

Family Law

Court Procedure Booklets



2

Representing
Yourself in Court

C o u r t S e r v i c e s I n f o r m a t i o n

Court Services Branch: 667-5441 (toll-free 1-800-661-0408, extension 5441)

Sheriff's Office: 667-5365 (toll-free 1-800-661-0408, extension 5365)

Maintenance Enforcement Program: 667-5437 (toll-free 1-800-661-0408, extension 5437)

Child Support Guidelines: 667-3066 (toll-free 1-800-661-0408, extension 3066)

Law Library: 667-3086 (toll-free 1-800-661-0408, extension 3086)

L e g a l I n f o r m a t i o n

The Law Line: 668-5297 (toll-free 1-800-668-5297)

Legal Aid: 667-5210 (toll-free 1-800-661-0408, extension 5210)

Lawyer Referral Service (Law Society of Yukon): 668-4231

Yukon Public Legal Education Association (also called the Law Line): 867-667-4305
(toll-free 1-866-667-4305)

F a m i l y S u p p o r t S e r v i c e s

Family Violence Prevention Unit: 667-3581 (toll-free 1-800-661-0408, extension 3581)

Kids Help Line: 1-800-668-6868

Parents Help Line: 1-888-603-9100

Victoria Faulkner Women's Centre: 667-2693

Yukon Family Services Association (YFSA) – Counselling: 667-2970 (call collect outside Whitehorse)
YFSA also provides workshops on parenting after separation

Services

Some of the offices that deal with child support matters are in the Court Services Branch of the Yukon Department of Justice. These offices include the court registry, the Maintenance Enforcement Program, the Child Support Guidelines Office, the Sheriff's Office and the Law Library. All of these offices are in the Law Courts Building on Second Avenue (between Wood Street and Jarvis Street) in Whitehorse. The Court Services mailing address is Box 2703 Whitehorse, Yukon Y1A 2C6.

If you have already had a lawyer represent you in court, that lawyer is your lawyer of record. The court assumes that this person is still your lawyer unless you let the court know that you will represent yourself. Ask Court Services staff for the form called **Notice of Intention to Act in Person** (page 4) if you want to represent yourself.

This booklet does not replace a lawyer and cannot teach you everything you need to know. You should seek legal advice even if you decide to proceed without a lawyer.

About this booklet

This booklet contains general information for people who want to represent themselves in court in a child support matter. You should refer to other booklets in this series for more detailed information. The booklets are:

1. List of Key Words;
2. Representing Yourself in Court;
3. General Steps to a Court Order;
4. Applying for a Child Support Order;
5. Changing a Child Support Order (if the parties disagree); and
6. Opposing an Application for Child Support.

If you are applying for a child support order, or if you want to change or oppose an order, refer to other booklets in this series for more information.

The information in this booklet is believed to be correct as of its date of publication. Please note, however, that although this booklet is written to help you through the court process, it does not replace the advice of a lawyer in private practice or through Legal Aid. You may also get information from the Yukon Public Legal Education Association (YPLEA), also called the Law Line. You should also note that the Law Society of Yukon has a list of lawyers who will provide a half hour session for a set rate. Further, some lawyers do "pro bono" work (free or at a reduced rate). Telephone numbers for all of these organizations are listed on page 2.

Sample form: Notice of Intention to Act in Person

IN THE SUPREME COURT OF THE YUKON TERRITORY

S. C. No.

BETWEEN:

Plaintiff/Petitioner

AND:

Defendant/Respondent

NOTICE OF INTENTION TO ACT IN PERSON

TAKE NOTICE that I now intend to act personally in this proceeding
in place of

Dated _____ Party _____

My address for delivery is:

Faxnumber for delivery:

full name of person who began court proceeding

full name of the other party

name of lawyer of record (i.e. the lawyer who has represented you before)

date you sign the document

your signature

provide fax number (or indicate "no fax")

your full address

Preparing for court

Going to court can be a stressful experience. You may be adding to that stress by representing yourself. Furthermore, it will take a lot of time to prepare for court. Court Services staff cannot give legal advice. You may use the Law Library in the Law Courts Building on Second Avenue in Whitehorse. This library is open to the public and you can use the computers and books to look up information. The library also has a photocopier for you to copy documents. Library staff are very helpful, but they cannot provide legal advice; only a lawyer can give you legal advice.

When you represent yourself in court, you take on the job of a lawyer in presenting evidence that you hope will persuade the judge to grant the order that you want. In hearing your case, the judge considers two factors:

- the law that applies to your case; and
- the evidence that you present.

Most child support matters are heard in the Yukon Supreme Court.

Who can help you

The Court Services Branch in the Yukon Department of Justice provides administrative and support services. Court Services staff, librarians in the Law Library and other government employees cannot provide legal advice. You must consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

There is a difference between a full trial and an application to the court. Most parties will go into court for a Chambers application and not a trial. The Rules of Court and the expectations about how you present yourself are the same in both cases.

