

# Checklist of information to include in an Affidavit or present in court

— *To support an application for child or spousal support/maintenance, custody, guardianship, or access*

**Note:** This checklist does *not* contain information about dividing property, assets, or debts. If you have questions about the family home or division of family property or business, see a lawyer.

The information that you need to put into your Affidavit (in Supreme Court) or present verbally (in Provincial [Family] Court) depends on your particular case. The following suggestions are not complete and must be tailored to fit your circumstances, but they may serve as a starting point. This checklist provides a general overview of the kind of information that needs to be given to a judge/master who is hearing a family case. Refer only to those sections that relate to your kind of application.

## Background of both parties

Include the following information in all family applications:

- Give the age and birthdate of both parties.
- Where did you meet?
- When did you move in together and/or get married?
- Where did you live when you were together?
- Provide the names and birthdates of any children.
- When did you separate?
- Where does each party live now?
- Who lives with each of them now (for example, children, new partner, stepchildren, roommate)?
- What is the education level of each party?
- What are both parties' current jobs?

## Role of each party during the relationship

Include the following details if you are applying for or responding to an application for spousal support or custody, or if the other party's ability to pay child or spousal support is in question:

Give a summary of significant responsibilities/jobs/contributions; for example:

- The wife worked while the husband went back to school to upgrade his skills to be able to get a better-paying job.
- The wife wasn't able to take ESL courses because they couldn't afford a babysitter.
- The wife had two children and agreed to stay home full time after the birth of the first child.

## The children

Include the following details only if you are applying for or responding to an application for custody, guardianship, and/or access. If these are not issues in your application, then include only the bare facts (names, ages, and birthdates of children).

- Give ages and full dates of birth for each of the children.
- Provide the name of your daycare, preschool, and/or school (list the grade each child is attending) and give a description of any successes/problems at school.
- List the children's extracurricular activities or special interests, if any.
- List any medical problems or special needs the children have.
- Provide the financial cost of each child's education, medical, or other special expenses.
- If you want custody, be sure to say that in your Affidavit and that you are able to take custody of the children.

## Parental responsibilities

Describe the following details if you are involved in a disputed custody case or if they relate to either party's ability to pay support:

- Typical parenting responsibilities of each parent before the separation (this is especially important if the separation is very recent, and custody is an issue).
- Who changed diapers?
- Who made bottles/gave night feedings?
- Is the baby breastfed?
- Who attended PAC meetings and parent-teacher conferences?
- Who took children to doctors, other appointments, and extracurricular activities?
- Who prepared meals?
- Did one parent do bulk of childcare work (describe) or was it evenly shared?
- Who are the children most bonded to, and what have you observed to draw that conclusion?
- Typical parenting responsibilities of each parent since the separation (this is especially important if separation occurred quite a while ago, and custody is an issue).
- If parenting responsibilities are/were lopsided (one person is doing most of the work) provide reasons why.
- The steps you have taken (if any) since the separation to minimize disruption to your child's life. For example, if you moved to a smaller home, but stayed in the same neighbourhood so daycare and school would not change; if you maintain maximum contact between the children and the other parent; if you maintain family traditions of dinner on Sunday night with grandparents, etc.

## Extended family

Include the following details if they are relevant to a custody or access application:

- any extended family members (include their relationship and where they live) with whom the child has a relationship
- your relationship to those family members — on both sides of the family
- how those relationships are being maintained since the separation
- your plans, if any, for how to maintain those relationships

## Finances

### For spousal support

Include the following details if you are applying for or responding to an application for spousal support:

- Provide a brief summary of your education and work history.
- List your absences, if any, from the work force and describe the reasons for them (for example, illness, injury, children, staying home to be a homemaker).
- Describe your current job and income, and list the source and amount of your income for the last three years.
- Identify your reasonable needs and how much more money you would need to meet these needs.
- Identify anything that prevents you from earning a reasonable living (for example, are you caring for young children, do you have a physical disability, do you need to upgrade or refresh your skills?)
- State how long it would take and what steps you need to take to be able to earn a reasonable living (for example, give the name of a course you would need to take, the institution where you would take it, when it starts and finishes, and how much it would cost).
- Attach documentary evidence as an exhibit to your Affidavit, wherever possible (for example, include doctor's reports about any disability that prevents you from working, invoices for upgrading courses, and copies of tax returns or pay stubs, that are not already in your financial statement, to prove your income).
- Describe the other party's education, work history, current job and present income level.
- Identify any assets that could be used for support (for example, an RSP in your spouse's name alone).

