

# Preparing an Affidavit - General

## Form 45

### Provincial Court Family Rules

#### **Complete this form to prepare an affidavit to support an application in Provincial Court.**

An affidavit is used to present evidence to the court. It is a written document that contains facts that you must swear under oath (usually on a Bible or other religious book) or affirm (non-religious promise) to be true. After you swear or affirm the affidavit, it is evidence of the facts and events it sets out, just as if you took the stand in a courtroom to provide those facts.

An affidavit:

- must be in the first person (from the writer's point of view, using "I");
- must include facts (what you saw, heard, did or said);
- must identify the source of your information if certain facts are not within your personal knowledge;
- must include information that is relevant to the application the court needs to decide (and should not include information that is not); and,
- can have important documents or photographs referenced and attached to it - these are called exhibits.

To swear or affirm an affidavit, you must meet with a commissioner for taking oaths. Lawyers, notary publics and many court registry staff are commissioners for taking oaths. The commissioner will check your photo ID to make sure you are who you say you are, ask you if you understand the contents of your affidavit, then ask you to swear or affirm that the contents are true. The commissioner will then watch you sign the document before signing it themselves.

If you cannot get the document sworn or affirmed before the document is filed, the unsworn document can be filed if you will be available to swear or affirm that the contents of the document are true during your court appearance.

#### **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. A lawyer can tell you what information about your application you should include in your affidavit and help with drafting the affidavit.

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](http://www.clicklaw.bc.ca/helpmap) to find other free and low-cost legal services in your community

#### **Step 1: Complete the Affidavit - General form**

This form is available online at [www.gov.bc.ca/court-forms](http://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.

Follow the instructions provided 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
- 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: If possible, get the affidavit sworn/affirmed and signed with a commissioner for taking affidavits**

The Affidavit must be signed with a commissioner for taking affidavits. They will need to see your photo ID and they will ask you to promise that the information in the application affidavit is true.

Lawyers and notaries are all commissioners for taking affidavits. The court registry also has staff who are commissioners for taking affidavits who can swear or affirm your affidavit for free.

You can go to any [Provincial Court Registry](#) or [Service BC location](#) to swear or affirm the affidavit. If you have the document sworn or affirmed at a different court registry, you will still need to file it at the court registry where the existing case is filed.

If you cannot get the document sworn or affirmed before the document is filed, the unsworn document can be filed if you will be available to swear or affirm that the contents of the document are true during your court appearance.

## **Step 3: Serve the Affidavit – General on each other party**

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 form 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 4: Serve the Affidavit – General on each other party**

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

You must serve each other party with a copy of the filed affidavit.

The affidavit 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 affidavit 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.

# Tips for Completing the Form:

## Registry location and court file number –

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

## Information about the person completing the affidavit –

An affidavit must be in the first person (from the writer's point of view, using "I") and include the name, occupation and address of the person swearing or affirming the affidavit. Provide this information in the field provided on the form.

If you are a party to the case, you can include your address for service. If you do not live at the address for service you can add 'care of' or 'c/o' to show it is not your personal address. The address does not have to be the address where you live but should be clear if that is the case. For example, if you are a child's teacher making the affidavit, you may choose to use the school address instead of your home address.

## Reason for affidavit –

An affidavit should only be filed when there is an application before the court that the affidavit is about. Indicate if you are making the affidavit in support of an application or in response to an application, and the type of application (for example, case management, protection, priority parenting, relocation, enforcement).

## Your story: the facts –

The affidavit must be written in the first person (from the writer's point of view, using "I") and must include facts (what you saw, heard, did or said) and events that are relevant to the application. It is your story.

You do not need to use any special wording. The key is to be clear so that the judge can understand. Use short sentences and organize the affidavit into numbered paragraphs. Each fact or piece of information should be in its own paragraph. The pages of the affidavit also need to be numbered.

If certain facts are not within your personal knowledge, you must identify the source of your information and that you believe the information is true. For example, "On November 29th, 2019, Mrs. Johnson told me Jack was not at school and I believe this to be true."

Exhibits are documents that you attach to your affidavit, usually to support a fact you talk about in the affidavit. For example, if you say that you received an email from your child's teacher, you might want to attach a copy of the email to show that you did receive it. When you attach an exhibit, you must introduce it in your affidavit. To introduce it, you must explain what the document is, reference the document, and say that you are attaching it as an exhibit. Each exhibit is identified with a letter, Exhibit "A", "B", "C" and so on. For example:

8. On December 2nd, 2019, I received an email from Jack's teacher, Mrs. Johnson, about his behaviour in class. The email is attached to this affidavit as Exhibit A.

When you bring your affidavit to be sworn or affirmed, you must also bring all your exhibits. Each exhibit will be marked by the commissioner for taking affidavits using a certificate (usually a stamp) with wording like this: "This is Exhibit [A, B, C...] referred to in the affidavit of [name] sworn (or affirmed) before me on [date] at [location]" and is signed by the commissioner for taking affidavits.

For more information about how to write an affidavit, or what information should be included in an affidavit, refer to the following resources or talk to a lawyer:

- Legal Aid BC – How do you write an affidavit?  
<https://familylaw.lss.bc.ca/bc-legal-system/legal-forms-documents/affidavits/how-do-you-write-affidavit>
- Clicklaw Wikibooks – How do I prepare an affidavit?  
[https://wiki.clicklaw.bc.ca/index.php?title=How\\_Do\\_I\\_Prepare\\_an\\_Affidavit%3F](https://wiki.clicklaw.bc.ca/index.php?title=How_Do_I_Prepare_an_Affidavit%3F)
- Provincial Court of BC – Family Resources – Preparing for a family court trial  
<https://www.provincialcourt.bc.ca/types-of-cases/family-matters/links>

**Do not sign the affidavit until you are with a commissioner for taking affidavits and they tell you to sign it.**

# Affidavit – General

## Form 45

Provincial Court Family Rules  
Rules 171 and 172

Registry Location:
Court File Number:

I, \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_  
(full name) (occupation) (address of party, city, province)

### Swear or affirm that:

**I know or believe the following facts to be true. If these facts are based on information from others, I believe that information to be true.**

- 1. I am making this affidavit in support of an application \_\_\_\_\_  
(briefly describe the type of application)
- in response to an application \_\_\_\_\_  
(briefly describe the type of application)

List the facts that you wish to present to the court. If certain facts are not within your personal knowledge, identify the source of your information. If you refer to documents, attach them to this affidavit and mark them as exhibits.

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Sworn or affirmed before me at \_\_\_\_\_  
(city)

British Columbia on \_\_\_\_\_  
(date)

A commissioner for taking affidavits in British Columbia

\_\_\_\_\_  
(print name or affix stamp of commissioner)

Signature