financial support and custody/access or care and control.

**Custody** – This means that a person has rights and obligations towards a child including living arrangements for a child and the power to make decisions for that child. Usually a parent has either sole custody or joint custody. These are both defined below.

**Designated Officer** – The person at the Maintenance Enforcement Program who is responsible for your file if your Court Order or agreement is being enforced by the Maintenance Enforcement Program.

**“Habitual residence”** This is the jurisdiction where a child normally lives. It is a term used in *The Hague Convention on the Civil Aspects of International Child Abduction*.

**Joint Custody** – This means that both parents of a child share in major decision making for that child, for example, about health, education, religion and extracurricular activities. The child usually lives with one parent who has “primary care and control” and the other parent usually has care and control.

**Maintenance Enforcement Program** – A government agency in Manitoba that enforces Court Orders or agreements for the payment of financial child and/or spousal support.

**Payee** or Support Recipient – A person who receives financial support payments through the Maintenance Enforcement Program.

**Payor** – A person who makes financial support payments through the Maintenance Enforcement Program.

**“Reciprocating Jurisdiction”** - This is a jurisdiction with which the government of Manitoba has an arrangement for the reciprocal registration and enforcement of support Orders. Reciprocal jurisdictions include the provinces and territories in Canada and several other countries. A Support Order from a reciprocating jurisdiction can be enforced in Manitoba and a Support Order from Manitoba can be enforced in the reciprocating jurisdictions. A list of reciprocating jurisdictions is on [page 12](#).

**Shared custody (shared parenting)** - This means that parents share care and control of a child with one parent having care and control of the child at least 40% of the time and the other parent having care and control 60% of the time or less.

**Sole Custody** - This means that a parent can make all major decisions about a child without consulting with the other parent and the child lives with that parent. The non-custodial parent has access.

***The Hague Convention on the Civil Aspects of International Child Abduction*** – This is an international treaty that Manitoba has implemented. It applies between countries where the Convention is in force. It provides for the return of a child (under 16) wrongfully removed from their habitual (usual) residence or wrongfully kept in another country, where the parent left behind has a right of custody.

See: <https://www.hcch.net/>

## ENFORCEMENT OF CHILD SUPPORT AND SPOUSAL SUPPORT ORDERS

### THE MAINTENANCE ENFORCEMENT PROGRAM

Sometimes, even when there is a Court Order for the payment of financial support, the person who is supposed to make the support payments does not pay the amount that they agreed to pay or were ordered to pay or they do not make any payments at all.

This section will provide information about enforcing Court Orders for financial support. You may have a Court Order or agreement for the payment of child support or spousal support or for the payment of both child and spousal support.

In Manitoba, if you have a Court Order for the payment of financial support (child or spousal), a government agency called the Maintenance Enforcement Program (MEP) can collect the money that is owed to you under the Court Order and send that money to you, provided that the program's requirements have been met.

If you are the recipient of support payments, you are known as the payee. The person who is making the payments is known as the payor.

The MEP can collect ongoing support payments that are to be made periodically or in a lump sum. The MEP can also collect any arrears of financial support.

If the payor has not been making the support payments set out in the Court Order and the Order has been registered with the MEP, the MEP can enforce the Order and make sure that the support payments are collected and sent to you. The MEP will take steps to enforce the Order or Agreement on your behalf.

If a payor is not making the payments as set out in the Court Order or agreement that has been registered with the MEP, there are many options available to the MEP to assist with the collection of the payments.



If you are registered with the MEP, you should provide the MEP with any information that would help them collect the support payments that are owed to you. Information such as the payor's address, if there has been a recent change of address, information on any property that the payor may own, if the payor has any income or any additional sources of income and information about bank accounts would all help the MEP in collecting the support payments.

The MEP is represented by lawyers at the Family Law Section, Legal Services Branch of Manitoba Justice who will appear in court to deal with enforcement of support when MEP determines that this is an appropriate step.

However, the MEP cannot change the amount of support that is being paid.

## REQUIREMENTS FOR REGISTERING A COURT ORDER OR SEPARATION AGREEMENT WITH THE MAINTENANCE ENFORCEMENT PROGRAM

In Manitoba you can have any Court Order for financial support registered with the MEP. The Court Order may have been granted under *The Family Maintenance Act*, *The Inter-Jurisdictional Support Orders Act*, *The Child and Family Services Act* or *The Divorce Act*.

### [Registering a Court Order that has been granted by the Manitoba Court of Queen's Bench](#)

If you have obtained your Court Order for financial support from The Manitoba Court of Queen's Bench, the Order will be enforceable by the MEP. If your Court Order states that it will be enforced through the MEP a copy of the Order would have been sent to the MEP by the Court.

### [Registering a Separation Agreement with financial support terms](#)

You may have a Separation Agreement which says that financial support is to be paid. The MEP can enforce the financial support terms of that agreement if the agreement states that the financial support terms will be enforced through the MEP.

If the parties to a Separation Agreement with financial support terms would like those terms to be enforced through the MEP, they must both consent and agree to file the Separation Agreement with the MEP or the terms of the Separation Agreement must state that it will be enforced by the MEP.

If the terms or some of the terms for financial support in a Separation Agreement are vague, or the specific amount payable per month on account of a special or extraordinary expense (like swimming costs) are not stated or a percentage is stated, the MEP may not be able to enforce the Separation Agreement.

You should talk to a lawyer if you are not able to have the provisions for financial support in your Separation Agreement enforced through the MEP.

### Registering a Financial Support Order from outside of Manitoba

If you have an Order for financial support from outside of Manitoba, and you wish to have it enforced by the MEP, you must ask the MEP to open a file. The MEP will register the Order with the Manitoba Court of Queen's Bench under *The Inter-Jurisdictional Support Orders Act*. The Order will then be enforceable in Manitoba by the MEP. If the Order is made under the *Divorce Act*, by a court in another province or territory, the MEP can register the Order with the Manitoba Court of Queen's Bench under the *Divorce Act* and enforce it.

You may contact a lawyer or the Family Law Section, Legal Services Branch of Manitoba Justice if you have questions about registering your out of province Court Order.

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### PROCEDURE FOR REGISTERING A COURT ORDER OR SEPARATION AGREEMENT WITH THE MAINTENANCE ENFORCEMENT PROGRAM

A form called a Maintenance Information Form (**Form 70W**) or a form that states that the parties do not wish to have the Order enforced by the MEP, a Maintenance Enforcement Opt-Out Form (**Form 70X**), must be included with the first Order that includes support provisions when it is filed with the Court of Queen's Bench.

If the parties to a Court Order have opted out of their Court Order being sent to the MEP it cannot be enforced through the MEP. At any time, the payee may choose to opt in to enforcement by signing an opt in form and completing a registration package.

If you want to register your Court Order or Separation Agreement with the MEP, you will be asked to provide information including the following documents to the MEP:

- The Court Order for financial support from a Manitoba court or from outside of Manitoba. Either from another province/territory in Canada or another country.
- A notarized copy of your agreement that states clearly that financial support is payable.
- **Form 70W** – The Maintenance Information Form – [\(A copy is on page 26\)](#)
- Maintenance Authorization to Opt in Form
- Identification Form
- Direct Deposit Form
- Fax and Email Authorization Form
- Statutory Declaration, containing information about whether there are arrears.

You should contact the MEP office if you would like a registration package. You can also get registration documents on the MEP website at:

<http://www.gov.mb.ca/justice/family/mep/index.html>.

### What happens after your Court Order or Agreement has been registered with the Maintenance Enforcement Program

After a Court Order or Separation Agreement has been registered with the MEP, the person in charge of your file (the designated officer) will tell the payor in writing that the Court Order or agreement is being enforced by the MEP and that support payments should be made through the MEP.

There is no cost to you to enrol with the MEP.

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### POWERS OF ENFORCEMENT OF THE MAINTENANCE ENFORCEMENT PROGRAM

The MEP can work with employers, banks and the provincial and federal governments to collect support payments on a payee's behalf. They can:

- Garnish a payor's wages
- Garnish a payor's bank account(s)
- Garnish other income or payments, for example, Employment Insurance Benefits, Pension income, GST rebates
- Seize and sell a payor's property
- Suspend a payor's driver's licence
- Suspend or deny a payor's passport
- Have a defaulting payor who has arrears attend "Show cause hearings" – This means that the payor has to go to court and tell the Judge why the Court Order for financial support should not be enforced. The Judge may grant an Order for the payment of arrears, or make an Order for incarceration against the payor.

Not all enforcement actions will be appropriate in all cases. The designated officer has discretion to decide which actions are necessary or advisable for the purposes of collecting support payments.

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### ENFORCING A COURT ORDER WHEN THE SUPPORT AMOUNT NEEDS TO BE CHANGED

The MEP can only collect the support payments that are outlined in a Court Order or agreement. If you or the other parent need to change the support amount, you can get a new Court Order by making an application to the court.

#### Varying a Child Support Order

If you need to make a change in the child support amount that is outlined in a Court Order you will need to file a Notice of Motion to Vary child support. You should speak with a lawyer about varying the Court Order.

