Preparing an Application About Enforcement

Form 29
Provincial Court Family Rules

Complete this form if you need an order about enforcement or you want to set aside the registration of a foreign order.

Sometimes parents or guardians don't follow written agreements, court orders or a determination of a parenting coordinator. If this happens, you can make an application to the court to help enforce the agreement, order or determination, and that the court impose consequences on the person who isn't following the agreement, order or determination.

A written agreement, court order from another jurisdiction or determination that is filed in Provincial Court under the *Family Law Act* is enforceable under the Act as if it were an order of the Provincial Court.

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

If you received notice of registration of a foreign order from the BC Provincial Court and you want to apply to set aside the registration, you must complete this application and file it within 30 days after receiving notice of the registration.

To enforce a written agreement, court order or a determination of a parenting coordinator, you must file the written agreement, court order or determination using the appropriate form below:

- To file a written agreement for enforcement in Provincial Court, use the Request to File an Agreement Form 26
- To file a determination for enforcement in Provincial Court, use the Request to File a Determination of Parenting Coordinator Form 27
- To file an order from the BC Supreme Court for enforcement in Provincial Court, use the Request to File an Order Form 28
- To apply to the Provincial Court to recognize an extraprovincial order (other than an order about support) for enforcement under the *Family Law Act* in Provincial Court, use the Application for Case Management Order Without Notice or Attendance Form 11
- To register a support order from an 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

Enforcing orders for child support and spousal support

Individuals can enforce child support and spousal support agreements or court orders on their own using the *Family Maintenance Enforcement Act*.

Also, 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.

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.

Step 1: Complete the Application About Enforcement 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 filing 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
- 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 About Enforcement 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
- nearest to where the child lives most of the time, if the case involves a child-related issue, or
- nearest to where you live, if the case does not involve a child-related issue

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 About Enforcement on each other party ☐

Service is the act of giving or leaving documents with the required person. It is important that each other party, and every other person who may be directly affected by the case management order, 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 serve each other party 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 and time of the court appearance.

An Application About Enforcement must be served to the address of service of each other 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 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 affidavits, and spoken evidence provided in court.

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.

If you don't have an existing court file, registry staff will give your case a file number when you file this document.

Information about the parties –

Party name: Copy your full name and the full name(s) 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.

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 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

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.

To give notice, you must serve a copy of this application on each other party.

If you are applying to set aside the registration of a foreign order, you must give notice to the designated authority who will notify the other party of your application.

Scheduling –
The registry will work with you to schedule a date for the court appearance and will fill in the actual date on the form.

Be prepared to talk about your availability if there are options for dates.

Application About Enforcement

Form 29
Provincial Court Family Rules
Rules 135 and 136

Registry Location:
Court File Number:

1. My name is _____ (full name of party). My date of birth is _____ (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. *Select whichever option is correct*

- ☐ This application is about enforcement under Rule 135. 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 court appearance unless the court allows the application to be made without notice or with less than 7 days' notice.
- ☐ This application is to set aside the registration of a foreign support order under the *Interjurisdictional Support Orders Act*. I understand I must give notice of this application to the designated authority. To give notice, the designated authority must be served with the application and supporting documents by registered mail at least 30 days before the application is to be heard by the court.

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

Their contact information, as I know it, is:

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

Additional party (complete only if applicable)

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

For registry use only

This application will be made to the court at _____ (court registry, street address, city)

on _____ (date) **at** _____ (time) **am/pm.**

NOTICE TO THE OTHER PARTY: If you do not attend court on the date and time scheduled for the court appearance, the court may make an order in your absence.

Order –
You can apply for one or more orders about enforcement using this form. Select each option that you would like to make an application for and fill in the blanks.

Existing written agreement, court order or determination –
Attach a copy of the written agreement, court order or determination you are making an application to enforce.

The court needs a copy to be able to see just what it is the other party was supposed to do or not do.

Details of the Order –
You need to tell the court and the other party what order you want the court to make. You don't need to use any specific wording. The key is to be clear about what you mean and what you are asking the court to order.

If you are not sure about what enforcement options are available to you, you may want to talk to a lawyer or family justice counsellor, or check out the following resources:

- the *Family Law Act*
  - section 61[*denial of parenting time or contact*]
  - section 63 [*failure to exercise parenting time or contact*]
  - section 228 [*enforcing orders respecting conduct*]
  - section 230 [*enforcing orders generally*]
  - section 231 *[extraordinary remedies]*
- Legal Aid BC's family website at familylaw.lss.bc.ca
- Clicklaw's website at www.clicklaw.bc.ca

ABOUT THE ORDER

4. I am applying for an order:

Select all options that apply

- ☐ to enforce the order or filed written agreement made on _____ (mmm/dd/yyyy)
- ☐ to enforce, change or set aside the filed determination of a parenting coordinator dated _____ (mmm/dd/yyyy)
- ☐ to have reasonable and necessarily incurred expenses set under the following sections of the *Family Law Act*:
  - ☐ section 61 *[denial of parenting time or contact]*
  - ☐ section 63 *[failure to exercise parenting time or contact]*
  - ☐ section 212 *[orders respecting disclosure]*
  - ☐ section 213 *[enforcing orders respecting disclosure]*
  - ☐ section 228 *[enforcing orders respecting conduct]*
  - ☐ section 230 *[enforcing orders generally]*
- ☐ to determine whether arrears are owing under the support order or agreement dated _____ (mmm/dd/yyyy) made under the *Family Law Act*, and if so, the amount of arrears (unpaid support)
- ☐ to set aside the registration of a foreign order under section 19(3) of the *Interjurisdictional Support Orders Act*

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

6. The details of the order I am applying for are as follows:

Tell the court and the other party the specifics of the order you are applying for. Include how you want to see the order or agreement enforced or the remedy you are applying for.

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.

If you are applying to set aside the registration of a foreign order under the *Interjurisdiction Support Orders Act*, the British Columbia court may set aside the registration if it determines under section 19 of the Act that:

- a party to the foreign order did not have proper notice or a reasonable opportunity to be heard in the proceeding in which the foreign order was made,
- the foreign order is contrary to the public policy of British Columbia, or
- the court or administrative body that made the foreign order did not have the jurisdiction to make the order.

Please include the reason why you believe the court should set aside the registration of the foreign order and the facts that support it.

7. The facts on which this application is based are as follows:

Provide the facts you want the court to consider. Include how the other party has failed to follow the order or agreement, if applicable, and why the court should make the order you are applying for.