

Preparing an Application for Garnishment, Summons or Warrant

Form 30

Provincial Court Family Rules

Complete this form if you need a garnishing order, summons or warrant to enforce an order about child support or spousal support.

Sometimes a debtor (person under a support order that must pay support) does not make payments, pays late or does not always make payments in full. Collecting support is not the court's responsibility, it's yours. To collect on support owing, you can:

- enroll with the [Family Maintenance Enforcement Program](#) (FMEP) to enforce the order for you
- take enforcement action through the court on your own or with a lawyer using the *Family Maintenance Enforcement Act*

The [Family Maintenance Enforcement Program](#) is a free BC government service that will monitor support payments as they are made (or not made), calculate interest on unpaid support and enforce the support orders that are registered with the program. The *Family Maintenance Enforcement Act* also gives the FMEP power to take steps outside court to enforce payment of support orders.

If you need to enforce a child support or spousal support order, you may want to contact them first to see if they can help. Visit their website at www.fmep.gov.bc.ca or contact them by telephone at 1-800-663-3455.

In most cases, it is up to each person to let the court know that they believe the other party is not following the support order and what enforcement action they want to take. You may want to talk to a lawyer or family justice counsellor to help you understand your enforcement options, and if there might be another way to solve the problem.

The enforcement options that are available include:

- **Garnishing wages or bank accounts**

Garnishment is a way of getting money that is owed to someone before they get it. Most often, people garnish wages or bank accounts. There are rules about the amount of money you can collect with a garnishing order.

- **Summons**

A summons is used to require someone to come to court to explain (show cause) why the order should not be enforced. The person can be summoned to:

- a hearing where an order may be made to pay support including unpaid support that is still owed including how the support will be paid or to provide information, including financial information (for example a statement of income & expenses or statement of finances);
- a default hearing where the court may make any of the orders above AND if the person does not attend the default hearing, the court can make an order in their absence or issue a warrant for the person's arrest; or
- a committal hearing where the court reviews the circumstances and an order may be made for the debtor to go to jail.

- **Warrant of execution for seizure and sale of the debtor's belongings**

A warrant of execution allows a bailiff to take the debtor's personal belongings and sell them at a public auction.

- **Warrant for arrest**

A warrant for arrest can be issued to authorize the police or RCMP to arrest a person to bring them before the court to explain (show cause) why the order should not be enforced.

You will need to provide evidence about the support payments not being made, being made late, or not being made in full. It is up to you to prove that the amount of support is owing. It will then be up to the payor to give evidence about their ability to pay the amount.

Other orders under the Family Maintenance Enforcement Act

To apply for other orders under the Family Maintenance Enforcement Act, use the [Application for Order Under the Family Maintenance Enforcement Act Form 35](#).

Enforcing a written agreement or court order from another jurisdiction

A written agreement, or court order from another jurisdiction, about child support or spousal support that is filed in Provincial Court is enforceable under the *Family Law Act* and the *Family Maintenance Enforcement Act* as if it were an order of the Provincial Court.

- To file a written agreement for enforcement in Provincial Court, use the [Request to File an Agreement Form 26](#)
- To file an order from the BC Supreme Court for enforcement in Provincial Court use the [Request to File an Order Form 28](#)
- To register a support order from another Canadian province or territory (extraprovincial) or foreign jurisdiction under the *Interjurisdictional Support Orders Act* for enforcement in the BC Provincial Court, contact the designated authority:

Interjurisdictional Support Services

www.isoforms.bc.ca

Vancouver Main Office Boxes

P.O. Box 2074

Vancouver, BC V6B 3S3

Phone: 604-660-2528

Toll-free: 1-866-660-2684

Legal Assistance

Understanding the law and making sure you get correct information is important. If you get the wrong information or do not know how the law applies to your situation, it can be harder to resolve your case. Getting advice from a lawyer can help.