The following documents need to be prepared and filed:

1. A Notice of Motion to Vary child support - **Form 70H** ([See sample on page 27](#)) or a Notice of Application to Vary child support - **Form 70G** of the *Court of Queen's Bench Rules*.
2. An Affidavit in support of the Notice of Motion to Vary child support or Notice of Application to Vary child support in accordance with the *Court of Queen's Bench Rules*. ([See sample Affidavit on page 31](#))
  - The Affidavit must contain the information outlined in **Rule 70.37 (5)** of the *Court of Queen's Bench Rules*:
    - Date of the last child support order
    - Date when child support was recalculated
    - Residence of the parties and children
    - Custody arrangements
    - Current support arrangements
    - Proposed change to support
    - Financial circumstances of the parties when the support order was made and copies of the financial statements that were filed
    - Any arrears
    - If forgiveness of arrears is being asked for – financial information including tax returns for each year for which arrears are being asked to be forgiven.
  - A copy of your current Child Support Order must be attached to the Affidavit.
3. A Financial Statement in accordance with **Form 70D** ([See sample on page 34](#)) of the *Court of Queen's Bench Rules* and a **Demand for Financial Information in accordance with Form 70D.1** ([See sample on page 43](#))
4. A requisition for a case conference date – **Form 70D.2** of the *Court of Queen's Bench Rules*.

You can also review the booklet "A Guide to Changing Child Support Orders in Manitoba" which is published by Manitoba Justice. It is available online at <http://www.manitoba.ca/justice/family/law/changembsupportorder.html>.

Note that the child support recalculation service is available and this allows your Court Order to be recalculated under that service, if there is a change in the income of the parent who is paying child support. If, however, there are other changes that are required to the child support order, e.g. to arrears of child support or for any other changes, you will need to file a Notice of Motion to vary child support.

#### Varying a Spousal Support Order

If you need to vary a Court Order for Spousal Support you should consult a lawyer. There are specific factors that must be established before a court will allow a Court Order for Spousal Support to be varied.

#### Enforcing a Court Order that has been varied

After you have received a new Court Order varying the child support or spousal support amount, that Order can be enforced by the MEP.

## INTER-JURISDICTIONAL ENFORCEMENT OF FINANCIAL SUPPORT COURT ORDERS

If your Court Order for financial support has been granted in Manitoba, it can be filed in another Canadian province or territory or another country and enforced in that jurisdiction, provided it is in a reciprocating jurisdiction. A reciprocating jurisdiction is a Canadian province or territory or another country which has an arrangement with Manitoba that they will work together to ensure that financial support payments are collected. Court Orders for financial support that are granted by courts in reciprocating jurisdictions are enforceable in Manitoba.

A support Order made outside of Manitoba and registered in Manitoba by the MEP under *The Inter-Jurisdictional Support Orders Act* can be enforced in Manitoba through the MEP.

If you have a Court Order from another reciprocating jurisdiction the MEP can register that Order with the Court of Queen's Bench in Manitoba and it will be enforceable in Manitoba.

You should contact the MEP if you have a Court Order from another Canadian province or territory or from one of the countries that is a reciprocating jurisdiction. Manitoba has arrangements with the following reciprocating jurisdictions:

### **Reciprocating Jurisdictions:**

<p><b>All provinces and territories in Canada</b></p>	<p><b>All states in the United States</b></p> <p>District of Columbia</p> <p>Puerto Rico</p> <p>American Samoa</p> <p>Guam</p> <p>U.S. Virgin Islands</p>	<p><b>United Kingdom:</b></p> <p>England</p> <p>Wales</p> <p>Jersey</p> <p>Scotland</p> <p>Guernsey, Alderney &amp; Sark</p> <p>Isle of Man</p> <p>Northern Ireland</p>
<p><b>Other countries in Europe:</b></p> <p>Austria</p> <p>Malta</p> <p>Slovak Republic</p> <p>Czech Republic</p> <p>Norway</p> <p>Switzerland</p> <p>Germany</p> <p>Poland</p>	<p><b>Countries in Africa:</b></p> <p>Ghana</p> <p>South Africa</p> <p>Zimbabwe</p>	<p><b>Countries in Asia:</b></p> <p>Hong Kong</p> <p>Singapore</p> <p><b>Other countries:</b></p> <p>Australia</p> <p>Fiji</p> <p>Barbados</p> <p>New Zealand</p> <p>Papua New Guinea</p>

### *Enforcing a Court Order if the payor lives outside of Manitoba*

If you live in Manitoba and the payor lives outside of Manitoba, for example in another Canadian province or territory, the MEP may contact the maintenance enforcement office where the payor lives to have them enforce the support payments. The MEP will send all the necessary documents, including your Court Order, to the program where the payor lives. MEP provides information and works with the program where the payor lives so that program can collect and enforce support payments pursuant to their laws. The payments will be sent by that program to the MEP which will then ensure that you receive the payments.

If the payor lives outside of Canada, then the MEP may be able to help collect your support payments, if the payor lives in a country that is a reciprocating jurisdiction as noted on the preceding page.

You should contact your designated officer at the MEP if the payor is planning to move outside of Manitoba.

### *Enforcing a Court Order where the payee lives outside of Manitoba*

If the payor lives in Manitoba, but you live outside of Manitoba the maintenance enforcement program where you live will provide the required information for collecting financial support, including the Court Order or the agreement, to the Manitoba MEP. Your Court Order or agreement will then be registered with the Manitoba MEP and the payments will be collected and sent to the program where you live, which will then forward them to you.

### *Enforcing a Court Order where both parties live outside of Manitoba*

Generally, if you have a Court Order or agreement for support that is being enforced by the MEP and both you and the payor no longer live in Manitoba, then the MEP will close the file. You will need to register with the maintenance enforcement program in the jurisdiction where you live. However, the MEP will continue to administer a file if the MEP is enforcing the payment of support payments, for example, from the payor's income or assets in Manitoba.

## OPTING OUT OF THE MAINTENANCE ENFORCEMENT PROGRAM

The person who is making payments to the MEP cannot decide that they will no longer pay through the MEP.

Generally, the person who is receiving the financial support payments can decide to no longer participate in the MEP. You would need to advise your designated officer if you choose to opt out of the program. You should consult a lawyer if you are considering changing how you receive support payments.

If you receive income assistance through the Employment and Income Assistance Program of Manitoba or a similar program in another jurisdiction, the support payments you receive may have been assigned to the Employment and Income Assistance program and the support payments may be owed to that program. You may not be able to opt out of the program. You should contact your designated officer or a lawyer through Legal Aid if this applies to you.

## ENFORCEMENT OF COURT ORDERS FOR CUSTODY/ACCESS

Any parent who is sharing custody or care and control of a child or has access rights to a child with another parent has the following options if the other parent does not follow those custody, access or care and control arrangements.

- Out of court resolution through negotiation or mediation
- Criminal charges under the *Criminal Code of Canada*
- Civil remedies by filing an application under *The Child Custody Enforcement Act*, *The Hague Convention on the Civil Aspects of International Child Abduction* or a Notice of Motion for contempt proceedings
- Applying to court to vary the custody or access order.

Generally, arrangements for custody, access or care and control of a child are easier to enforce if you have a Court Order. If the other party to a Court Order has breached any of the provisions of that Order about custody, access or care and control, you should talk to a lawyer about your options. However, there may be more urgent situations (for example, where the other parent is taking the child from Manitoba without your permission) where you should contact police immediately.

You will decide on the best course of action to take depending on how your custody/access rights have been denied and how serious the situation is.

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### ENFORCEMENT OF A COURT ORDER OR AGREEMENT THROUGH NEGOTIATION OR MEDIATION

If your child has not been returned after the other parent had access or care and control and you have a Court Order or agreement you may be able to resolve the matter by entering into negotiation or mediation with the other parent. You can consult a lawyer who may be able to speak with the other party's lawyer to work out a solution.

You may be able to enter into mediation with the other party. If this takes too long, consult a lawyer. A free mediation service is provided through Family Conciliation Services. In Winnipeg they are located at 2nd Floor - 379 Broadway, Winnipeg MB R3C 0T9. They also have offices in Winnipeg, Brandon, Dauphin, Thompson, The Pas, Flin Flon and Swan River. The telephone numbers for the offices can be found on [page 65](#).

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### ENFORCEMENT OF ACCESS RIGHTS WHERE THERE IS NO COURT ORDER

If you do not have a Court Order and the other parent is not allowing you to have access or care and control it will be more difficult to enforce your rights.

You should talk to a lawyer about applying for a Court Order.

You can also use mediation and negotiation if the other parent is willing to work with you to resolve the dispute.

You can also review the booklet from Manitoba Justice, **"Family Law in Manitoba - 2014"** which has information about getting a Court Order for custody/access.

The booklet is available online at <http://www.gov.mb.ca/justice/family/law/index.html>

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## ENFORCEMENT OF A COURT ORDER WHERE THE ACCESS TERMS ARE VAGUE

If you have a Court Order but the terms for care and control or access are not clear you should consider changing the Order to make the terms specific. A Court Order with specific terms is easier to enforce.

If you need to make a change in the custody/care and control provisions that are outlined in a Court Order you should speak with a lawyer about varying the Court Order.

