ISO Guide

Form I

Request by Payor to Pay Child Support, Different than the Child Support Guidelines Table Amount

Who should use Form I and this ISO Guide?

Use Form I if you are the person paying child support. If you are the applicant, in most cases you will already have a support order (or written agreement) that you want to change. If you do, you will also fill out Form M and a number of other forms.

You could also be a person paying child support ***without*** a support order or written agreement. You may want the court to decide how much support you should pay, if you do not believe it should be the amount in the child support guidelines tables. You will use Form I and a number of other forms to make your application.

Or, you may be responding to the other person's application to the court for an order that you pay support, or to change the amount of support you pay. You agree to pay support, but feel you should pay an amount different than the one stated in the child support guideline tables.

This ISO Guide is written for a person who already has a support order (or written agreement).

You are the person paying support.
If you started this application you are the applicant or claimant.
If you did not start the application you are the respondent.

The Child Support Guidelines

The Child Support Guidelines are rules for how to calculate the amount of child support. There are federal guidelines, and ones for each of the Canadian provinces and territories*. Many foreign countries also have their own version of the guidelines.

The guidelines look at the average cost of raising a child. They include all the normal expenses a parent will have. The printed guidelines include very detailed lists, or tables, of the amount the parent paying child support should pay. The amount (called the "table amount") is a percentage of the paying parent's income, before taxes. It changes depending on the number of children.

The courts must follow the tables in the child support guidelines*. There are some exceptions. If a child has special expenses, or the table amount would cause a financial hardship for a parent, the court can order a different amount. The federal Department of Justice has more information on the guidelines. You can call 1-888-373-2222, or use the internet address http://canada.justice.gc.ca.

You can also get this information from the Family Law Information Centres. See page 2 of your Introduction and General Information Guide for how to contact them.

You will use Form I if you are asking the court for an order that you pay a ***different*** amount than what's listed in the 'table amount'. You start by checking off whether you are the claimant or the respondent. Then check the box asking the court to make an order. This is your claim.

Your choices

For a person paying support, there are four choices. Each one is the reason why a support amount should be something different than the 'table amount'. Not all of them will apply to you. Please read each section carefully, and make notes on this guide, or on your 'working' copy of Form I. When you have read them all, you can decide which one, or more, apply to you.

1. Undue Hardship Claim

For most Canadians, the 'table amounts' are what the courts use when deciding the amount of support. If, as a payor, you make a claim for undue hardship you

* The Province of Alberta has not formally adopted the Federal Child Support Guidelines for maintenance orders made under provincial legislation. Most Alberta courts follow the guidelines voluntarily, however.

are asking the court to order support *lower* than the 'table amount'.
The court looks at undue hardship claims in two parts. The first is whether the 'table amount' would cause you or the children undue hardship. The second is if your household income would be lower than the recipient's if the 'table amount' is ordered.

The court will look at the standards of living for the households of both parents. 'Household' includes the income of every person who lives with you, and with the recipient. For this kind of claim it's not just your income that is considered by the court.

Example:

Louis is having a hard time making ends meet, and is behind in his support payments. He and his new wife have just had a second baby so his wife is not working. He was laid off his previous job, and his new job doesn't pay as well. He has a long and expensive commute to work. His widowed mother – who is ill – has come to live with the family, and he is supporting her. Louis wants the court to make a new order. He knows his finances have changed since the first order was made, and believes he has a lower household standard of living than his former partner and their child. His former partner has married, and both of them are working.

Louis' application will include a Form M, and other forms. He will fill out the Financial Statement to show the court the income and expenses for everyone in his household. He will check off any of the reasons listed in Form I, and give details or documents. He will also suggest an amount which he thinks is fair, based on his own situation and what he knows about the respondent's finances.

If you make an undue hardship claim the court in the the place where the recipient lives will decide on the undue hardship claim. That court will get a Financial Statement from the recipient, and will compare the household incomes of both of you. The court will decide on the amount of support to be paid.

This ISO Guide cannot give you legal advice on whether to make a claim for undue hardship, or for how much. If you want to make this claim, you may wish to talk to a family law lawyer. The federal government's Department of Justice also has a large booklet, the 'Workbook on Child Support' which can help you. You can get a copy by calling 1-888-373-2222. Be sure to tell them that you and the respondent do not live in the same province.

2. Child over the age of majority

The child support guidelines apply until a child reaches the 'age of majority'. In Alberta, that's at age 18*. If you have a child who is over the age of majority and still counts on you and the recipient for day-to-day support, you can ask the court to make, or change a support order for that child. The court looks at whether the child still counts on the parents for support because of the child's "illness, disability, or other cause". The "other cause" part includes 'reasonable education'.

