

FORM 70H

File No. FD _____

NOTICE OF MOTION TO VARY

(Heading as in Form 70A)

NOTICE OF MOTION TO VARY

TO THE RESPONDENT: *(full name and address including postal code)*

THE _____
(identify moving party)

WILL MAKE A MOTION before a judge on _____, the ____ day of _____, _____.
(day)

at _____ or as soon after that time as the motion can be heard, at _____.
(address of court house)

THE MOTION IS FOR AN ORDER VARYING:

The _____
(specify the kind of order the moving party seeks to vary, for example, custody, child support)

order granted by _____ of _____,
(judge) (court)

of _____ pronounced on the ____ day of _____, _____.
(province)

(List any other orders which the moving party is asking to vary.)

The details of the variation the moving party is requesting are found on the attached page.

(If this motion is for an order varying or deleting a support order, add:)

You or a Manitoba lawyer acting for you must serve and file in the court office an affidavit and a financial statement in accordance with Rule 70.37 and Form 70D of the *Queen's Bench Rules* within 20 days of your receiving this motion.

(If this motion is for an order varying a child support order under the Divorce Act (Canada), add both of the following paragraphs:)

If either the moving party or you live outside Manitoba, you must also serve and file in the court office an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines* within 20 days of receiving this motion.

NOTE that if:

- you are the person who is receiving or will be paid child support under the order the moving party is asking to vary; and
- there are no other support or property issues; and
- you are asking only for a table amount of support under the child support guidelines; and
- all the children for whom you want support are under the age of majority; and
- the moving party has not raised any issues requiring the production of your income information under the child support guidelines;

you do not need to file and serve at this time a financial statement nor an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines*.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER MAY BE MADE IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DETAILS OF THE REQUESTED VARIATION

(Set out in separate, consecutively numbered paragraphs the details of the requested variation. Where the motion requests a variation of child support, specify whether the claim is for an amount of support in the applicable table in the child support guidelines, an amount for special or extraordinary expenses, or a different amount.)

FINANCIAL INFORMATION

(Attached is the petitioner's financial statement (Form 70D).)

(Note: The moving party does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the Federal Child Support Guidelines, if:

- (a) the moving party is not asking for a variation of a child support, spousal support, or property order; or*
- (b) the moving party is asking for a variation of child support, and*
 - child support is the only support or property issue in dispute in the motion, and*
 - the moving party is being paid, or asking to be paid, child support by the responding party, and*
 - the moving party is not, and would not be, paying child support under the order to be varied, and*
 - the moving party is asking only for a table amount of child support under the child support guidelines, and*
 - all the children for whom the moving party wants support are under the age of majority.)*

(Where the motion requests a variation of child support under the Divorce Act (Canada) and either the moving party or the responding party lives outside Manitoba, add:)

Attached is the moving party's affidavit containing the documents required under section 21 of the *Federal Child Support Guidelines*.

EVIDENCE TO BE USED AT THE HEARING

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(List affidavits or other documentary evidence on which the moving party will be relying.)

(signature of lawyer)

(Name of lawyer)

(Firm name)

(Address)

(Phone)

(Fax)

(E-mail)