The following documents need to be prepared and filed:

1. A Notice of Motion to Vary Custody, Access /Care and control in accordance with **Form 70H** ([See sample on page 48](#)) if the proceeding was started in or transferred to Manitoba  
  
or a Notice of Application to Vary Custody, Access/ Care and control in accordance with **Form 70G** of *The Court of Queen's Bench Rules* if the order was made in another province under the *Divorce Act*.
2. An Affidavit in support of the Notice of Motion to Vary Custody, Access/ Care and control or Notice of Application to Vary Custody,/Access/ Care and control in accordance with *The Court of Queen's Bench Rules*. ([See sample Affidavit on page 51](#))
  - The Affidavit must contain the information outlined in **Rule 70.37 (2)** of *The Court of Queen's Bench Rules*.
    - Marital or relationship status of the parents
    - Residence of the parents and children
    - Custody and access arrangements
    - Proposed changes
    - Support and proposed changes
    - Arrears
    - Change in circumstances since the Order was made.
  - A copy of your current Child Support custody/care and control Order must be attached to the Affidavit.



## ENFORCEMENT OF A COURT ORDER THROUGH CONTEMPT PROCEEDINGS

If you have a Court Order for custody, access or care and control and the Order is not being followed by the other parent, you have the option of bringing a Notice of Motion for Contempt against that parent. This is a civil action and is started by filing a Notice of Motion (*Manitoba Queen's Bench Rule 60.10*).

Motions for contempt are rare. If the other parent is not complying with the provisions of your Court Order it may be best to just use other ways to enforce the Court Order such as mediation or negotiation or applying for a variation or an order under *The Child Custody Enforcement Act*.

The option of filing a motion for contempt should only be used as a last resort after all reasonable steps have been taken to make sure that the other parent complies.

You should speak with a lawyer regarding the circumstances in which you should consider filing a Notice of Motion for contempt.

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### REQUIREMENTS FOR FILING A NOTICE OF MOTION FOR CONTEMPT

If you wish to file a Notice of Motion for contempt you must make sure that the following requirements are satisfied.

- The Court Order must be clear. If you are alleging that the other party breached access or care and control terms, those terms must be specific, for example, if the order says "access as the parties may agree" or "reasonable and liberal access" the court may not be able to find the other party in contempt. Those terms are too vague to be enforceable.
- The other party must know the details of the Court Order. You must provide evidence that they were served with a copy of the Court Order.
- The Notice of Motion must provide details of when the party did not follow the Court Order and you must have personal knowledge of those details.
- The other party must have intentionally not complied with the Court Order.

Contempt should only be used as a last resort after all other ways to get the other parent to comply have been taken.

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### PROCEDURE FOR FILING A NOTICE OF MOTION FOR CONTEMPT

If you need to file a Notice of Motion for Contempt, the following documents need to be prepared and filed with the court:

- A Notice of Motion, **Form 70Q** of the *Court of Queen's Bench Rules* - A sample form can be found on [page 57](#).
- An Affidavit, **Form 4D** in Support in accordance with the *Court of Queen's Bench Rules*. A sample form can be found on [page 60](#).
- The Notice of Motion and Affidavit must be personally served on the other party.

You should speak with a lawyer who can advise you on proceeding with a motion for contempt.

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POWERS OF THE COURT IF A PERSON IS FOUND IN CONTEMPT

If the court finds that the other parent is in contempt of the Court Order it has the discretion to make Orders including the following:

- Specifying additional access time.
- Imprisonment of the party in contempt.
- Payment of a fine.
- Payment of costs.
- Imposing a suspended sentence - the guilty party will be placed on probation where they will have to follow several conditions for a period of no more than 3 years.
- Make an Order for counselling/ parenting courses.
- Reimbursement of expenses incurred, where access visits have been denied.

The party can purge the contempt by apologizing to the court.

## ABDUCTION IN CANADA: CRIMINAL JUSTICE OPTIONS

If one parent takes, detains or conceals his or her child under age 14 from the other parent, that parent may be charged with abduction under the *Criminal Code of Canada*, whether or not there is a custody order.

### [What to do if your child has been abducted by their other parent in Manitoba](#)

If your child, who is under 14, has been abducted by the other parent, and you are living in Manitoba, you should do the following:

- Call a lawyer and call the Winnipeg Police Service Communications Centre at **204-986-6222** or the Missing Person's Unit at **204-986-6250**. If you are outside of Winnipeg you should contact the police service in your area or the RCMP detachment. The police will investigate the matter and consult with the lawyers at Manitoba Justice. If it is an emergency (for example the other parent is on the way to the airport with the child), call 911.

The police in Manitoba can only lay a charge in Manitoba if the child has been abducted in Manitoba. If, for example, you agreed the other parent could take your child to another province or territory but the other parent is refusing to return the child to Manitoba, a charge cannot be laid in Manitoba. You should contact the police in that province or territory.

---

### [ABDUCTION CHARGE WHERE THERE IS A COURT ORDER](#)

If you have a Court Order for custody, access/care and control and your child under the age of 14 has been abducted in Manitoba by the other parent, the *Criminal Code of Canada* provisions in section 282 (1) may apply. You can call the police who may consider laying charges.

After an investigation, the police may consider laying charges if they are satisfied that the following circumstances apply:

- Your child is under the age of 14 years and has been abducted.
- You have a Court Order for sole custody or joint custody.
- The person who has taken the child is legally entitled to care for the child.
- The person who has taken the child is in breach of the Court Order for custody.
- The person who has taken the child has done so intentionally to take the child away from you.
- You did not consent to the child being taken by the other parent.
- The parent who has taken the child knew that there were custody arrangements in a Court Order.

---

ABDUCTION CHARGE WHERE THERE IS NO COURT ORDER

If the other parent abducts your child (under 14) in Manitoba and you do not have a Court Order for custody, access/care and control you can still call the police who may investigate and consider laying charges if:

- You have “joint custody” (under Manitoba law parents have joint custody if they have lived together at any time after the child’s birth).
- You have a written agreement for custody, access/care and control.
- You have a Court Order for custody, access/care and control that has been granted by a court from outside of Canada.
- The person who has abducted the child is not aware that there is an Order for custody, access/care and control; or
- The person who has taken the child is a parent or person who is legally entitled to be in charge of the child.
- The person who has taken the child has done so intentionally to take the child away from you.
- You did not consent to the child being taken by the other parent.
- Your child has been abducted in Manitoba.
- The Manitoba Attorney-General consents to lay the charge.

Note that a child cannot consent to be taken without the custodial parent’s consent. Therefore the parent who has abducted the child cannot say that the child agreed not to go back to the other parent or did not want to go back to the other parent. (Section 286 of the Criminal Code).

Also, it is a defence to a charge of parental child abduction if taking/detaining the child was necessary to protect the child or the person taking the child from danger of imminent harm.

## ENFORCEMENT OF COURT ORDERS THROUGH *THE CHILD CUSTODY ENFORCEMENT ACT*

*The Child Custody Enforcement Act* includes provisions to assist with enforcement of a custody/access order.

*The Child Custody Enforcement Act* of Manitoba provides the following:

- It allows an application to the Manitoba court to enforce provisions of a Manitoba/extra-provincial custody/access order and for the return of the child (section 6).
- It allows an application to enforce access under a court order where access is wrongfully denied or is not being exercised (section 14.1(1) and (2)).
- It allows the Manitoba court to make an order for a child to be located/apprehended for enforcement of a custody/access order (section 9(1)).
- It allows the Manitoba court to make an order to provide the court with information about the child's whereabouts to enforce a custody/access order (section 13(1)).
- It allows the Manitoba court to make orders to make it easier to enforce a custody/access order by using preventative measures (for example posting a bond, delivering the child's and parent's passport and travel documents to the court or another named person (section 10(3)).

### *Enforcement of a Court Order that was granted outside of Manitoba*

If your Court Order was granted outside of Manitoba, you can make an application to the Manitoba Court of Queen's Bench to make that Order effective in Manitoba. However, if the court has evidence that the child did not have a "real and substantial connection" with the place where the Custody Order was granted it may choose not to recognise that Order.

If you have a Court Order for custody, access/care and control from outside of Manitoba, the court also has the power to grant a new Order if it is satisfied that the child did not have a "real and substantial connection" with the place where the Order for custody was granted but instead has a "real and substantial connection" with Manitoba or you and the other parent normally live in Manitoba. (Section 4 (1) of *The Child Custody Enforcement Act*).

The court will not enforce the order if there is concern that doing that would cause the child serious harm.

---

### PROCEDURE FOR FILING AN APPLICATION FOR ENFORCEMENT OF AN EXTRA-PROVINCIAL ORDER UNDER *THE CHILD CUSTODY ENFORCEMENT ACT*

If you are applying under *The Child Custody Enforcement Act* to enforce a Court order, or for an order to locate, apprehend or get information, you will need to prepare and file the following:

1. A Notice of Application in accordance with Form 70E of the *Court of Queen's Bench Rules*.
2. An Affidavit in accordance with Form 4D of the *Court of Queen's Bench Rules*
3. Supporting documents, for example, a copy of the Court Order.