Example:

Ebrahim and Tarifa had three children. Their eldest daughter, Yusra, is now 20, goes to university full time, and lives in another city in campus housing. She is on a full scholarship, and has her living expenses paid through a registered education savings plan her parents set up. Ebrahim is willing to pay the child support guidelines 'table amount' for the 2 younger children, but would like the support for Yusra to be a small amount, just for extras she might want.

Ebrahim knows a lot about Yusra's financial status. He will fill out a Form L, the Child Status and Financial Form, giving the information he knows. The court will ask Tarifa for a Form L too, and will decide on an amount of support for this child.

If the paying parent is applying to *end* support for a child over the 'age of majority', Form M will be used. This might happen in Ebrahim's case if Yusra finished school and was working.

3. Split Custody

This can be called "split parenting responsibility", or "split custody". What it means is that one or more children live with each parent. When this happens, each parent has a duty to support the child(ren) the other parent has, based on the child support guidelines tables. The parent who pays *more*, (because of fewer children, or a higher income) pays the other parent the difference.

* Although the age of majority is 18, you may need to complete this form to prove dependence of children over the age of 16 if your application is under the Alberta *Domestic Relations Act.*

On your working copy of Form I, you will start by checking the box beside #3. On the lines, describe your custody arrangements. The example may help:

Example:

When Barry and Emily separated they decided that both children would live with Emily. Things have changed, and now the older child has moved to Alberta to live with Barry. Barry is making a claim for a support amount different than the 'table amount'. Barry is the applicant; Emily is the respondent. Barry thinks Emily makes about $28,000 a year. Barry makes $39,000.

In the chart, Barry will write down Emily's income, and will call 1-888-373-2222 to get the 'table amount' for Emily's income, province she lives in, and the number of children she has (one, in this example). He will do the same thing for himself. When he subtracts his amount from Emily's, he will get the claim amount. It's the *difference* between the two 'amount payable' numbers, even when it appears to be a negative number. Barry will write that amount on the blank $_____ section right above the chart.

Note: You can get the child support guidelines tables by calling 1-888-373-222. You need to say where both parents live, and the number of children each parent has. You can also check the internet at http://canada.justice.gc.ca.
If the respondent lives **outside** Canada, use the 'table amount' for Alberta.

You can also get this information from the Family Law Information Centres. See page 2 of your Introduction and General Information Guide for how to contact them.

If you and the respondent each have at least one child, split custody may apply to you. Other parts of Form I may also apply, so keep reading, and make notes of things you need to do in the Worksheet section at the end of this ISO Guide.

4. Shared Custody

"Shared custody" has a special, legal meaning in the child support guidelines. Before you decide whether it applies to you, it is important that you read this section.

For there to be "shared custody" the person paying support must **have the children in his/her care for at least 40 percent of the time over the year**. This isn't all that common when parents live in different 'reciprocating jurisdictions', but here's an example of one case.

Example:

Trina and Robin have one child, Ethan. The parents both live in Lloydminster, but Trina lives in Alberta and Robin lives in Saskatchewan. Trina has regular shift work, and Robin has a small farm. The parents worked out a plan which was good for Ethan, and for them. Ethan spends 6 weeks each summer at the farm and 2.5 days each week with Robin while Trina works. Their calculations looked like this:

** 52 weeks minus 6 weeks in the summer = 46 weeks.*
** 6 weeks x 7 days = 42 days.*
** 46 non-summer weeks x 2.5 days each = 115 days.*
** 42 days + 115 days = 157 days with Robin.*
** 157 days divided by 365 days in the year = 43 % with Robin.*

Robin and Trina have shared custody of Ethan. The parents have not been able to decide on an amount of support, so Robin is asking the court to decide. For shared custody, the child support guidelines tables will not apply automatically. The court will look at:

- the table amount for each parent
- the increased costs of shared custody arrangements, and
- the finances and needs of the child, and of each parent.

As an applicant, you can ask to pay a support amount, and the court will decide whether it is reasonable, or if another amount is fair. In many cases, if shared parenting works it's because the parents have good communication. If the arrangement works – for the parents and the child(ren) – mediation may work for the financial side too.

Form I is part of your evidence. You will check whether you are the claimant/applicant or the respondent and sign in the blank provided at the bottom of the form when you swear your documents.

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The child support guidelines are about what's normal and average for the costs of raising children. For most Canadians they do very well. The four sections in Form I and this ISO Guide show you that an application to pay an amount that is different than the guidelines covers other situations. Not all of them will apply to you. They certainly involve more work for you, the recipient, and the court. But if one or more of these claims is right for you and your family, this is the way to ask the court to look at the reasons your situation is different, and that the child support guidelines rules should not apply to you.

If you decide to make any of these claims, be sure to start with the Worksheet section below. Write down any work you have to do, or documents you need to get. As you finish, check off the 'done' column, and keep the information with your 'good' copy of Form I.

Worksheet

Document / To Do	Done