

Guide

Introduction and General Information

Families face challenges every day. There are communication issues, problems with money, and disagreements about how to raise the kids. When a family splits up, those things don't go away. When one of the partners is in a different province, territory, or country, a whole new set of challenges is created.

The world has become a smaller place. People move, they get different jobs, they go into new relationships. But their families - especially if there are children - continue. And so do the challenges.

For many families one of the hardest parts to deal with is money - family support, or maintenance. That's why the *Interjurisdictional Support Orders Act* exists. The Act gives you a way to ask a court to decide about the financial part of your family relationship, even though the other person is in a "reciprocating jurisdiction." The forms are a new way to organize the information the court needs. The ISO Guides will help you prepare your application.

What's a reciprocating jurisdiction?

If a couple lives in the same province, territory, or country and their relationship ends, one of them can go to the local court and apply for a support (or maintenance) order. The other person will be summoned to court and there will be a hearing. Unless the two people agree, and get a written agreement or consent order, the court will decide how much support will be paid. The court follows the laws of the place where the couple lives.

When the two people live in different places, which laws does the court use? Many years ago one person would have to travel for a court hearing in one place or the other. With 'reciprocity', New Brunswick has agreements with many different places to honour and recognize each other's support laws and orders. They include all the Canadian provinces and territories, all of the United States, and several other foreign countries. This means that a person can start an application in New Brunswick and an order can be

made, or changed, or enforced, where the other person lives. The order is 'good' in both places.

In New Brunswick, and in Canada, most of the reciprocal cases are between Canadian provinces and territories. The Canadian 'reciprocating jurisdictions' have developed standard laws and forms for the whole country.

Will this apply to my case?

Probably. If the other person is in one of the 'reciprocating jurisdictions', you can use the forms. Your application must be about support (maintenance).

If you are applying to change an order made under Canada's *Divorce Act*, this is not the application for you. The *Divorce Act* is a federal law. It has its own rules about making and changing its orders. You may wish to talk to a lawyer if you want to change your *Divorce Act* Order.

Are there other ways of doing this?

Yes, there are. If both of you agree, you can choose to apply to one court, or another. It's as though you both lived in one province, territory, or country. The order could then be 'registered' in the other place. When registered, the order has the same effect as if it is made in both places. This is another thing that 'reciprocating jurisdictions' have agreed to do.

Or, if you both agree, you can write a formal agreement. That, too, can be 'registered' in both places, and will be legal. It's another part of 'reciprocity'.

Or, you can hire a lawyer or have a lawyer in the other person's jurisdiction go to court for you.

Finally, you can consider **mediation**. Usually, mediation happens when both people can sit down together with a mediator. With the two of you in different places, there are some location differences

to work out. But if you and the other person want to come to your own agreement about support, you may be able to make mediation work for you. Even if you can't agree on everything, you may be able to reduce the number of decisions you ask the court to make for you. Free mediation services are available at the Court of Queen's Bench Family Division. Contact your local office for more information or to book an appointment. Or, look up mediation in the yellow pages of the telephone book.

You can also ask friends, a lawyer, a social worker, or a community agency or counselling centre that works with families. If you do not use mediation, the public library, the Internet, and many family-centred groups can give you valuable information on how mediation methods can help you talk with the other person about sensitive issues.

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Isn't there an easier way to do this?

Unfortunately, no. You are asking a court in a different province, territory, or country to make an order for you. To do that the court needs evidence. You are not going to be there, so your documents will speak for you. Putting the documents together is not something you can do in an evening. You must

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decide whether you want to put in the time and effort to give the court what it needs. The New Brunswick Department of Justice has written the ISO Guides to help you. If you have legal questions, you should talk to a lawyer.

Getting started

The first step is to look at the charts below this section. The first one is about the forms you need to make a support application. It lists the types of support, and the forms for each type. You will have two copies of each of the forms you asked for, and one copy of the matching ISO Guide. Mark one copy of each of the forms as your 'working' copy. Put the other copy aside - it is your 'good' copy.

If you are missing any forms, please make another request, or get them from the New Brunswick government website. All Court of Queen's Bench Family Division offices will have the Forms and ISO Guides available. Check the blue pages of your telephone directory under "Courts" and contact the court nearest you. The addresses are listed on page 5.

Below each chart there are examples. They may help you decide if you have the right forms for your application.