A sample Form 70E is on [page 54](#)

### Enforcement of a Manitoba Order

If you are being denied access, even though you have a court order, or if your child is taken from you in breach of your Manitoba custody/access order, you may apply for an order for return to locate/apprehend/get information. If access is denied or is not exercised, the court may order the defaulting parent to reimburse the other parent's costs or require supervised access. (section 14.1)

---

#### *PROCEDURE FOR FILING AN APPLICATION UNDER THE CHILD CUSTODY ENFORCEMENT ACT TO LOCATE/APPREHEND, GET INFORMATION WHERE THERE IS A MANITOBA CUSTODY/ACCESS ORDER*

To apply under *The Child Custody Enforcement Act* to enforce a Manitoba custody/access order, you must file the following:

1. Notice of Motion in accordance with Form 70Q of the *Court of Queen's Bench Rules*;
2. An Affidavit in accordance with Form 4D of the *Court of Queen's Bench Rules*.

If you have a Manitoba order and your child was taken to another province/territory, you need to consult with a lawyer in that other place to determine how to enforce your Manitoba order. You may need to apply to court in the other province/territory.

## INTERNATIONAL CHILD ABDUCTION : OPTIONS UNDER *THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION*

*The Hague Convention on the Civil Aspects of International Child Abduction (The Hague Convention)* is an international treaty. Manitoba has implemented this treaty. It applies where a child has been abducted by his or her parent and taken to another country where the treaty is in force between both countries.

If your child has been taken out of Canada without your permission, contact police immediately. You can find out whether the country where your child has been taken has signed *The Hague Convention* by checking The Hague Permanent Bureau website: [www.hcch.net](http://www.hcch.net) or contacting the **Family Law Section, Legal Services Branch** of Manitoba Justice. They are located at 1230 – 405 Broadway, Winnipeg, MB, R3C 2L6. Their telephone number is **204- 945-0268** or toll free **1-800-282-8069 (Ext 0268)**.

*The Hague Convention* does not apply if a child has been abducted from one province or territory in Canada to another province or territory in Canada. *The Child Custody Enforcement Act* will apply to those situations.

---

### REQUIREMENTS FOR MAKING AN APPLICATION FOR THE RETURN OF A CHILD UNDER THE HAGUE CONVENTION

You can consult the Central Authority for Manitoba, at the Family Law Section, Legal Services Branch of Manitoba Justice about making a Return Application in the other country if all of the following circumstances apply:

- Your child has been taken from Canada without your consent OR the child is being wrongfully kept in another country without your consent,
- Your child is under 16 years of age,
- You have custody of your child either through a Court Order or agreement,
- Your child is “habitually resident” in Canada.

If you are making a request for the return of a child under *The Hague Convention*, it is very important that your request is made as soon as possible after the child has been abducted or taken from Canada. This is important because the return of a child could be more difficult if more than one year has passed since the child was taken from Canada. The court in the country where the child has been taken can refuse to have the child returned to Canada if the court finds that the child has become accustomed to living in the new country.

Note that if a court in the other country hears your Application, that court will only decide whether your child should be returned to Canada. The court will not make any decisions on custody or access.

---

## PROCEDURE FOR FILING A RETURN APPLICATION UNDER THE HAGUE CONVENTION

If it is decided that an application for return is appropriate, the Central Authority will help you assemble and transmit the documents required by the foreign country's Central Authority. You will have to provide:

- Copies of orders concerning custody/access,
- Marriage certificate,
- Birth certificate,
- Copies of child's and other parent's passport,
- Photographs,
- Contact information.

---

## POWERS OF THE COURT REGARDING AN APPLICATION UNDER *THE HAGUE CONVENTION*

*The Hague Convention* states that, generally a child who has been removed from their "habitual residence" (the country where they usually live), should be returned to that country. After the child is returned to the country where they usually live, the parents can then address the custody/care and control or access dispute in that country, based on what is in the child's best interests.

*The Hague Convention* states that there are some circumstances under which a child who has been taken from one country to another in breach of a Court Order or agreement for custody/access does not have to be returned to that country. These circumstances include:

- If you agreed that the child could be taken out of Canada
- If there is a risk that the child could be harmed if they were returned to Canada
- If your child does not want to return to Canada and it is agreed that they are old enough to state their opinion.

---

## PROCEEDINGS WHERE A CHILD HAS BEEN TAKEN TO A COUNTRY WHERE *THE HAGUE CONVENTION IS NOT APPLICABLE*

If your child has been taken to a country where *The Hague Convention* does not apply or you do not wish to or cannot pursue a Return Application under *The Hague Convention*, you should do the following:

- Consult a lawyer. You may be able to find a lawyer in the other country who may be able to help you.
- Get the assistance of a mediator or family or friends who may be able to help with the return of your child.
- Consult the Central Authority for Manitoba at the Family Law Section, Legal Services Branch of Manitoba Justice.

Other resources:

Global Affairs Canada – for information about embassies and consulate

<http://www.international.gc.ca/>

RCMP National Centre for Missing Persons and Unidentified Remains

<http://www.canadasmising.ca>





## SAMPLE FORMS

1. Maintenance Information form - [Form 70W](#).
2. Notice of Motion to Vary Child Support – [Form 70H](#)
3. Affidavit in support of Notice of Motion to Vary Child Support – [Form 4D](#)
4. Financial Statement – [Form 70D](#)
5. Demand for Financial Information – [Form 70D.1](#)
6. Notice of Motion to Vary custody, access/care and control – [Form 70H](#)
7. Affidavit in support of Notice of Motion to Vary custody, access/care and control – [Form 4D](#)
8. Notice of Application ([Form 70E](#)) for Commencing an Application under *The Child Custody Enforcement Act*
9. Notice of Motion for Contempt [Form 70Q](#)
10. Affidavit in support of Notice of Motion for contempt – [Form 4D](#)

ENFORCEMENT INFORMATION

If you wish to have your order enforced by the Maintenance Enforcement Program, please verify or provide the following information:

**PERSON REQUIRED TO MAKE PAYMENTS:** \_\_\_\_\_

Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 City, Province: \_\_\_\_\_ Social Insurance Number: \_\_\_\_\_  
 Country: \_\_\_\_\_ Treaty Status Number: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Mother's Maiden Name: \_\_\_\_\_  
 Home Phone Number: \_\_\_\_\_ Work Phone Number: \_\_\_\_\_

**Employment:**

Occupation (Trade, Profession, Union Member, etc.):

**Current Employer:** \_\_\_\_\_

Address: \_\_\_\_\_  
 City, Province, Country: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**FORM 70D**

- Attached**
- Filed with the Court and Copy attached**
- Copy to be provided after filing with the Court**

**Previous Employer:** \_\_\_\_\_

Address: \_\_\_\_\_  
 City, Province, Country: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**PERSON ENTITLED TO RECEIVE PAYMENTS:** \_\_\_\_\_

Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 City, Province: \_\_\_\_\_ Social Insurance Number: \_\_\_\_\_  
 Country: \_\_\_\_\_ Treaty Status Number: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Mother's Maiden Name: \_\_\_\_\_  
 Home Phone Number: \_\_\_\_\_ Work Phone Number: \_\_\_\_\_

**CHILD(REN)**

Name	Date of Birth	Address

**Sample 2 - Form 70H (Notice of Motion to Vary child support)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

---

**NOTICE OF MOTION TO VARY**

**HEARING DATE:** \_\_\_\_\_

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba R3C 3L3  
Tel: 204-555-4567

**THE QUEEN'S BENCH (FAMILY DIVISION)**

**Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

**NOTICE OF MOTION TO VARY**

TO THE RESPONDENT:

Paul Brown  
123 Main Street, Winnipeg, MB, R3X 0K6

The Petitioner will make a motion before a judge on Tuesday the 9<sup>th</sup> day of March, 2015 at 9:00 a.m. or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR AN ORDER VARYING:

The child support order granted by The Honourable Mr. Justice..... of the Court of Queen's Bench (Family Division) Winnipeg Centre of Manitoba, pronounced on the 2<sup>nd</sup> day of January 2010.

The details of the variation the moving party is requesting are found on the attached page.

You or a Manitoba lawyer acting for you must serve and file in the court office an affidavit and a financial statement in accordance with Rule 70.37 and Form 70D of the *Queen's Bench Rules* within 20 days of your receiving this motion.

If either the moving party or you live outside Manitoba, you must also serve and file in the court office an affidavit containing the documents required by section 21 of the Federal Child Support Guidelines within 20 days of receiving this motion.

## Sample 2 - Form 70H (Notice of Motion to Vary child support)

Note that if:

- you are the person who is receiving or will be paid child support under the order the applicant is asking to vary; and
- there are no other support or property issues; and
- you are asking only for a table amount of support under the child support guidelines; and
- all the children for whom you want support are under the age of majority; and
- the moving party has not raised any issues requiring the production of your income information under the child support guidelines;

you do not need to file and serve at this time a financial statement nor an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines*.

IF YOU ARE SERVED WITH A DEMAND FOR FINANCIAL INFORMATION IN FORM 70D.1, YOU MUST ALSO PROVIDE THE FINANCIAL INFORMATION REQUIRED OF YOU WITHIN THE TIME SET OUT IN THE DEMAND FOR FINANCIAL INFORMATION.