## For child support

Include the following details if you are applying for or responding to an application for child support:

- In these applications, generally there is no need to review your work history or education in any detail; focus on current finances (unless the payor's income varies significantly from month to month or year to year).
- If you are only seeking basic support, you do not need to list your income.
- State your spouse's current income and attach his or her pay stub or a copy of an income tax return, if available; otherwise, rely on your spouse's financial statement.
- If you have reason to believe that your spouse's financial statement is inaccurate, list the inaccuracies and give the reasons for your belief.
- If you are claiming special or extraordinary expenses, identify each expense claimed, identify the child it is claimed for, and provide proof of the expense (for example, attach as an exhibit the invoice from the orthodontist).
- Be sure to set out your costs on a monthly basis (as support will be ordered on a monthly basis).
- Identify whether medical, dental, or extended health care benefits are available through your employment or that of the other party.

## Family dynamics

Include the following details if you are applying for or responding to an application for a restraining order, custody, access, and/or guardianship (if the other party is opposing your application), and if they are relevant to a spousal support application:

- Describe how you and the other party communicate; give recent examples, particularly if there are problems (for example, can you discuss matters calmly or is there a lot of hostility and intimidation in your communications?)
- Is there family violence? If so, describe it as specifically as possible. (For example, is there physical abuse, verbal abuse, emotional abuse, controlling behaviour, threats, or intimidation? If so, describe them and outline specific recent and most current incidents.)
- If anyone has been injured by the family violence, describe the injuries and attach doctor's notes, if any.
- Focus on the most recent incidents (as close in time as possible to the court application) and any particularly significant past event.
- Get and attach copies of police reports, charges, and peace bonds, if any.
- The level of detail required about violence depends on what you are seeking in court: a restraining order will require the most detailed evidence.
- Describe any exposure your children have had to the violence or abuse.
- Describe any steps taken to help children deal with the abuse.

- If you are afraid of your spouse, say so, and clearly state the reasons for your fear; support those reasons with examples of your spouse's behaviour that cause the fear.
- Describe any drug or alcohol abuse by a parent or new partner that affects the children's safety or care.
- Describe any child abuse (for example, harsh corporal punishment or neglect by one parent or his or her new partner).
- Describe the Ministry of Children and Family Development's involvement with your family, if any.

## Access

Describe the following if you are applying for or responding to an application for access, and they are relevant to your case:

- if either parent works or works shifts that could affect his or her ability to spend time with the children
- how much time the children have spent with each parent since the separation (for example, alternate weekends with each parent, weekdays with applicant)
- any special events/occasions for which you or the other parent particularly want the children, especially if you and the other parent are fighting about this

## Other information

Include the following if you are applying for or responding to an application for custody or access, and they are relevant to your case:

- any religious, spiritual, or cultural values that are important to both parents in your children's upbringing, especially if one parent has taken a lead or there is conflict
- your religious, spiritual, and/or cultural activities before the separation
- any additional languages the children know (for example, if the children speak Chinese as a result of time spent with parent or grandparent)

## Sometimes helpful

Include the following details if you are applying for or responding to an application for custody or access, and they are relevant to your case:

- Affidavits from friends, neighbours, or family members that support your case
- letters of support may be helpful, but are not as good as Affidavits or direct testimony, as the judge/master may or may not give any weight to letters
- photographs of your children with you and with extended family (these are not usually included, but may be helpful.)
- copies of calendars or journals that show time requested and/or spent with each parent