FOR SUPPORT

Support Application – if you do not have a support order now	√ If yes	Use Form(s)
I am applying for a support order.		1 and 2
I am asking for support for a child or children under age 19.		5
I am asking for support for 1 or more children age 19 or older, or the other parent and I have split custody of the children, or the other parent and I have shared custody of a child, or I am asking for a different amount than in the child support guidelines tables, or I believe the respondent makes more than \$150,000 per year.		12 7
I am asking for additional child support, to cover special expenses.		8
I am asking that the respondent (the other person) be declared a parent of a child or children.		3
I believe the respondent may say he/she is not the parent of a child or children.		4
I want the court to make an order even if the respondent does not come to court, or give financial information (<i>recommended</i>).		6
I am asking for support for myself.		10 and 11

Examples:

1. Cathi is asking for an order that Ryan pay child support for their child, Emma, who is 7. Cathi is not asking for support for herself and Emma has no 'special expenses' for health, education, or for childcare. Cathi will fill out Forms 1, 2, 3, 5, and 6.
2. In another example, Wai Lun and Mai separated a few months ago, and Wai Lun moved to a 'reciprocating jurisdiction'. He said he would pay support for the 15-year old, and for the 19-year old who lives at home and is going to school. He was also going to pay support for Mai - she has worked part-time for many years. The younger child has a disability and needs medicine, physical therapy,

and goes to a private school that can handle his needs. Unfortunately, Wai Lun has not been paying what he promised. Mai is going to ask the court in the 'reciprocating jurisdiction' to make a support order. For Mai, there will be a lot of forms to fill out. She will use Forms 1, 2, 3, 5, 6, 7, 11, and 12.

3. Michelle and Dan were together for over 10 years, and have two children. They adopted the 8-year old, and the 12-year old is from a former relationship Michelle had. Dan always acted as a parent to the older child. Michelle is asking the court in Dan's 'reciprocating jurisdiction' to make a support order for both children. She will fill out Forms 1, 2, 3, 4, 5, and 6.

For SUPPORT VARIATION

Support Variation Application– if you receive support	√ If yes	Use Form(s)
I am applying to change a support order I have now.		1, 2 and 13
I want to change the amount of child support.		5, 6
I want child support for a child or children age 19 or older.		7 and 12
I am asking that the amount of support change, - the respondent and I have split, or shared, custody, or - the child support guidelines table amount would cause hardship, or - I believe the respondent makes more than \$150,000 per year.		7
I want to change, or add, an amount for special expenses.		8
I want to change the amount of support for myself.		10 and 6
If my choice includes any of Forms 7, 8, or 10.		11

Support Variation Application – if you pay support	√ If yes	Use Form(s)
I am applying to change or cancel a support order I have now.		1, 2, 11, 13
I want the court to make an order even if the respondent does not come to court, or give financial information (<i>recommended</i>).		6
I want to change, or end, support for a child age 19 or older.		9
I am asking that the amount of support change, - the respondent and I have split, or shared, custody, or - the child support guidelines table amount would cause hardship.		9

Examples:

4. *Trina has learned that Suresh has now finished his training, and has a well-paid permanent job in his 'reciprocating jurisdiction'. The order for support for their 2 young children was made using the child support guidelines. It was based on the income Suresh had when he was a student. Trina would like a new order, according to the income Suresh has now. She will use Forms 1, 2, 5, 6, and 13.*
5. *In another example, Gordon and Lisa have a support order which they got soon after they separated. Gordon moved to New Brunswick and has a good job, but was laid off. After being out of work for 6 months, he now has a new job, but it doesn't pay as well, and he has child support arrears and other debts and can't keep up with the payments. He is asking the court to change the amount of support he pays. He believes the child support guidelines table amount will cause his new family undue hardship. He will use Forms 1, 2, 6, 9, 11, and 13.*
6. *And finally, Roger wants to stop paying Cecile support for their son, Martin. Martin is only 17, but he has dropped out of school, has left home and is living with his girlfriend. He is working full-time. Roger asks to pay support for the two younger children, still living with their mother, at the child support guidelines amount for his income. But he wants the support for Martin to end as of the date Martin quit school. Roger will fill out Forms 1, 2, 6, 11, and 13.*

When you have all the forms you need

First, make sure you have a 'working' copy of each of the forms, and put a 'good' copy aside. When you have filled out your 'working' copy, and put together the documents you need, then you can write on your 'good' copy. Use the ISO Guide that goes with each form - it has information you need. When you fill in the 'good' copy of each form, be sure to sign each of them, except Form 1. Your whole application package will be 'sworn or affirmed' (see the next section), but the courts like to see a signature showing that you have thought about each claim you make, and about the facts to support your statements.

Your application forms are not something you can, or should, do in a hurry. You are taking an important step for yourself and your family. Take your time, and give this task the effort it deserves.

Swearing / Affirming your application

The information you have put in your forms is part of your application. Any documents you attach to the forms are part of the application too. Your application - the whole package- is evidence. Remember, you will not be at court in the 'reciprocating jurisdiction'. Your application package will speak for you.

If you were in court, you would give your evidence under oath. You would have to swear (using the bible) or affirm (a formal promise, without a connection to religion) that what you are saying is true. This step is very serious. It goes far back in history. Giving sworn or affirmed evidence is an important part of any court action.