IF YOU FAIL TO FILE AND SERVE YOUR COMPLETED FINANCIAL INFORMATION ON TIME, YOU MAY INCUR SERIOUS PENALTIES.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS- EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER MAY BE MADE IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

### ***Details of the Requested Variation***

1. *(Set out in separate, consecutively numbered paragraphs the details of the requested variation. Where the motion requests a variation of child support, specify whether the claim is for an amount of support in the applicable table in the Child Support Guidelines, an amount for special or extraordinary expenses, or a different amount.)*
2. *The moving party also moves for an Order:*
  - (a) that short leave be granted for the hearing of this motion;
  - (b) (Include details of any other relief);
  - (c) such further and other relief as this Honourable Court may deem just.

### **Financial Information**

Attached is the applicant's financial statement (*Form 70D*)

Yes    No

NOTE: The applicant does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the Federal Child Support Guidelines, if:

- (a) the applicant is not asking for a variation of a child support, spousal support or property order; or
- (b) the applicant is asking for a variation of child support, and
  - child support is the only support or property issue in dispute in the application, and
  - the applicant is being paid, or asking to be paid, child support by the responding party, and
  - the applicant is not, and would not be, paying child support under the order to be varied, and
  - the applicant is asking only for a table amount of child support under the child support guidelines, and
  - all the children for whom the applicant wants support are under the age of majority.

*(Where the application requests a variation of child support under the Divorce Act (Canada) and either the applicant or the respondent lives outside Manitoba, add:)*

Attached is the applicant's affidavit containing the documents required under section 21 of the Federal Child Support Guidelines.

Yes    No

**EVIDENCE TO BE USED AT THE HEARING**

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

*(List affidavits or other documentary evidence on which the applicant will be relying.)*

- (a) The affidavit of Jane Brown sworn/affirmed.....; and
- (b) Such further and other documentary evidence which the applicant may provide and this Honourable Court may permit.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567  
E-mail: janesmith@.....com

To: Paul Brown  
123 Main Street  
Winnipeg, Manitoba, R3X 0K6

**Sample 3 – Form 4D (Affidavit in support of Notice of Motion to vary child support)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

---

**AFFIDAVIT OF JANE BROWN**

**SWORN/AFFIRMED:** \_\_\_\_\_

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba R3C 3L3  
Tel: 204-555-4567



**Sample 3 – Form 4D (Affidavit in support of Notice of Motion to vary child support)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

**AFFIDAVIT OF JANE BROWN**

I, Jane Brown, of the City of Winnipeg, in the province of Manitoba,

MAKE OATH AND SAY THAT:

1. I am the applicant and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where same are stated to be based on information and belief, in which case, I believe them to be true.
2. The respondent, Paul Brown and I were divorced by Divorce Judgment pronounced by The Honourable Madam Justice..... of the Manitoba Court of Queen's Bench (Family Division) Winnipeg Centre on January 2, 2010. Attached hereto and marked as Exhibit "A" is a copy of that Divorce Judgment.

**Sample 3 – Form 4D (Affidavit in support of Notice of Motion to vary child support)**

3. Paul and I have two children, namely.....who was born on.....and .....who was born on.....Pursuant to the terms of a Court Order dated.....I have custody of ..... And Paul has care and control of ..... on ..... Attached hereto and marked as Exhibit B is a copy of that order.
  
4. *(State the residence of the parents and children).*
  
5. *(State the current custody, care and control arrangements).*
  
6. *(Current support arrangements and particulars of any proposed changes. Amount of arrears under any prior support orders).* Attached hereto and marked as Exhibit C is a copy of the MEP Statement.
  
7. *(Include details of the change in circumstances since the order was made).*
  
8. *(Financial circumstances of the parties when the support order was made).* Attached hereto and marked as Exhibits D and E are copies of the financial statements filed in relation to that order.
  
9. *(If you are requesting remission of arrears, also include income information (tax returns) showing your income for each year that you are requesting a remission).*
  
10. I make this affidavit in support of my Notice of Motion to vary.

Sworn (or affirmed) before me at  
the City of Winnipeg, in the Province  
of Manitoba, this .....day of.....2015

)  
) \_\_\_\_\_  
) JANE BROWN

\_\_\_\_\_  
A Commissioner for Oaths in and for  
the Province of Manitoba  
My commission expires\_\_\_\_\_

**Sample 4 - Form 70D (Financial Statement)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

---

**FINANCIAL STATEMENT OF \_\_\_\_\_**

**SWORN/AFFIRMED: \_\_\_\_\_**

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**Sample 4 - Form 70D (Financial Statement)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)**

**Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

**FINANCIAL STATEMENT**

FINANCIAL STATEMENT OF \_\_\_\_\_  
*(Petitioner/Respondent)*

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_  
in the province of \_\_\_\_\_, SWEAR (or AFFIRM) THAT:

1. Attached are the following:
  - Part 1 Annual Income
  - Part 2 Monthly Expenses
  - Part 3 Assets of Both Parties
  - Part 4 Debts of Both Parties
  
2. To the best of my knowledge, information and belief, the information set out in this financial statement is true and complete.

Sworn (or Affirmed) before me at the \_\_\_\_\_ of \_\_\_\_\_  
in the Province of Manitoba,  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Deputy Registrar for Queen's Bench or  
A Commissioner for Oaths in and for  
The Province of Manitoba  
My Commission expires: \_\_\_\_\_

## Sample 4 - Form 70D (Financial Statement)

### PART 1 ANNUAL INCOME

1. I am

employed as *(describe occupation)* \_\_\_\_\_

by *(name and address of employer)* \_\_\_\_\_  
\_\_\_\_\_

self-employed, carrying on business under the name of *(name and address of business)*

\_\_\_\_\_  
\_\_\_\_\_

unemployed since \_\_\_\_\_.

2. (a) Attached are copies of my Canada Revenue Agency income and deduction  
computer printouts for each of the three most recent taxation years \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
*(years)*

(b) I cannot obtain the printouts for the years \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
*(years)*  
because *(give reasons)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Sample 4 – Form 70D (Financial Statement)

3. (a) I expect my total income for this year to be as follows:

### SOURCES OF INCOME

Employment income ( <i>wages, salary, commissions, including overtime and bonuses</i> )		_____
Other employment income ( <i>including tips and gratuities</i> )		_____
Old age security pension		_____
Canada or Quebec Pension Plan benefits		_____
Other pensions or superannuation		_____
Employment insurance benefits		_____
Taxable amount of dividends from taxable Canadian corporations		_____
Interest and other investment income		_____
Net partnership income		_____
Rental income	Gross _____	Net _____
Taxable capital gains		_____
Spousal support		_____
Child support ( <i>taxable only</i> )		_____
Registered Retirement Savings Plan income		_____
Business income	Gross _____	Net _____
Professional income	Gross _____	Net _____
Commission income	Gross _____	Net _____
Farming income	Gross _____	Net _____
Fishing income	Gross _____	Net _____
Worker's Compensation benefits		_____
Social Assistance payments		_____
Net federal supplements		_____
Other income ( <i>specify</i> )		_____

### **(A) TOTAL ANNUAL INCOME:**

Total income as declared in most recent personal income tax return \_\_\_\_\_  
(year)

### ADJUSTMENTS TO INCOME

#### Additions:

Actual amount of dividends received from Canadian corporations \_\_\_\_\_

Actual capital gains realized in excess of actual capital losses \_\_\_\_\_

Salaries, benefits or other payments paid to non-arms length persons,  
 and deducted from self-employment income, unless necessary to earn self-employment  
 income \_\_\_\_\_

Allowable capital cost allowance for real property \_\_\_\_\_

Employee stock options with a Canadian-controlled private corporation exercised (*Do not  
 include if you dispose of the shares in the same year you exercise the option.*) \_\_\_\_\_

Value of shares at the time the options are exercised \_\_\_\_\_

Less: Amount paid for the shares \_\_\_\_\_

Amount paid to acquire the options to purchase the shares \_\_\_\_\_

= \_\_\_\_\_

### **(B) TOTAL ADDITIONS:**

## Sample 4 – Form 70D (Financial Statement)

**Deductions:**

Union, professional dues and other employment expenses allowed under Schedule III \_\_\_\_\_

Child support received and included in total income above \_\_\_\_\_

Spousal support received from the other parent and included in total income above \_\_\_\_\_

Social assistance received by the parent for other members of the household \_\_\_\_\_

Taxable amount of dividends from taxable Canadian corporations \_\_\_\_\_

Taxable capital gains \_\_\_\_\_

Actual amount of business investment losses \_\_\_\_\_

Carrying charges and interest expenses \_\_\_\_\_

Self-employment income, net of reserves, included in income for tax purposes in excess of the self-employment income for the 12 months ending on December 31 of the reporting year \_\_\_\_\_

Portion of partnership and sole proprietorship income that is required by the partnership to be re-invested \_\_\_\_\_

**(C) TOTAL DEDUCTIONS:** \_\_\_\_\_

**Annual Income for Child Support Guidelines Table Amount**

*(Total income (A) plus additions (B) less deductions (C))* \_\_\_\_\_

**Annual Income for Special or Extraordinary Expenses Amount**

*(Annual Income for Child Support Guidelines Table Amount less spousal support paid to the other parent, or, plus spousal support received from the other parent, as applicable)* \_\_\_\_\_

(b) *(Do not complete this section where the only relief claimed is a table amount of child support under the child support guidelines and all children for whom relief is sought are under the age of majority.)*

(i) I receive child support for the following persons who are not the subject of this application:

Name	Annual amount	Taxable or not ( <i>indicate</i> )
_____	_____	_____

(ii) I receive the following non-taxable benefits, allowances or amounts: *(This includes items such as use of a vehicle and room and board. Where the benefit is not an amount, include an estimate of the value of the benefit on an annual basis.)*

Benefit	Benefit	Annual amount or value
_____	_____	_____

*(Note: It is not necessary to complete Parts 2, 3 or 4 where the only relief claimed is a table amount of child support under the child support guidelines and all children for whom relief is sought are under the age of majority.)*

## Sample 4 – Form 70D (Financial Statement)

### PART 2 MONTHLY EXPENSES

4. My monthly expenses are as follows and are for me and the following members of my household:

\_\_\_\_\_

\_\_\_\_\_

(If the payment of an expense is shared with another person, insert only the amount that you pay. Convert all expenses incurred in a year, whether on a yearly, quarterly, weekly, or other basis, to monthly amounts. Give actual amounts where known or you can obtain the information. If this is impossible, give estimates.)

