

Preparing an Application for Order Under the *Family Maintenance Enforcement Act*

Form 35

Provincial Court Family Rules

Complete this form if you need an order under the *Family Maintenance Enforcement Act* about the enforcement of an order about child support or spousal support. It is usually used once enforcement actions have already been started and may be used to challenge enforcement actions taken outside the court by the Family Maintenance Enforcement Program.

The form provides options depending on the circumstances of the case and enforcement action taken.

In most cases, your first step is to contact the [Family Maintenance Enforcement Program](#) (FMEP) to explain your circumstances, to explore enforcement options and to work with them to provide any financial or other documents they may request.

The *Family Maintenance Enforcement Act* may require that you first contact FMEP before taking any action in court. If you are required to do this, and you have not done it, the Court will likely not be able to help. It is always a good idea to contact your FMEP enforcement officer before going to court because you may be able to reach an agreement without having to go to court.

If you can't reach an agreement with FMEP, then you can apply to challenge certain FMEP enforcement actions by filing and serving this form.

Remember that a challenge of an enforcement action does not mean that the support order will be changed. If you want your order changed, you must also file the [Application About a Family Law Matter Form 3](#). If you are in an early resolution registry, you will start the process for changing your order about support by filing a [Notice to Resolve a Family Law Matter Form 1](#).

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 Order Under the *Family Maintenance Enforcement Act* 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:

- print or make copies of the completed form: one set for you, one set for the Court, and one set for each other party including a copy for FMEP if the creditor is enrolled with them
- 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 Order Under the *Family Maintenance Enforcement Act* 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: Serve the Application for Order Under the *Family Maintenance Enforcement Act* on each other party

Service is the act of giving or leaving documents with the required person. It is important that each other party know that a case is going on, are aware of what step is being taken, and are given a chance to tell their side of the story to the court.

You must also serve the Director of Maintenance Enforcement if the creditor is enrolled with the Family Maintenance Enforcement Program.

If you are the debtor's employer, and you are applying to terminate a notice of attachment, both parties and the Director of Maintenance Enforcement must be served.

You must serve each other party and any other person affected by the order with at least 7 days' notice of the date and time of the court appearance, unless the court has ordered something else. This means there must be at least 7 days between the date the application document is served on the other party and the date of the court appearance.

An Application for Order under the *Family Maintenance Enforcement Act* must be served to the address of service of each party in any of the following ways:

- by leaving the documents at the party's address for service
- by mailing the documents by ordinary mail to the party's address for service
- by mailing the documents by registered mail to the party's address for service
- if the party's address for service includes an email address, by emailing the documents to that email address
- if the party's address for service includes a fax number, by faxing the documents to that fax number

A party's address for service is the address they have provided to the court. If a party does not have an address for service, the application must be served by personal service.

Personal service requires that an adult (at least 19 years old) who is not a party hand-deliver the documents to the party to be served.

The Director of Maintenance Enforcement can be served by mailing the documents to the postal address provided by the director. Contact FMEP to find out how best to serve them.

The court may need proof you had the documents served. The person serving the documents must complete a [Certificate of Service Form 7](#) so that you can prove service of the documents. You must attach a copy of the documents to the Certificate of Service. Remember to make a copy before the documents are served.

Step 4: Attend the Court Appearance

A judge can make decisions based only on the information presented by the parties as evidence. Your evidence includes your application, any additional affidavit, and spoken evidence provided in court.

If you can't attend court using the method of attendance set out in your application for the court appearance, you can request the court's permission to attend using a different method of attendance by filing an Application for Case Management Order without Notice or Attendance Form 11.

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. If this is the first document in your case, copy the names from the written agreement, court order or determination you are making an application to enforce.

Who to give notice to: It is important that each other party know that you are making this application to the court and are given a chance to talk to the court.

You must also give notice to the Director of Maintenance Enforcement if the creditor is enrolled with FMEP. To give notice, you must serve a copy of this application on each other party and the Director of Maintenance Enforcement if applicable.

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.

Scheduling –

The registry will work with you to schedule a date for the court appearance and will fill in the actual date and method of attendance on the form. Be prepared to talk about your availability if there are options for dates.

Application for Order Under the Family Maintenance Enforcement Act

Form 35

Provincial Court Family Rules

Rule 142

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 is:

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

2. I understand I must give notice of this application to each other party. To give notice, they must be served with the application and supporting documents at least 7 days before the date set for the hearing unless the court allows the application to be made without notice or with less than 7 days' notice.

3. The other party is _____ . Their date of birth is _____ .
(full name of 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/person (Complete only if applicable.)

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

For registry use only

This application will be made to the court at _____ on _____
(court registry, street address, city) (date)
 at _____ a.m./p.m.
(time)

You must attend the court appearance _____ , unless otherwise permitted by the court. See attached for details.
(method of attendance):

Note to the other party/person:

If you do not attend court on the date and time above, the court may make an order in your absence. You may also choose to file a written response in reply to the application in Form 19 Written Response to Application.

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:

Order –

You can apply for one or more orders under the *Family Maintenance Enforcement Act* using this form. Select each option that you would like to make an application for.



Attach a copy of court order or filed agreement –

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



The facts –

What are the facts that support what you are asking the court to order?

Give a summary of the facts including why you are making this application and why you need the court to make the order.

You do not need to use any special wording. The key is to be clear about what you mean and what you are asking the court to order.

A judge can make decisions based only on the information presented by the parties as evidence. Evidence is presented in writing in an affidavit or as spoken evidence provided in court.

If you choose to, you can prepare an [Affidavit – General Form 45](#). If you do not wish to prepare an affidavit, be prepared to give evidence in court.



ABOUT THE ORDER

4. I am applying for the following order(s):

Select all options that apply

- requiring the other party/person to provide to the director correspondence and/or searchable information
- extending the time for filing a statement of finances with the court
- requiring the debtor to file a statement of finances or other documents
- requiring the debtor to pay an amount on failing to file a statement of finances or prescribed documents
- providing that a corporation is jointly and separately liable with the debtor for payments required by the support order
- requiring payment by an attachee who failed to pay in accordance with a notice of attachment or to respond in accordance with the regulations
- providing that a notice of attachment has no effect because the attachee is no longer liable or that the notice of attachment contains or is based on a material error
- changing an order made at a default hearing
- suspending, changing or cancelling an order to imprison a debtor that was made in the debtor's absence
- changing the amount exempt from attachment under an attachment order or notice of attachment
- setting aside an attachment order made under section 24 of the *Family Maintenance Enforcement Act*
- discharging or postponing the registration of a support order registered against land
- requiring that the Director of Maintenance Enforcement direct the Insurance Corporation of British Columbia to disregard a notice not to issue or renew the driver's licence of a debtor, or a notice not to issue or renew the licence and corresponding number plates for any motor vehicle or trailer owned by a debtor
- requiring security in any form from the debtor
- requiring an individual or authorized representative of a corporation, partnership or proprietorship to attend a default hearing or committal hearing and to file financial information
- restraining a person under section 46 of the *Family Maintenance Enforcement Act*
- requiring a restrained person to enter into a recognizance and to report to the court, or a person named by the court

5. I am attaching a copy of the order, written agreement or determination this application is about

6. *Select only one of the options below and complete the required information*

- I am filing an affidavit in support of this application
- The facts on which this application is based are as follows:

Give the facts you want the court to consider. Include why you are making this application and why you need the court to make the order. Be prepared to provide evidence at your court appearance.