Lawyers – To find a lawyer or to have a free consultation with a lawyer for up to 30 minutes, contact the [Lawyer Referral Service](#) at 1-800-663-1919

Legal Aid, Duty Counsel and Family Advice Lawyers – To find out if you qualify for free legal advice or representation, contact Legal Aid BC at 1-866-577-2525

Legal Services and Resources – Visit [Clicklaw](#) at www.clicklaw.bc.ca/helpmap to find other free and low-cost legal services in your community

Step 1: Complete the Application for Garnishment, Summons or Warrant form ☐

This form is available online at www.gov.bc.ca/court-forms or at any [Provincial Court Registry](#).

You can complete the form online and print it for filing. You can also complete it by hand. If you complete it by hand, be sure it's readable. Registry staff and staff at any [Justice Access Centre](#) or [Family Justice Centre](#) can help answer questions about the forms but they cannot help complete your forms or give advice about legal problems. If you need help filling in the forms and do not have a lawyer, ask the court registry staff or staff at the Justice Access Centre or Family Justice Centre to refer you to someone who can help. Follow the instructions in the form and include all the information that is asked for.

To prepare the form for filing:

- prepare any supporting documents as set out in the instructions
- print or make copies of all documents: one set for you, one set for the Court, and one set for each other party
- staple each package of documents together
- bring all copies to the court registry for filing **or** send by mail or by fax filing using the [Fax Filing Cover Page Form 52](#)

Step 2: File the Application for Garnishment, Summons or Warrant form at the Provincial Court Registry ☐

You must file at the [Provincial Court Registry](#) where the existing Provincial Court case with the same parties is filed.

The registry clerk will review your package to make sure it is complete before filing it. You will be given a copy for your records.

There are no fees for filing Provincial Court family documents.

Step 3: Next steps ☐

Depending on the enforcement option you have chosen and what the court has issued to you, there may be some next steps you need to take or there may be next steps for a sheriff, bailiff, police or RCMP to take.

If you were issued a garnishing order:

You must serve the documents on the garnishee (whoever you are asking to pay the money for example the employer or bank) and the debtor either by serving them by personal service or by registered mail, unless you have made a request to the court to allow some other method of service.

The person serving the documents must complete a [Certificate of Service Form 7](#) so that you can prove personal service of the garnishing order took place. The Certificate of Service can be filed with the court registry.

If the garnishing order results in money being paid into the court, the money will be paid out to you unless the debtor or the garnishee has filed a dispute within 10 days of being served with the garnishing order. If this happens, you will receive notice from the court.

If you were issued a summons:

You are usually responsible for having the summons, application and any other supporting documents served by personal service on the debtor or other person named in the summons (sometimes the attachee).

Personal service requires that an adult (at least 19 years old) hand-deliver the documents to the person to be served. A party cannot personally serve a document on another party.

If you want to have a clerk arrange for the documents to be served by a peace officer, complete a Request for Service of Documents by Peace Officer form and file it along with your application.

The person serving the documents must complete an [Affidavit of Personal Service Form 48](#) so that you can prove personal service of the summons took place.

If you were issued a warrant of execution for seizure and sale of the debtor's belongings:

Provide a copy of the warrant of execution to the bailiff and pay the bailiff any required deposit. The bailiff will give the debtor a copy of the warrant.

Contact information for bailiffs can be found on the [BC Government website](#).
<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/bailiffs>

Unless the debtor pays the bailiff the amount owing to you and the bailiff's fee, the bailiff will seize goods and sell them. The proceeds of the sale will be used to cover the bailiff's fee and the amount owing to you and any balance will be returned to the debtor.

If you were issued a warrant for arrest:

A warrant for arrest is given to the police or RCMP. When the person is arrested, you will receive notice of a court date.

Tips for Completing the Form:

Registry location and court file number –

Copy this information from the top right corner of the Notice to Resolve a Family Law Matter or other document filed with the court.

Information about the parties –

Party names: Copy your full name and the full name of each other party from the first document filed in your case with the court.

Contact information: The court needs to know where to send documents to you and the other party and how to reach each of you. If your contact information and/or address for service has changed, you can give updated information here. If this is the first document you are filing, see the instructions for the Application About a Family Law Matter for more information about how to complete this section.

You only need to fill in the contact information you know about the other party. You may leave any part of the contact information blank.

Existing court order or written agreement –

You can enforce an order or written agreement requiring a person to pay support including unpaid support (arrears) or that requires a person to do something related to enforcing the payment of support.