<b>Compulsory Deductions</b>		<b>SUB-TOTAL (bring forward)</b>	\$ _____
Income Tax	\$ _____		
Employment insurance	\$ _____	<b>Adult Household Members</b>	
Canada Pension Plan	\$ _____	Clothing	\$ _____
Employer pension	\$ _____	Hair care	\$ _____
Union dues	\$ _____	Toiletries, cosmetics	\$ _____
Insurance	\$ _____	Education fees, supplies	\$ _____
Other ( <i>specify</i> )	\$ _____	Entertainment and recreation	\$ _____
<b>Household Expenses</b>		Fitness	\$ _____
Groceries and household supplies	\$ _____	Insurance	\$ _____
Meals outside the home	\$ _____	Charitable donations	\$ _____
Telephone	\$ _____	Gifts to others	\$ _____
Cable television	\$ _____	Alcohol, tobacco	\$ _____
Laundry and dry cleaning	\$ _____	<b>Children</b>	
Newspapers, publications	\$ _____	Child care	\$ _____
Stationery, computer supplies	\$ _____	Babysitting	\$ _____
Vacation	\$ _____	Clothing	\$ _____
Pet care	\$ _____	Hair care	\$ _____
<b>Housing (primary residence)</b>		Allowances	\$ _____
Rent or mortgage	\$ _____	School fees and supplies	\$ _____
Taxes	\$ _____	Entertainment and recreation	\$ _____
Home Insurance	\$ _____	Insurance	\$ _____
Heat	\$ _____	Gifts (toys, books, etc)	\$ _____
Water	\$ _____	Activities, lessons and supplies	\$ _____
Hydro	\$ _____	Camp	\$ _____
House repairs and maintenance	\$ _____	Gifts to other children	\$ _____
Yard maintenance	\$ _____	<b>Savings for the future</b>	
Other ( <i>specify</i> )	\$ _____	RRSP	\$ _____
<b>Health</b>		RESP	\$ _____
Medical Insurance	\$ _____	Other	\$ _____
Drugs (Net of coverage)	\$ _____	<b>Debt (other than mortgage repayment) (calculated as in Part 4)</b>	\$ _____
Dental Care (Net of coverage)	\$ _____	<b>Lease payments (specify)</b>	\$ _____
Optical Care (Net of coverage)	\$ _____	<b>Support payments to others (specify)*</b>	\$ _____
Other ( <i>specify</i> )	\$ _____	<b>Reserve for income taxes</b>	\$ _____
<b>Transportation</b>		<b>Other (specify)</b>	\$ _____
Public transit, taxis, etc.	\$ _____		
Car Operation	\$ _____		
Gas and Oil	\$ _____		
Insurance and licence	\$ _____		
Maintenance	\$ _____		
Parking	\$ _____		
		<b>TOTAL</b>	<b>\$ _____</b>
	<b>SUBTOTAL</b>		\$ _____

\* List only persons whose support is not at issue in this application. Specify the person who is supported, whether the payments are tax deductible to you, and whether they are voluntary or pursuant to a court order or agreement



## Sample 4 – Form 70D (Financial Statement)

5. (Complete only if claiming child support and special or extraordinary expenses.)

I have the following special or extraordinary expenses for the named children:

(a) Child care expenses

Name of child _____	Gross annual cost	Net annual cost
_____	_____	_____
<i>(specify expense)</i>	_____	_____
_____	_____	_____

(b) Health-related expenses that exceed insurance reimbursement by at least \$100 annually:

Name of child _____	Gross annual cost	Net annual cost
_____	_____	_____
<i>(specify expense)</i>	_____	_____
_____	_____	_____

(c) Extraordinary expenses for primary or secondary school education or for any educational programs that meet the child's particular needs

Name of child _____	Gross annual cost	Net annual cost
_____	_____	_____
<i>(specify expense)</i>	_____	_____
_____	_____	_____

(d) Post-secondary education

Name of child _____	Gross annual cost	Net annual cost
_____	_____	_____
<i>(specify expense)</i>	_____	_____
_____	_____	_____

(e) Extraordinary expenses for extracurricular activities

Name of child _____	Gross annual cost	Net annual cost
_____	_____	_____
<i>(specify expense)</i>	_____	_____
_____	_____	_____

## Sample 4 – Form 70D (Financial Statement)

### PART 3 ASSETS OF BOTH PARTIES

6. Our assets are as follows:

*(Include all assets, whether or not shareable under The Family Property Act, including jointly owned assets. Where there is a claim under The Family Property Act, identify with an asterisk (\*) those assets alleged to be non-shareable. Do not complete the column headed "Market Value at Date of Separation" if there is no claim under The Family Property Act.)*

	Asset in Possession of Petitioner (P) or Respondent (R)	Present Market Value	Market Value at Date of Separation
Real estate (municipal address)	_____	\$ _____	\$ _____
Cars, boats, vehicles (year, make, model)	_____	\$ _____	\$ _____
Household goods, furniture and appliances	_____	\$ _____	\$ _____
Tools, sports and hobby equipment	_____	\$ _____	\$ _____
Bank accounts and cash on hand	_____	\$ _____	\$ _____
R.R.S.P.	_____	\$ _____	\$ _____
Bonds, shares, term deposits, investment certificates, mutual funds	_____	\$ _____	\$ _____
Money owed to us	_____	\$ _____	\$ _____
Life Insurance (cash value)	_____	\$ _____	\$ _____
Pension plans	_____	\$ _____	\$ _____
Business assets	_____	\$ _____	\$ _____
Other ( <i>specify</i> )	_____	\$ _____	\$ _____
	<b>TOTAL</b>	<b>\$ _____</b>	<b>\$ _____</b>

## Sample 4 – Form 70D (Financial Statement)

### PART 4 DEBTS AND OTHER LIABILITIES OF BOTH PARTIES

7. Our debts and liabilities are as follows:

*(List all your debts and liabilities as well as any joint debts and liabilities. Identify joint liabilities with an asterisk (\*). Do not complete the column headed "Amount Outstanding at Date of Separation" if there is no claim under The Family Property Act.)*

	Debt of Petitioner (P) or Respondent (R) or Joint (*)	Present Amount Outstanding	Amount Outstanding at Date of Separation	Present Monthly Payments
Mortgage	_____	\$ _____	\$ _____	\$ _____
Loans <i>(specify)</i>	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
Credit cards	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
Other <i>(specify)</i>	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
	_____	\$ _____	\$ _____	\$ _____
<b>TOTAL</b>	<b>TOTAL</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>

**Sample 5 - Form 70D.1 (Demand for Financial Information)**

File No. \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

---

**DEMAND FOR FINANCIAL INFORMATION**

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**Sample 5 - Form 70D.1 (Demand for Financial Information)**

File No. \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner/applicant

- and -

**Paul Brown**

respondent

**DEMAND FOR FINANCIAL INFORMATION**

TO THE PETITIONER/APPLICANT or RESPONDENT, \_\_\_\_\_ :  
*(specify party)* *(specify full name of the party who is to provide information)*

\_\_\_\_\_ demands that you provide the information  
*(specify full name of the party who is requesting the information)*

required in paragraphs 1 to 3 below.

**IF YOU FAIL TO PROVIDE THE INFORMATION REQUIRED OF YOU WITHIN THE REQUIRED TIME PERIOD, THE COURT MAY MAKE ONE OR BOTH OF THE FOLLOWING ORDERS WITHOUT FURTHER NOTICE TO YOU:**

- an order based on assumptions about your financial situation
- an order of financial disclosure

**NOTE: FAILURE TO PROVIDE THE REQUESTED INFORMATION MAY ALSO RESULT IN ONE OR BOTH OF THE FOLLOWING ORDERS BEING MADE:**

- an order requiring you to pay costs to the other party to this litigation or a penalty of up to \$5,000
- an order preventing you from pursuing all or part of your case

## Sample 5 - Form 70D.1 (Demand for Financial Information)

YOU MUST:

*(Check applicable box)*

1. Within  30 days *(select 30 days where the party who is to provide the information lives in Canada or, in a Divorce Act (Canada) proceeding, lives in the United States)*

60 days *(select 60 days in all other instances)*

2. *(Check all applicable boxes)*

provide the information requested in paragraph 3 to the other party, or their lawyer if they have one;

provide the information requested in paragraph 3 to the other party, or their lawyer if they have one, in a sworn affidavit;

file the information requested in paragraph 3 with the Court, in a sworn affidavit.

