

Maintenance Enforcement Support Agreement Instructions

Introduction

Attached to these instructions is a form called *Maintenance Enforcement Support Agreement*. This agreement may be used by persons who wish to make an agreement for:

- child support
- spousal support (for married couples), or
- adult interdependent partner support.

The Maintenance Enforcement Program (MEP) can enforce support agreements made by persons who have completed **this** form as long as **all of** these conditions have been met:

- the signed agreement is filed by one of the parties with the Alberta Court of Queen's Bench,
- notice of filing is given to the other party,
- an sworn affidavit (called an *Affidavit of Service*) is filed with the Court of Queen's Bench giving details of how this notice was provided, and
- either party submits to MEP a registration package that includes a copy of the filed *Maintenance Enforcement Support Agreement* and *Affidavit of Service*,

Do NOT use this agreement if:

- You have a signed agreement made under the *Income Support Recovery Act*, the *Parentage and Maintenance Act* or Part 5 of the *Income and Employment Supports Act*, or any court order.
- You have a court order for support
- You are receiving Supports for Independence, Assured Income for the Severely Handicapped or other benefits from the Alberta Ministry of Human Resources and Employment. (In these cases, talk to your case worker.)

Part 1 – How to Complete Your *Maintenance Enforcement Support Agreement*

General Instructions

- Complete all of the sections of the agreement that apply to you. You must complete sections 1, 2, 3 and 13.
- Unless you have already started a court action in which this agreement can be filed, you do not need to complete the "Action No." or "Judicial District of" blanks at the top of the first and last pages. The court clerk will fill these parts in when you file your agreement in the Court of Queen's Bench. Filing will be discussed in Part 3 of these instructions.
- Do not cross off clauses from this agreement. If any section does not apply to your situation, write "N/A" in the space provided.
- Do not add extra clauses to the agreement. If you do, MEP will not enforce it.
- **MEP staff and courthouse staff cannot help you complete this agreement.** You may wish to talk to lawyer or use other help listed in the "List of Resources" section at the end of these instructions.

Number 1 – Parties to the Agreement

Print the full name (i.e., first, middle and last name) of the person who will be receiving money for child, spousal or adult interdependent partner support (the creditor) on the line followed by “the Recipient”.

Print the full name of the person who will be paying money for child, spousal or adult interdependent partner support (the debtor) on the line followed by “the Payor”.

Number 2 – Type of Maintenance to Be Paid

Check off the first box for spousal or partner support.

Check off the second box for child support. Fill in the full names and dates of birth for the children.

Number 3 – Previous Maintenance Enforcement Support Agreements

If this is the first *Maintenance Enforcement Support Agreement* you have made together regarding child, spousal or adult interdependent partner support, check off box ‘a’.

If there is an earlier *Maintenance Enforcement Support Agreement* between the two of you that you wish to replace, check off box ‘b’. Then fill in the requested details of the earlier agreement.

If there is an earlier *Maintenance Enforcement Support Agreement* between the two of you and you want MEP to enforce both the earlier agreement and this new one, check off box ‘c’ and fill in the details of the earlier agreement.

Number 4 – Guideline Income

Fill in both parties’ annual guideline income. Normally, this is the gross annual income from all sources (see line 150 of the tax return).

The Family Law Information Centres provide help on how to decide what amount to use for the guideline incomes. See the “List of Resources” section at the end of these instructions.

Number 5(a) – Amount of Base Child Support

Fill in the amount of base child support to be paid to the Recipient each month (the table amount under the Child Support Guideline).

Number 5(b) – Payment Schedule for Base Child Support

Base child support can be paid once per month or in two equal bi-monthly installments (for example on the 1st and the 15th day of the month). Check off only one of these boxes and fill in all of the necessary details.

Number 6 – Adjustment of Child Support When a Child Becomes Ineligible

The Child Support Guideline table sets out the amount of support to be paid for **all** of the children – not an amount “per child”. This clause allows you to tell MEP what to do when one or more of your children no longer need support.

Fill in the amount of child support you expect MEP to collect if one or more of the children stops being eligible for maintenance in the future. You can use the Federal Child Support Guidelines to set the new support amount, or agree on a different amount.