Court Services staff cannot tell you how to proceed with dealing with your child support issue. They will not fill out forms for you or tell you the words to use. They will not speak about what decision a judge could make. They will not talk to a judge for you and you are not permitted to speak outside the courtroom to the judge involved in your case.

Court Services staff will answer your questions about the court process, but they cannot tell you what information you should put into your legal documents. (For example, staff cannot help you with the specifics of the points you want to make in your Affidavit.) Court Services staff will also file your documents when you bring them in, give you information about court schedules and fees and help you calculate deadlines for the various steps in the process. You can go to a Notary Public at the Court Services office and in the Sheriff's Office when you have documents that need to be sworn.

General information

Rules of Court

The Yukon Supreme Court (where most child support matters are heard) uses the British Columbia Rules of Court. You can see these rules in the Law Library and on-line at: http://www.ag.gov.bc.ca/courts/civil/sup_crt_rules/rules/index.htm. Other instructions are called Practice Directions. The judge follows Rules of Court and procedures so that the hearing is fair to both parties.

Forms

You can ask for forms from the Court Services office and you can download them by going to the Department of Justice web site at www.justice.gov.yk.ca.

To cause a court file to be opened:

Depending on your situation, you may need to prepare a document that will cause a court file to be opened. Talk to a lawyer or call the Law Line for information about what documents you may need.

The province of Nova Scotia has produced a video called "Your Day in Court". You can borrow this video from the Law Library in the Law Courts Building. Some of the details in the video may not apply in the Yukon, but the tape provides good information on court behaviour and the court process.

Notice of Motion:

The Notice of Motion says what kind of order you are requesting from the court, what documents will be presented to support your request and what law applies to your application.

Notice of Hearing:

The Notice of Hearing gives the day, month and year and time of your hearing.

Note: You must indicate in the Notice of Motion and the Notice of Hearing the length of time that you feel the hearing will take. If you estimate more than 30 minutes, you, and the other party, must prepare an "outline" (form 125).

Affidavit:

An affidavit provides the information the judge needs to make a decision. It contains written facts sworn to be true. Be sure that your evidence is complete, accurate, clear and relevant to your application. You must, in all cases, tell the truth. In your Affidavit you can say only things that you know personally to be true or things that you believe to be true (but you must give the reason for that belief).

Other documents that you may attach to your Affidavit (such as a copy of an income tax return or a pay stub), are called exhibits. Each exhibit is identified by a letter of the alphabet, starting with A, then B and so on.

Financial information:

The Financial Statements of both parties are also required documents. Financial Statements show income, expenses and assets.

Before you go to your hearing

Before you go to court, review all of your material. Set up your information in an organized way (e.g. by file folders with labels) so that you can find things easily. The court is a traditional place. Dress in clean, tidy clothes and make sure that you are clean and well-groomed.

When you are in court

- Be on time for your hearing. If you are late, the application may be dismissed if you are the applicant. If you are the respondent, the hearing may proceed without you.
- Stand when the judge enters or leaves the courtroom.
- Sit at the back of the courtroom until the clerk calls your case and your name. Step forward to one of the two tables in place for the parties.
- Do not speak until the judge indicates that it is your turn or until the judge asks you a question.
- Stand up and speak clearly and loudly enough for the judge to hear what you say.
- In the Supreme Court, male judges are called “my Lord” and female judges are called “my Lady”. (Although most child support matters are heard in the Supreme Court, your hearing may be in Territorial Court. In Territorial Court the judge is referred to as Your Honour.)
- Be respectful to the judge, the other party, the other party’s lawyer and to other people in the court.

Points to remember

Never interrupt the judge.

Stand when you are speaking.

Do not use swear words or become angry.

Remain calm and make clear statements.

Do not wear a hat or chew gum in the courtroom.

Do not bring food, drinks, phones or pagers into the courtroom.

Court order

After the judge makes a decision, the applicant prepares the written (typed) order. It is generally the responsibility of the applicant to get the order to the other party to sign. The applicant files the order at the court registry.

Sometimes the court registry will ask that changes be made to the draft order before it can be filed. When that happens, the applicant will need to make the changes and submit a new signed original order with copies.

April 2005

This publication is **number 2** in a series published by the Department of Justice. These easy-to-understand publications provide information about court procedures related to family law:

- ① List of Key Words
- ② **Representing Yourself in Court**
- ③ General Steps to a Court Order
- ④ Applying for a Child Support Order
- ⑤ Changing a Child Support Order (if the parties disagree)
- ⑥ Opposing an Application for Child Support

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For more information, or to obtain copies of these publications, please contact the following:

Government of Yukon, Department of Justice

Court Services

Andrew A. Philipsen Law Centre

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www.justice.gov.yk.ca

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