3. The following information *(check all applicable boxes)*:

a prepared and sworn financial statement in accordance with Rule 70.05, 70.07 or 70.08 in Form 70D of the *Court of Queen's Bench Rules*, including:

Part 1 — Annual Income

Part 2 — Monthly Expenses

Part 3 — Assets of Both Parties

Part 4 — Debts of Both Parties

copies of your Canada Revenue Agency income and deduction computer printouts showing your income as assessed by the Canada Revenue Agency for each of the three most recent taxation years in which you filed a tax return;

a copy of every personal income tax return filed by you for each of the three most recent taxation years;

a copy of every notice of assessment and reassessment issued to you for each of the three most recent taxation years;

## Sample 5 - Form 70D.1 (Demand for Financial Information)

### Additional information applicable to employees:

- [ ] your most recent statement of earnings (pay stub) indicating the total earnings paid to you in the year to date, including overtime or, if such a statement is not provided by your employer, a letter from your employer setting out that information including your rate of annual salary or remuneration;

### Additional information applicable to self-employed individuals:

- [ ] the financial statements of your business or professional practice, other than a partnership, for the three most recent taxation years;
- [ ] a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom you do not deal at arm's length, for the three most recent taxation years;

### Additional information applicable to partners in a partnership:

- [ ] confirmation of your income and draw from, and capital in, the partnership for its three most recent taxation years;

### Additional information from those who control a corporation:

- [ ] the financial statements of the corporation and its subsidiaries for its three most recent taxation years;
- [ ] a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation, and every related corporation, does not deal at arm's length for its three most recent taxation years;

### Additional information from beneficiaries under a trust:

- [ ] a copy of the trust settlement agreement;
- [ ] copies of the trust's three most recent financial statements;

### Additional information from those who receive income from any other source (for example, employment insurance, social assistance, a pension, workers compensation, disability payments):

**Sample 5 - Form 70D.1 (Demand for Financial Information)**

- [ ] the most recent statement of income indicating the total amount of income from the applicable source during the current year or, if such a statement is not provided, a letter from the appropriate authority stating the required information;

Other (*specify*): \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
(*month/day/year*)

\_\_\_\_\_  
Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel:204-555-4567  
E-mail: janesmith@.....com

To: Paul Brown  
123 Main Street  
Winnipeg, Manitoba, R3X 0K6



**Sample 6 - Form 70H (Notice of Motion to Vary Custody, access/care and control)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

---

**NOTICE OF MOTION TO VARY**

**HEARING DATE:** \_\_\_\_\_

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**THE QUEEN'S BENCH (FAMILY DIVISION)**

**Winnipeg Centre**

BETWEEN:

**Jane Brown**

Petitioner

- and -

**Paul Brown**

Respondent

**NOTICE OF MOTION TO VARY**

TO THE RESPONDENT: Paul Brown  
123 Main Street, Winnipeg, MB, R3X 0K6

The Petitioner will make a motion before a judge on Tuesday the 9<sup>th</sup> day of March, 2015 at 9:00 a.m. or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR AN ORDER VARYING:

The custody order granted by The Honourable Mr. Justice..... of the Court of Queen's Bench (Family Division) Winnipeg Centre of Manitoba, pronounced on the 2<sup>nd</sup> day of January, 2010.

The details of the variation the moving party is requesting are found on the attached page.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS- EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

**Sample 6 - Form 70H (Notice of Motion to Vary Custody, access/care and control)**

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER MAY BE MADE IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

***Details of the Requested Variation***

1. *Particulars of relief sought: (Set out in separately numbered paragraphs the details of the requested variation)*
2. *To vary the custody order ....*
3. *The moving party also moves for an Order:*
  - (c) that short leave be granted for the hearing of this motion;
  - (d) *(Include details of any other relief.....); (costs)*
  - (c) such further and other relief as this Honourable Court may deem just.

**Evidence to be used at the Hearing:**

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The affidavit of Jane Brown sworn/affirmed.....; and
- (b) Such further and other documentary evidence which the applicant may provide and this Honourable Court may permit.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel:204-555-4567  
E-mail: janesmith@.....com

To: Paul Brown  
123 Main Street  
Winnipeg, Manitoba, R3X 0K6

**Sample 7 – Form 4D (Affidavit in support of Notice of Motion to vary custody, access, care and control)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

petitioner

- and -

**Paul Brown**

respondent

---

**AFFIDAVIT OF JANE BROWN**

**SWORN/AFFIRMED: \_\_\_\_\_**

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**Sample 7 – Form 4D (Affidavit in support of Notice of Motion to vary custody/ access)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

petitioner

- and -

**Paul Brown**

respondent

**AFFIDAVIT OF JANE BROWN**

I, Jane Brown, of the City of Winnipeg, in the province of Manitoba,

MAKE OATH AND SAY THAT:

1. I am the petitioner and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where same are stated to be based on information and belief, in which case, I believe them to be true.
2. The respondent, Paul Brown and I were divorced by Divorce Judgment pronounced by The Honourable Madam Justice..... of the Manitoba Court of Queen's Bench (Family Division) Winnipeg Centre on January 2, 2010. Attached hereto and marked as Exhibit "A" is a copy of that Divorce Judgement.

**Sample 7 – Form 4D (Affidavit in support of Notice of Motion to vary custody/ access)**

3. Paul and I have two children, namely.....who was born on.....and .....who was born on.....Pursuant to the terms of a Court Order dated ....., I have custody of .....and Paul has care and control of .....on..... Attached hereto and marked as Exhibit “B” is a copy of that order.
  
4. State the residence of the parents and children.
  
5. State that proposed changes to the custody, care and control arrangements.
  
6. Include details of the change in circumstances since the order was made.
  
7. I make this Affidavit in support of my Notice of Motion to vary.

Sworn (or affirmed) before me at  
the City of Winnipeg, in the Province  
of Manitoba, this .....day of.....2015

)  
) \_\_\_\_\_  
) JANE BROWN

\_\_\_\_\_  
A Commissioner for Oaths in and for  
the Province of Manitoba  
My commission expires\_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

---

**NOTICE OF APPLICATION**

**HEARING DATE:** \_\_\_\_\_

---

Note: This is an example of the form that you will prepare and file to enforce an extra-provincial order under *The Child Enforcement Custody Act*

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

APPLICATION UNDER:

**NOTICE OF APPLICATION**

TO THE RESPONDENT

---

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a judge, on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
(day) (date)

at \_\_\_\_\_ at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

\_\_\_\_\_  
Date Issued by \_\_\_\_\_  
Deputy Registrar

Court of Queen's Bench – Winnipeg Centre  
Law Courts Building, 408 York Avenue  
Winnipeg, Manitoba, R3C 0B9



**Sample 8 - Form 70E**

**APPLICATION**

1. The applicant makes application for:
2. The grounds for the application are:
3. The following documentary evidence will be used at the hearing of the application:

---

Signature of Lawyer  
Name of Lawyer  
Address:  
Telephone:  
Fax:  
Email:

**Sample 9 - Form 70Q (Notice of Motion for Contempt)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

---

**NOTICE OF MOTION**

**HEARING DATE:** \_\_\_\_\_

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**Sample 9 - Form 70Q (Notice of Motion for Contempt)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

**NOTICE OF MOTION**

The applicant will make a motion before the presiding judge on Monday the 9<sup>th</sup> day of March, 2015 at 9:00 a.m. or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

- (a) an order that the respondent, Paul Brown be found in contempt for breaching the order issued January 2, 2010
- (b) *include details of relief being sought e.g. fine, imprisonment etc.*
- (c) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) Paul Brown failed to comply with the Court Order issued on January 2, 2010
- (b) Queen's Bench Rules, including Rule 60.10 (5)

**Sample 9 - Form 70Q (Notice of Motion for Contempt)**

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The order issued on January 2, 2010
- (b) The affidavit of Jane Brown sworn/affirmed.....; and
- (c) Affidavit of Service sworn/affirmed
- (d) Such further and other documentary evidence which the applicant may provide and this Honourable Court may permit.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel:204-555-4567  
E-mail: janesmith@.....com

To: Paul Brown  
123 Main Street  
Winnipeg, Manitoba, R3X 0K6

**Sample 10 – Form 4D (Affidavit in support of Notice of Motion for Contempt)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

---

**AFFIDAVIT OF JANE BROWN**

**SWORN/AFFIRMED: \_\_\_\_\_**

---

Jane Brown  
456 Home Street  
Winnipeg, Manitoba, R3C 3L3  
Tel: 204-555-4567

**Sample 10 – Form 4D (Affidavit in support of Notice of Motion for contempt)**

File No. FD \_\_\_\_\_

**THE QUEEN'S BENCH (FAMILY DIVISION)  
Winnipeg Centre**

BETWEEN:

**Jane Brown**

applicant

- and -

**Paul Brown**

respondent

**AFFIDAVIT OF JANE BROWN**

I, Jane Brown, of the City of Winnipeg, in the province of Manitoba,

MAKE OATH AND SAY THAT:

1. I am the applicant and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where same are stated to be based on information and belief, in which case, I believe them to be true.
2. The respondent, Paul Brown and I were divorced by Divorce Judgment pronounced by The Honourable Madam Justice..... of the Manitoba Court of Queen's Bench (Family Division) Winnipeg Centre on January 2, 2010. Attached hereto and marked as Exhibit "A" is a copy of that Divorce Judgement.