Number 7(a)(i) – Monthly Additional Expenses Relating to the Child(ren)

If you have agreed that additional expenses (sometimes called special expenses or section 7 expenses) for your children will be paid to the Recipient each month, check off the box next to “Monthly Payments”. Also, set out the total amount of the monthly expense payment, the day of the month on which the payment is to be made and the date on which the first payment is due.

If you need help to calculate the amount that should be paid for these additional expenses, contact the Family Law Information Centre..

Number 7(a)(ii) – Details of the Monthly Additional Expenses

This is the breakdown of the additional expenses. List the expense by the child’s name and the type of expense, and the dollar amount to be paid towards that expense. The total of the expenses in this paragraph should be the same as the amount in number 7(a)(i).

If you have agreed that the payor will pay a specific amount for additional expenses, but you do not want to break it down, you can write “n/a” across number 7(a)(ii)

Number 7(b) – Lump Sum or Annual Additional Expenses

If the additional expenses for your children are to be paid once only (lump sum) or once each year (annual), check off this box. Some examples of additional expenses that might be paid only once, or once each year, are tuition costs, glasses or contact lenses, sports equipment or musical instruments. Note that lump sum or annual expenses can be paid in addition to ongoing monthly expenses.

Fill out the first name of each child for whom lump sum or annual expenses are to be paid. Describe what the lump sum or annual expenses for each child are for and the amount to be paid for each child. If an expense is a one-time lump sum payment, check off this box and fill in the date on which the lump sum payment is to be made. If the expenses are to be paid once each year, check off this box and fill in the date of the annual payment. The expenses for each child must be listed separately.

Number 8 – Termination of Child Support and Expenses

Check off one of the two boxes. If you check off the second box, write in when the child support will end.

If you were not married, you will have to use the second box, and write in when the support will end.

If you are not sure when support should end, you can speak to the Family Law Information Centre or a lawyer.

Number 9(a) – Amount of Monthly Spousal or Adult Interdependent Partner Support

Fill in the *total* amount of spousal or adult interdependent partner support to be paid to the Recipient each month.

Number 9(b) – Payment Schedule for Monthly Spousal or Adult Interdependent Partner Support

Spousal or adult interdependent partner support can be paid once per month or in two equal bi-monthly installments (e.g. on the 1st and 15th of the month). Check off only one of these boxes and fill in the necessary details.

Number 10 – Ending Spousal or Adult Interdependent Partner Support

If you would like spousal or adult interdependent partner support to stop on a specific date, check off box 'a' and fill in the date on which you want the support to stop being paid.

If you would like spousal or adult interdependent partner support to stop for a particular reason instead of on a specific date, check off box 'b' and fill in the reason. (For example, "Spousal support will stop when the Recipient graduates from university.") Please be as clear as possible.

Number 11 – Lump Sum Spousal or Adult Interdependent Partner Support

If spousal or adult interdependent partner support is to be paid in a single lump sum, or if a lump sum is to be paid in addition to an ongoing monthly amount, fill out the amount to be paid and the date on which the payment is to be made.

Number 12 – Enforcement by the Director of Maintenance Enforcement

By signing this agreement, the Recipient and the Payor agree that the agreement is to be registered with MEP for enforcement and that all payments shall be made through MEP.

Number 13 – Date of Agreement

Fill out the date on which the agreement was reached and the city or town where it was made.

Fill in the addresses of both the recipient and the payor.

Part 2 – Signing the Agreement

Make 3 extra photocopies of the agreement.

Arrange for a witness. The witness must be someone other than the recipient and the payor, but the same person can act as a witness for both the parties.

The Recipient and the Payor sign all 4 copies in front of their witness(es) and print their names in the space provided. The witness(es) then sign all 4 copies where indicated, write in the date on which they signed and print their full name in the space provided.

After the agreement is signed, the witness(es) must complete the Affidavit of Execution for the person whom they witnessed sign the agreement. If one witness was used for both the Recipient and the Payor, then that witness will need to complete both Affidavits.

The witness must then see a Commissioner for Oaths for the Province of Alberta, sign the Affidavit and swear an oath (or affirm) that they saw the Recipient or the Payor sign the agreement.

The Family Law Information Centre can commission the Affidavit of Execution for the witness(es). The Family Law Information Centre staff CANNOT act as witness for the agreement.

