

Writing an Affidavit

If you have left an abusive relationship and are making a family court application, you will likely need to submit an affidavit with your application. If you have a lawyer, he or she will draft an affidavit for you to review and sign. If you are representing yourself, you will probably have to write your own affidavit.

What is an affidavit?

An affidavit is a sworn, written document that contains facts and information relevant to the application you are making (for example, custody, financial support, etc.). It tells your story, providing a summary of what you are applying for and why the judge should grant your request. Everything you include in your affidavit must be true and you are required to swear to the truth of its contents before a commissioner for oaths or notary public. Your affidavit will be filed with your application to the court.

An affidavit should answer three questions:

- Who am I and who is my family?
- What am I asking the judge to do?
- Why should the judge order what I am asking for?

There are three rules you must follow when writing an affidavit:

- Everything you write in your affidavit must be true to the best of your knowledge
- Your affidavit must contain only facts, not arguments or opinions
- Your affidavit must be relevant to the application you are making

What are affidavits used for?

An affidavit is a way of getting evidence to the judge hearing your case. Instead of testifying in court, your evidence is included in your written affidavit for the judge to review.

What information does your affidavit need to include?

- The front page must include your full name and the date you swear the affidavit.
- You must include where you live – either your address or municipality (for example, “I, Jane Doe, of the City of Calgary, am making this affidavit...”).
- Your affidavit must be written in first person (for example, “I have two children. I am applying for sole custody.”).
- You must sign and swear your affidavit in front of a commissioner for oaths or a notary public. Your affidavit must state when, where, and before whom it was sworn. The commissioner or notary must also sign your affidavit.



You can get your affidavit signed by going to your local courthouse, visiting a law office, or contacting your local Resolution and Court Administration Services office (www.rcas.alberta.ca). Make sure to bring photo identification with you when you go to swear your affidavit. You can also find commissioners for oaths and notaries public in the yellow pages of the telephone book or online at www.YellowPages.ca.

- Your affidavit should not include your opinions about why your application should be granted. It should only include facts and information that can be supported with evidence.
- Include all facts and details relevant to your application. If you have to go to court, you will only be able to tell the judge about things you’ve included in your affidavit.
- If you want to include documents like text messages, letters, or pay stubs, you must refer to these as exhibits. Each document must be referenced as a separate exhibit. For example, Exhibit A – text messages from partner on March 3, 2015, Exhibit B – applicant’s pay stub from March 10, 2015. All exhibits must be labelled and attached to your affidavit. Be sure to take photocopies of any documents you submit.

Tips for writing a good affidavit

- If you are the one making the application, state that you are the applicant and you have personal knowledge of all the facts that are set out in your affidavit.
- Include a paragraph at the beginning of your affidavit listing the names and birth dates of your children, and whose care the children are in.

- Describe any incidents of domestic violence that you experienced in chronological order. Be as specific as possible, including dates, times, locations, witnesses, what led up to the incident, and what happened afterward. If you list witnesses, describe who they are—for example, my son Peter’s teacher, Mary Jones.
 - If you have documents to support the events you have described, identify these in your affidavit and mark them as exhibits. For example, any medical records, 911 call transcripts, police reports, photographs of injuries, etc.
 - For more information on how to present evidence of abuse in a court application, read our information sheet, **Gathering Evidence of Abuse**, available on www.cplea.ca/publications and www.willownet.ca.
- Only include facts where you have first-hand knowledge. It must be something you experienced, saw, heard, did, or said.

Formatting requirements

- Print or write on one side only, the court will not accept double-sided printing or copying.
- The paragraphs in your affidavit must be numbered.
- Do not photocopy your affidavit until you swear to the truth of its contents before a commissioner for oaths or notary public.
- Make at least three copies of your affidavit and exhibits: one for the court, one for the opposing party in your application (“the respondent”), and one for you. It is a good idea to keep an extra copy or two just in case one is lost.

What happens after my affidavit is sworn?

Once your affidavit is sworn, you need to file your court application and affidavit with the court. When you file your application, you will also need to schedule a court date. The court clerk will help you pick a court date that gives you time to arrange to serve copies of your application on the respondent (the person you are filing the application against). You can hire a third party to serve your application on the respondent, which is a very good idea if you have any concerns about your safety. For more information, read **Serving Documents on an Abusive Party**, available on www.cplea.ca/publications and www.willownet.ca.

Be aware that the respondent is allowed to file an affidavit setting out the facts as he or she sees them for the judge to consider. You are allowed to file a supplementary affidavit if you want to address anything in the respondent’s affidavit, but this may postpone your court date.

Further resources on writing an affidavit

Download our free booklet, **Representing Yourself in Family Court**, which includes comprehensive checklists on what facts to include in affidavits for various family court applications. Visit www.cplea.ca/publications and look under Family Law.

Contact the **Government of Alberta's Resolution and Court Administration Services** for resources and assistance to help you fill out court forms and write your affidavit. Call 1-855-738-4747 or visit www.rcas.alberta.ca.

Visit the **Alberta Courts** website at www.albertacourts.ca.

- Download **Making a Court Application in the Court of Queen's Bench**
https://albertacourts.ca/docs/default-source/Family-Justice-Services/FJS_Making_Applicn_With_Applicn_12.pdf
- Download the generic affidavit form from the Publications page
www.albertacourts.ca/court-of-queens-bench/publications-forms/family-law-forms

Contact your local **Community or Student Legal Clinic** if you need help drafting your affidavit or want a legal review of it before filing it with the court. Visit http://www.pbla.ca/gethelp/item.5602-Help_for_Individuals for a complete list of locations and contact information.

Luke's Place is an Ontario-based service provider that has developed an hour long webinar for service providers called "Supporting an Abused Woman to Write an Effective Affidavit." It is available for viewing online at <http://lukesplace.ca/lukes-place-webinar-supporting-an-abused-woman-to-write-an-effective-affidavit>. Be aware that this information is Ontario-based.



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