**Sample 10 – Form 4D (Affidavit in support of Notice of Motion for Contempt)**

3. Paul and I have two children, namely .....who was born on.....and .....who was born on.....Pursuant to the terms of a Court Order dated....., I have custody of .....and Paul has care and control of .....on.....Attached hereto and marked as Exhibit “B” is a copy of that order.
4. *State that you know that the other party knows about the contents of the court order (e.g. that he/she consented to the order by signing it or was in court at the time or consented to the order).*
5. *State the occasions when the party has not complied with the court order. Provide details of your attempts to deal with the non-compliance, because contempt is an order of last resort.*
6. I Request an order that the respondent, Paul Brown be found in contempt for breaching the Order issued January 2, 2010.
7. *Include details of relief being sought e.g. attendance at parenting classes, fine, imprisonment etc.*
8. I make this Affidavit in support of my Notice of Motion for contempt.

Sworn (or affirmed) before me at  
the City of Winnipeg, in the Province  
of Manitoba, this .....day of.....2015

)  
) \_\_\_\_\_  
) JANE BROWN

\_\_\_\_\_  
A Commissioner for Oaths in and for  
the Province of Manitoba  
My commission expires \_\_\_\_\_

## COURT FILING FEES

There are fees that are required for starting an action in the Manitoba Court of Queen's Bench. An updated list of the fees can be found online at:

<http://www.manitobacourts.mb.ca/court-of-queens-bench/procedure-rules-and-forms/fees/general-civil-family/>

## APPENDIX OF RESOURCES

### Online legislation

*The Child Custody Enforcement Act:* <http://web2.gov.mb.ca/laws/statutes/ccsm/c360e.php>

*Manitoba Queen's Bench Rules:* <http://web2.gov.mb.ca/laws/rules/qbr1e.php>

*The Hague Convention on the Civil Aspects of International Child Abduction: Schedule to The Child Custody Enforcement Act:* <http://web2.gov.mb.ca/laws/statutes/ccsm/c360e.php>

*The Criminal Code of Canada:* <http://laws-lois.justice.gc.ca/eng/acts/C-46/>

*The Family Maintenance Act:* <https://web2.gov.mb.ca/laws/statutes/ccsm/f020e.php>

*Divorce Act:* <http://laws-lois.justice.gc.ca/eng/acts/d-3.4/page-1.html>

*The Inter-Jurisdictional Support Orders Act:* <https://web2.gov.mb.ca/laws/statutes/ccsm/i060e.php>

### Online Resources

- Manitoba Justice online public information booklet: Family Law in Manitoba – 2014  
<http://www.gov.mb.ca/justice/family/law/index.html>
- Manitoba Justice: Information on Family law:  
<http://www.manitoba.ca/justice/family/law/index.html>
- Manitoba Justice online public information booklet: A Guide to Changing Child Support Orders in Manitoba:  
<http://www.manitoba.ca/justice/family/law/changembsupportorder.html>
- Manitoba Justice online Fact Sheets: Maintenance Enforcement Program:  
<http://www.manitoba.ca/justice/family/mep/index.html>



- Manitoba Courts website: <http://www.manitobacourts.mb.ca/>
- Department of Justice Canada: Provincial and Territorial Information on Inter-jurisdictional and International Support Order Enforcement:  
[http://canada.justice.gc.ca/eng/fl-df/enforce-execution/info\\_cont.html](http://canada.justice.gc.ca/eng/fl-df/enforce-execution/info_cont.html)
- Government of Canada – Travel and Tourism department online booklet – International Child Abduction: A Guidebook for Left-Behind Parents:  
<http://travel.gc.ca/travelling/publications/international-child-abductions>
- Department of Justice Canada: Enforcing Support:  
<http://canada.justice.gc.ca/eng/fl-df/enforce-execution/pwr-pqr.html>

**Community Legal Education Association**

205-414 Graham Avenue

Winnipeg, Manitoba R3C 0L8

Phone: 204-943-2382

Fax: 204-943-3600

Email: [info@communitylegal.mb.ca](mailto:info@communitylegal.mb.ca)

Website: [www.communitylegal.mb.ca](http://www.communitylegal.mb.ca)

**Manitoba Justice**

**Child Support Recalculation Service Office**

Room 201 - 373 Broadway

Winnipeg MB R3C 4S4

Phone: (204) 945-2293

Toll Free: 1-800-282-8069 (Ext. 2293)

E-mail: [CSRS@gov.mb.ca](mailto:CSRS@gov.mb.ca)

Fax: (204) 948-2423

**Family Law Section, Legal Services Branch**

**Manitoba Justice**

1230 – 405 Broadway

Winnipeg, MB, R3C 3L6

Phone: 204-945-0268

Fax: 204-948-2004

Toll free: 1-800-282-8069 (Ext 0268)

Email: [FLB@gov.mb.ca](mailto:FLB@gov.mb.ca)

[ISOQuestions@gov.mb.ca](mailto:ISOQuestions@gov.mb.ca)

**Family Conciliation Services**

2nd Floor - 379 Broadway

Winnipeg MB R3C 0T9

Telephone:

Winnipeg - 204-945-7236

Toll-Free - 800-282-8069

Brandon - 204-726-6336

Toll-Free - 800-230-1885

Dauphin - 204-622-2035

Toll-Free - 866-355-3494

Thompson - 204-677-6570

Toll-Free - 866-677-6713  
The Pas - 204-627-8311  
Toll-Free - 866-443-2292  
Flin Flon – 204-687-1700  
Toll-Free - 866-443-2291  
Swan River – 204-734-3491  
Toll-Free - 888-269-6498

Website: [http://www.gov.mb.ca/fs/childfam/family\\_conciliation.html](http://www.gov.mb.ca/fs/childfam/family_conciliation.html)

## **Legal Aid Manitoba**

### **Application Centre - Winnipeg**

100 - 287 Broadway  
Winnipeg MB R3C 0R9  
Phone: 204-985-8500 Fax: 204-949-9216  
Toll Free: 1-800-261-2960

### **Administration Office - Winnipeg**

4th Floor - 287 Broadway  
Winnipeg MB R3C 0R9  
Phone: 204-985-8500 Fax: 204-944-8582  
Toll Free: 1-800-261-2960

### **Brandon Area Office**

236 - 11th Street  
Brandon MB R7A 4J6  
Phone: 204-729-3492 Fax: 204-726-1732  
Toll Free: 1-800-766-2148

### **Parklands Area Office**

202 Main Street South  
Dauphin MB R7N 1K6  
Phone: 204-622-4666 Fax: 204-622-4679  
Toll Free: 1-877-622-4660

### **The Pas - Northern Area Office**

P.O. Box 4062  
1 - 236 Edwards Avenue  
The Pas MB R9A 1S6  
Phone: 204-627-4837 Fax: 204-627-4840  
Toll Free: 1-855-787-0694

### **Thompson - Northern Area Office**

2nd Floor, 3 Station Road  
Thompson MB R8N 0N3  
Phone: 204-677-1224 Fax: 204-677-1347  
Toll Free: 1-855-444-4665

### **Mediation Services Winnipeg**

302-1200 Portage Avenue,  
Winnipeg, Manitoba, Canada  
R3G 0T5  
Phone: (204) 925-3410

Fax: (204) 925-3414

Toll-free: 1-866-925-3410

**MissingKids.ca**

Toll free: 1-866-kidtips (543-8477)

Email: [contact@missingkids.ca](mailto:contact@missingkids.ca)

Website: [www.missingkids.ca](http://www.missingkids.ca)

**Maintenance Enforcement Program**

MEP Info Line: Winnipeg 204-945-7133

Toll free 1-866-479-2717

Email: [ManitobaMEPinquiries@gov.mb.ca](mailto:ManitobaMEPinquiries@gov.mb.ca)

Website: [www.gov.mb.ca/justice/family/mep/index/html](http://www.gov.mb.ca/justice/family/mep/index/html)

**Maintenance Enforcement Program**

Winnipeg Central Payment Processing

100-352 Donald Street, Winnipeg Manitoba R3B 2H8

**Brandon**

Room 108 – 1104 Princess Avenue, Brandon, Manitoba R7A 0P9

**Thompson**

Room 12 – 59 Elizabeth Drive, Thompson, Manitoba R8N 1X4

**Winnipeg Police Service Communications Centre**

Telephone: 204-986-6222