Part 3 – How to File Your Agreement with the Court

Once your agreement (including the sworn Affidavits of Execution) is completed, you will need to file it with the Alberta Court of Queen's Bench and provide a filed copy to the other party. Only one party needs to file the agreement with the court and either the Recipient or the Payor can do this.

First complete the last page of the agreement (page 6 of 6) with your name, address for service, phone number and fax number if applicable.

If you already have a Queen's Bench action number from a court action you have started (such as a divorce action), fill in the action number and judicial district on this last page and in the upper right hand corner of the first page of the agreement.

Take the 4 original signed copies of your agreement to the clerk at the Queen's Bench counter. The clerk will stamp all of the documents and keep one original for the court's files. The remaining 3 original signed copies will be returned to you.

There is no fee for filing your agreement with the court.

Make one photocopy of the filed Agreement.

Part 4 – How to Serve Notice That the Agreement Has Been Filed with the Court

The *Maintenance Enforcement Act* states that the party who filed the agreement with Queen's Bench to serve notice of this filing on the other party. This notice can be a letter stating that the agreement has been filed, along with a filed copy of the agreement. A blank Notice of Filing form letter is attached to these instructions. Complete the letter and make one copy.

The letter and a filed copy of the agreement (with original signatures) must be served on the other party. These can be served by being:

- hand-delivered to the other party, or
- sent to the other party by ordinary mail, registered mail, priority mail or courier to the address that the party listed in number 13 of the agreement.

The documents may be served on the other party by you, by a friend, or by a process server. Process servers are listed in the yellow pages of the phone book.

Part 5 – Completing and Filing the Affidavit of Service

The person who serves the letter and agreement must complete an Affidavit of Service to explain how the other party was served.

A blank Affidavit of Service form is attached to these instructions for your use. Fill in the blanks as instructed on the form, including the back page.

Attach the photocopy of the filed agreement just before the back page and mark it as Exhibit 'A'.

Make 1 copy of the Affidavit of Service, including the agreement attached as Exhibit "A"

Take the sworn Affidavit of Service and the copy to the courthouse for filing. Give them to the clerk at the Queen's Bench counter, who keep the original Affidavit of Service for the court's files. The remaining copy will be stamped "filed" and returned to you.

Part 6 – Registering Your Agreement with MEP

Complete the registration package (which you can obtain from MEP or from the Family Law Information Centre).

Send the following to MEP:

- The completed MEP registration package
- A filed copy of the agreement (with original signatures)
- A filed copy of the Affidavit of Service

Please make sure that your Affidavit of Service and agreement are included with your registration documents; sending them separately may delay registration and enforcement of your agreement.

MEP will then register the file, provide registration notices to both parties and enforce the *Maintenance Enforcement Support Agreement*.

Maintenance Enforcement Support Agreement

Frequently Asked Questions

Why must I use this form and not another one?

The *Maintenance Enforcement Act* allows MEP to enforce Alberta maintenance agreements as long as they meet the requirements of the *Maintenance Enforcement Regulation*. This standardized agreement form was created for the benefit of MEP's clients. By using this form, clients make sure that the maintenance clauses are clear and that MEP will be able to assist them in enforcement.

Do I need a lawyer to help me complete this agreement?

You do not have to have a lawyer complete your agreement. However, you may wish to see a lawyer for advice to make sure that your rights and the rights of your children are fully protected. Or, if you do not think you can complete the agreement on your own, you can hire a lawyer to do it for you.

Can the staff at the MEP office or the court house help me complete a maintenance agreement?

MEP and court staff cannot help you complete the agreement. If your income is low, you may be able to get some help from the Child Support Services division of Human Resources and Employment.

Court staff cannot witness your agreement but can act as a Commissioner for Oaths.

What does the term "base child support" mean?

Base child support is the monthly amount of child support to be paid to the Recipient that does not include any monthly, annual or lump sum payments for special or extraordinary expenses (such as daycare or medical costs). This amount is usually the table amount as set by the Child Support Guidelines.

The total child support amount includes the base amount *plus* any amount for special or extraordinary expenses. You can get more information on the Child Support Guidelines from the Family Law Information Centre.

Can we change our court order by completing this form?

No. Only a court order can change (vary) another court order.

I have an agreement under the old *Parentage and Maintenance Act*. How do I change it?

You cannot use this form to change an agreement made under the *Parentage and Maintenance Act*. If the two of you agree on a new amount, you can enter into a Consent Order. The Family Law Information Centre has information that will help you prepare a consent order. Or, if you were on public assistance at the time the old agreement was signed, you can get help to do a different kind of agreement from Human Resources and Employment's Child Support Services office.

We want to change our *Maintenance Enforcement Support Agreement*. How do we do this?

There are two ways to change your agreement. The first is by signing and registering a new agreement with MEP. The new agreement must indicate that it is replacing or supplementing the earlier agreement. It is best if the new agreement replaces the earlier agreement rather than supplementing it – that way there is no confusion as to which agreement to follow.

The second way to change an agreement is by going to court and getting an order dealing with the issues of child, spousal and/or adult interdependent partner support. The Family Law Information Centre has information that can help you go to court.

Maintenance Enforcement Support Agreement

List of Resources

Parties using the *Maintenance Enforcement Support Agreement* may find the following resources to be helpful:

Help with negotiating the amount of support:

Family Justice Services – Family Mediation

- Edmonton: (780)427-8329
- Calgary: (403)297-6981
- Outside Edmonton and Calgary: (403) 340-7187

In some cases, the **Child Support Resolution Project** (in Edmonton) or the **Dispute Resolution Project** in Calgary may be able to help you to negotiate the amount of support. For more information on whether you qualify to participate in this project, call (780) 427-1907 in Edmonton or (403) 297-3875 in Calgary.

You may want to consult a lawyer for advice, or find general information on issues of support. To contact a lawyer, you may call:

- **Lawyer Referral Service:** 1-800-661-1095 (will provide the names of 3 lawyers who will speak to you for ½ hour without charge)
- **Alberta Law Line:** 1-866-845-3425 (legal advice on the phone for low income callers)
- **Calgary Legal Guidance:** (403)234-9266 (free evening appointment with a volunteer lawyer – Calgary only)

Federal Child Support Guidelines:

Information on the *Federal Child Support Guidelines* and calculating guideline income can be obtained by consulting with a lawyer, or through any of the following sources:

- the **Family Law Information Centres**

Edmonton:

Main Floor, Law Courts Building
1A Sir Winston Churchill Square
Phone: (780) 415-0404

Calgary:

604 J. J. Bowlen Building
620 – 7 Avenue S.W.
Phone: (403) 297-6600

From elsewhere in the province, phone 310-0000 then the number
Or see the website at www.albertacourts.ab.ca/familylaw

- the federal government's **Family Law Information Line** at 1-888-373-2222 and its web site at www.canada.justice.gc.ca/en/ps/sup
- the **Parenting After Separation** seminar offered by the provincial government at no charge. To enroll, call (780) 413-9805 in Edmonton or (403) 440-3833 in Calgary. If you live elsewhere in Alberta you can call toll-free by dialing 310-0000 (403) 340-7187.

Help to complete the agreement (for low income parties only)

- **Human Resources and Employment – Child Support Services**
Phone 310-0000 and ask for the office nearest you.

Commissioners for Oaths:

A Commissioner for Oaths is a person, such as a lawyer, a municipal or government official or someone who is authorized by the province to administer oaths.

Commissioners are available at MEP's Edmonton office and at all courthouses to assist clients in commissioning your documents. Some law firms, realtors and registry agents also offer commissioning services at little or no cost.

Registering with the Maintenance Enforcement Program:

For information on registration with MEP and to obtain a registration package, you may access MEP's web site at www.gov.ab.ca/just/mep. You may also order a package through the fax-on-demand option of MEP's automated telephone system, the *MEP Info Line*: phone (780) 422-5555 in Edmonton (dial 310-0000 for toll-free access anywhere in Alberta), press "8" for General Info and Forms and "4" for fax-on-demand. The catalogue number for a creditor registration package is 99017; the catalogue number for a debtor registration package is 99018.

Or, you can pick up a registration package at the MEP office or the Family Law Information Centre.

The completed registration package should be sent to:

Maintenance Enforcement Program
7th Floor, J. E. Brownlee Building
10365 – 97 Street
Edmonton, AB
T5J 3W7