But you will not be in court, and your application package will speak for you. For that to happen, it must be sworn or affirmed. When your application package is complete, these are the steps you follow:

1. Make sure you have all the Forms for your application, and any documents that go along with them.
2. Do not sign Form 1. It is the Form that will be sworn or affirmed.
3. Have you signed the bottom, or last page, of each of the Forms, except Form 1?
4. Put the Forms and documents in order, from the first number (1) to the last one you used. Do not include the ISO Guides - they are not part of your application.
5. Make one photocopy of your whole application - Forms, documents, and any other papers you are including with your application.
6. Go to a Notary Public to have your application sworn or affirmed. A Notary Public is a person who is authorized to take oaths. All lawyers in New Brunswick are also Notaries Public, and there are also Notaries who are not lawyers. Check your yellow pages for lawyers, or notaries, to find someone near you. Call the office and say that you have a document to be notarized and ask for an appointment. There may be a small fee. Ask what the fee will be. If you

are asked what kind of document, say it is a "reciprocal support application, being sent outside New Brunswick."

7. When you see the lawyer or notary, take your original package (all your Forms and documents), and the photocopy of the whole package. It may not be required, but take along photo identification.
8. Tell the lawyer or notary that you want to swear or affirm the photocopy of your package. If you are asked, show that you have all the original documents, and that the photocopy is a true copy of the original.
9. The lawyer or notary will ask you if you swear or affirm that you have read the documents and that the contents are true. If you say yes, you will be asked to sign on the last page of Form 1. When you have signed, the lawyer or notary will fill in part of the form, sign it, and 'seal' the page with a tool that puts a raised stamp on the page.

You now have two important packages of documents.

Original Documents

This is the package of documents you filled out. It includes all the signed Forms, and any other evidence. Put the original package aside in a safe place. In the very unlikely event that your documents are lost in the mail, you can 're-create' your application with these originals.

Sworn (or Affirmed) Original

The sworn (or affirmed) package - the photocopy of the whole application - is now the evidence that the court will use to make its order. It has your original signature on it, and it has been notarized. Once the package is sworn or affirmed, do not add any other documents to it, or make any changes.

The court in the reciprocating jurisdiction needs four copies of your application package. It needs the sworn (or affirmed) original, and three photocopies of it. Make three photocopies of the whole sworn (or affirmed) original package. (If you want to keep a copy for yourself, make an extra copy.)

What happens next?

You must deliver the sworn (or affirmed) original and three photocopies of your application package to the Court of Queen's Bench, Family Division nearest you:

255 St. Patrick Street
Bathurst NB E2A 3Z9
(506) 547-2152

157 Water Street
Campbellton NB E3N 3H5
(506) 789-2634

121 Church Street
Edmundston NB E3V 3L3
(506) 735-2028

423 Queen Street
Fredericton NB E3B 5H1
(506) 453-2015

770 Main Street
Moncton NB E1C 8R3
(506) 856-2305

673 King George Hwy
Miramichi NB E1V 1N6
(506) 627-4023

110 Charlotte Street
Saint John NB E2L 2J4
(506) 658-2400

689 Main Street
Woodstock NB E0J 2B0
(506) 325-4414

The staff at the court will review your application package. They will check that the package is complete, with enough copies, and includes all the forms you checked off on Form 1. The staff cannot give you legal advice, or tell you what should go in your application. They do not check your facts, or your addition. If there is something missing, the office will send the package back to you with a form letter saying what is needed. This is why it is so important to check your forms and documents. If the package comes back, you will have to have it sworn or affirmed again. Your application will also be delayed.

If the application package is complete, it will be filed with the Court and then sent to the Registrar's Office in Fredericton. The Deputy Registrar will review it and then forward it to the reciprocating jurisdiction.

Your package will be reviewed again when it gets to the reciprocating jurisdiction. If more information is needed, the reciprocating jurisdiction will contact you directly, or may contact the New Brunswick Department of Justice. When everything is complete, the package goes to court.

At the reciprocating court

The respondent (the other person) will receive formal notice that you have made an application to the court. The respondent will get a copy of your application. A court date is set, and the respondent is told to file a package of sworn (or affirmed) documents at the reciprocating court. On the court date a Judge will look at the package of documents you sent, along with any documents the respondent filed. If the respondent is at court (with or without a lawyer), the court may hear sworn (or affirmed) evidence from the respondent. The Judge can then make an order.

Note: *Sometimes the Judge will want more information from you before making an order.* This may be to get more up-to-date information, or the respondent might say something in court and the Judge wants to hear what you have to say. If this happens, the court will make a "Request for Further Information" saying what it needs from you. The court officials will send this document directly to you or to the New Brunswick Department of Justice. What you send back must be sworn or affirmed. The court case will continue when you return the information.

The Court Order

When the court has all the information it needs, it will make an order. The court will write the order, and you will receive a copy from the court.

It is important that you know this fact: just because you ask for something, doesn't mean you will get it. You have asked the court to make decisions for you about the financial part of your family life. You may have taken this step because you and the respondent can't work things out between you.

The court will look at all the information it is given, and will make a decision on your application. It's what you have asked the court to do. The court may give reasons for making a particular order, and you will get a copy of those reasons. If you do not agree with the order, or think that the court did not have all the facts, you can make another application.

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Take it One Step at a Time

If you have looked through the Forms and ISO Guides, you know that you have a lot of work to do. Take it one step at a time, don't rush, and be sure to include all the information the court needs. Know that there are no guarantees, but that, with care and attention to detail, you are doing this for yourself, and your family.