What order or written agreement does your request relate to?

Provide the date the order or written agreement was made and select the correct option(s) from the list provided.

Attach a copy of court order or filed agreement –

Attach a copy of the court order or filed written agreement this application is about to your completed form.

Details of the request –

You need to tell the court what enforcement option you are requesting.

You will need to file an affidavit setting out your evidence about the support payments not being made, being made late, or not being made in full and any other evidence you may choose to submit. Depending on the enforcement option you are requesting, you may use a Statement of Arrears under the *Family Maintenance Enforcement Act*, an Affidavit in Support of a Garnishing Order under the *Court Order Enforcement Act* or an Affidavit – General Form 45 under the Provincial Court Family Rules.

Summons or warrant for arrest: If you are requesting a summons or a warrant for arrest, the registry staff will set a court date and draft the document. You are usually responsible for having the summons, application and any other supporting documents personally served on the debtor. If you want to have a clerk arrange for the documents to be served personally by a peace officer, COMPLETE a Request for Service of Documents by Peace Officer form and file it along with this form.

A warrant for arrest is given to the police or RCMP. When the person is arrested, you will receive notice of a court date.

Garnishing order: If you are requesting a garnishing order, you must COMPLETE a Garnishing Order and an Affidavit in Support of Garnishing Order. (Note: If the debtor is a federal government employee the procedures are a bit different and you must complete additional forms. Ask the registry staff for more information.)

Warrant of execution: If you are requesting a warrant of execution, you must COMPLETE a Warrant of Execution.

You will be required to pay a deposit to the bailiff. If the bailiff can recover enough money from the sale of the goods, you will get back the deposit. Contact the bailiff to get more information about a warrant of execution and any fees you may need to pay.

Contact information for bailiffs can be found on the [BC Government website](https://www2.gov.bc.ca/gov/content/justice/courthouse-services/bailiffs).

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/bailiffs>

If you are not sure about what enforcement options are best for you, talk to a lawyer or enroll with the Family Maintenance Enforcement Program.

Application for Garnishment, Summons or Warrant

Family Maintenance Enforcement Act

Form 30

Provincial Court Family Rules

Rule 140

Registry Location:

Court File Number:

FMEP Number:

1. My name is _____ . My date of birth is _____ .
(full name of party) (mmm/dd/yyyy)

My contact information and address for service of court documents are:

Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

2. The other party is _____ . Their date of birth is _____ .
(name of other party) (mmm/dd/yyyy or unknown)

Their contact information, as I know it, is:

Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

Additional party/attachee (complete only if applicable)

Full Name:	Date of Birth:	
(mmm/dd/yyyy)		
Contact Information		
Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

3. An order or filed written agreement between the parties was made on _____ requiring:
(mmm/dd/yyyy)

Select all applicable options

- ☐ the debtor to pay support
- ☐ the attachee (person required to pay) to comply with the attachment order/notice of attachment
- ☐ the debtor to pay arrears
- ☐ the debtor to report by filing a statement of income and expenses
- ☐ the debtor to provide particulars of each change of residential address, place of employment or business address
- ☐ the debtor to provide a statement of finances or other prescribed document

4. ☐ A copy of the order or filed written agreement is attached

5. In connection with this order, I request:

Select each option that applies and include the required supporting document(s) with your request

- ☐ a summons requiring the debtor to attend court to show cause why the order should not be enforced
- ☐ a warrant for arrest authorizing the apprehension of the debtor to bring the debtor before the court to show cause why the order should not be enforced
- ☐ a garnishing order
 - ☐ a completed Garnishing Order is attached
- ☐ a summons to a default hearing
- ☐ a summons to a committal hearing
- ☐ a warrant of execution
 - ☐ a completed Warrant of Execution is attached
- ☐ a warrant for the arrest of a debtor if there are reasonable and probable grounds for believing that a debtor is about to leave British Columbia in order to evade or hinder the enforcement of a support order

For use by Family Maintenance Enforcement Program staff only

☐ This application is being made and/or filed on behalf of the party by the Family Maintenance Enforcement Program

Notes: