

# FORMSUPPORT

## FORM A.2

### SUPPORT VARIATION APPLICATION UNDER THE INTERJURISDICTIONAL SUPPORT ORDERS ACT

All support order applications made under provincial or territorial ISO legislation require that you complete either Form A.1 (Support Application) if you do not already have a court order or Form A.2 (Support Variation Application) if you have an order that you want to change. Consult the tables included in the FormSupport Introduction and General Information Guide or go to “Choose Your Forms” at <https://nl.isoforms.ca> to determine what additional Forms you need to complete.

You will use this Form (A.2) to:

- tell the court who you are;
- tell the court what you are asking for;
- give a brief summary of any court action involving support;
- give a brief history of your relationship with the Respondent; and/or
- list the other Forms you are including with your application.

#### Tips

- The Forms you submit as part of your application will organize your information for the court. You should include as much information as possible so that the court can make an informed decision.
- All support order applications under provincial or territorial ISO legislation require you to complete either Form A.1 or A.2.
- Use the tables included in the FormSupport Introduction and General Information Guide or go to “Choose Your Forms” at <https://nl.isoforms.ca> to determine which additional Forms you need to complete.
- Use a working copy and a final copy when completing these Forms. To ensure that the final copy is neat and legible, only complete the final copy when satisfied with your responses.
- Include all copies of receipts, documents and other evidence that will help prove statements and claims you make. Documents provided will form part of the evidence for the matter and cannot be returned.
- Receipts and documents may contain address information that you may wish to remain confidential. If you choose to conceal the address information, ensure that you keep the originals in case the court requires that you provide them.
- After completing all of your Forms, you must swear to the accuracy of all the information that you provided – just like if you were in court providing the evidence in person.
- For more information on family justice matters, visit: [www.canada.ca/en/services/policing/justice/familylaw.html](http://www.canada.ca/en/services/policing/justice/familylaw.html) or [www.gov.nl.ca/jps/divorce/](http://www.gov.nl.ca/jps/divorce/).

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After you have completed your application, you must swear to the accuracy of all the information contained in the entire application.

You may not be able to fill out this Form all at once. The choices you make on this Form will lead you to other Forms which need to be completed; these Forms are accompanied by their own FormSupport Guides. As you finish one Form, you may be asked to use information supplied or include calculations made on another Form to complete a section of this Form.

### Filling out the Form

It is very important to clearly state under which legislation you are making your application. Use the FormSupport Introduction and General Information Guide to help you determine under which legislation (Provincial or territorial ISO legislation or the *Divorce Act*) you should make your application.

You may wish to speak with a lawyer for advice about what is best in your circumstances.

### Section 1

#### Identifying the parties in the Support Variation Application

Fill in your full name and that of the Respondent (the person responding to this application). Write the province or territory in which you reside.

### Section 2A

#### I ask the court for a SUPPORT VARIATION ORDER including the following

If you are applying for a Support Variation Order, you will complete Form A.2. You may choose one or more of the following options:

#### A change or variation in the amount of support in the current support order or agreement, from \$\_\_\_\_ per month, to \$\_\_\_\_ per month

Choose this option if you would like to change the amount of support you are being paid or are paying. You will need to complete and attach Form K and may be required to complete more Forms, depending on your circumstances.

If you are seeking support, you may wish to complete Form D in case the Respondent does not file sufficient financial information or respond to your application.

While completing Form D is not mandatory, you may wish to complete this Form as it provides the court with the financial information necessary to attribute an income for the Payor.

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**A change in the amount of unpaid support arrears owing under the current support order(s) or agreement(s), and that the arrears be 'fixed' or set at \$\_\_\_\_ as of \_\_\_\_ (date)**

Choose this option if you are owed, or owe, support arrears and would like the amount changed. You need to fill in information that you will determine by completing Forms I and K and perhaps more Forms depending on your circumstances. Attach all additional Forms.

**The change or variation of this order to be effective as of \_\_\_\_ (date)**

Choose this option if you would like to request a date for the changed order to be effective – if your application for a change is successful. If the date is in the past, you will have to provide an explanation on Form K.

**The termination of the obligation to pay support for \_\_\_\_ (name), as of \_\_\_\_ (date)**

Choose this option if you would like the court to agree that you can stop paying support. Fill in the person for whom you are paying support and the date to which the order should be effective. You will need to complete and attach Form K and may be required to complete more Forms, depending on your circumstances.

#### **Other**

Choose this option if the support order for which you are applying is not listed in the options.

**Future periodic disclosure of financial information as appropriate**

Check this box if you want the court in the Respondent's jurisdiction to include a requirement in its order that the Respondent give you updated information about his/her financial circumstances. If you receive this information, it may help you to decide if you should apply to change your support order in the future.

**I ask that any order made and information provided in this application be provided to the relevant enforcement authority**

Check this option to request that if your application is successful, the order be registered with the Enforcement Agency in the other jurisdiction (this step is not automatic in all jurisdictions). You may be required to submit other documentation to request enforcement of this order at a later date.

#### **Section 2B**

If the province where the Respondent lives has a provincial child support service, you can request to have the amount of child support calculated by the provincial child support service as an alternative to court. However, this alternative is not available in all provinces and territories.

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#### Section 3

##### Person applying for an order

Fill in your complete address, phone number and other contact information.

**NOTE:** Information contained in your application, including your contact information, will be included in the package provided to the Respondent and will form part of a court file that MAY BE available to the general public.

If you are concerned about providing your own address, you may provide an alternative address where you can be contacted and where documents or correspondence may be sent. By doing this, you are agreeing that this individual or agency has the authority to receive documents on your behalf. If they receive documents for you, the court considers you to have received them.

**NOTE:** If you move, make sure to update your contact information with the Designated Authority where you submitted your application.

#### Section 4

##### Request to be notified and request to participate in hearings

Check the appropriate box to indicate whether you wish to be made aware of and/or participate in any hearings related to your claim by way of telephone or other technology. If you wish to participate by telephone or other technology, you must make yourself available to participate in all hearings.

**NOTE:** This request is discretionary and not automatically granted. It may also not be permissible or available in all jurisdictions.

#### Section 5

##### As a government or government agency may need to be informed of and/or participate in this application (if its laws allow it) please indicate as appropriate

Check the appropriate box if you are receiving income assistance (this can also be called social assistance or welfare), or the Respondent is, or may be, or has in the past.

When a person receives income or social assistance, certain rights with respect to support may be assigned to the government. If you check one of these boxes, the relevant income or social assistance agency may be notified that an application has been made. You may not have the right to claim or apply to change support for times when you received assistance unless the government is involved. You may want to contact your family maintenance worker or financial assistance worker to seek clarification.

#### Section 6

##### Person responding to this application

Fill in the Respondent's contact information. Use the most recent street and city address you have. If you become aware of a change in the Respondent's address, make sure to update his/her contact information with the Designated Authority where you submitted your application.

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Before the court can make an order, the Respondent is given formal notice that a court hearing is going to happen. The information you provide here is very important. It helps the court find the Respondent and give him/her notice that you have applied for an order. If the Respondent cannot be found and given notice, a hearing cannot take place and no order can be granted.

In addition to Form A.2, you need to complete the **Additional Locate Information Form** and file it with your application. The Additional Locate Information Form is required in all files and should be filed with but NOT attached to your sworn application. This will provide information to help locate the Respondent in the other jurisdiction.

#### **Section 7** **Child(ren)**

Write the full names of the children involved in your application, their residence for the past six months and their birth dates. If you have children who are not part of your claim (for example, an adult child), do not list them.

#### **Section 8**

##### **Information about previous court orders, agreement or related proceedings**

In this section, you can inform the court of existing orders and agreements involving the Respondent and you. Read the list provided and select any that apply. Depending on your circumstances, more than one of the choices may apply.

**NOTE:** In some cases, you will have to provide certified copies of an order. Certified copies are copies stamped in a special way by the court that prove that they are exact copies of the original. For example, a certified copy **is required** if the order you wish to vary was **not** made by a court in the jurisdiction where you are sending this application. A certified copy **is not required** if the order you wish to vary was made by a court in the jurisdiction where you are sending this application.

If a written agreement is registered with a court, the court can make a certified copy of the agreement. Like a court order, it will be stamped as certified by the court.

If you have a copy that your lawyer sent you, it is probably not certified. You can get a certified copy from the court which made your order or where the written agreement was registered.

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#### Section 9

##### Attached documents

When you have completed the other Forms you need, complete this section. You can use it as a checklist when you put your package of documents together. Check all the Forms you are including.

Some jurisdictions (mostly those in foreign countries) have special forms of their own. If you have filled out any of these forms, check the box that says: “Documents required by the jurisdiction hearing this application”.

If you have attached any additional documents list them under “other”.

#### Section 10

##### Jurat

**DO NOT SIGN Form A.2 as it must be signed in the presence of a Notary Public or a Commissioner of Oaths**

Form A.2 and all other Forms that accompany it are considered evidence and must be sworn or affirmed. Read the part of the FormSupport Introduction and General Information Guide titled “Swearing/Affirming your application” for more information.

**NOTE:** Many jurisdictions will only accept Interjurisdictional documents that have been sworn before a Notary Public. Contact your Designated Authority to determine whether an alternative is available.

The FormSupport Introduction and General Information Guide includes information on making copies and what happens next. Make sure that all Forms you have been asked to complete and documents you have been asked to provide are attached to your application.

#### Section 11

##### Legal authority

You are completing Form A.2, which means that you are making your application under the ISO legislation. **The applicable law rules in effect in the province, territory or country where the Respondent resides will determine what family support law will be applied to decide this application**

This means that the court in the other jurisdiction will decide whether to use the law of your province or territory, its own law or the law of the responding jurisdiction to decide your application. The Designated Authority will include a copy of the law of your province or territory along with your application just in case the court needs to consider it.

If the Respondent to your application resides **outside** Canada or the United States, the applicable law rules of the other jurisdiction might allow the court to consider the law that you ask it to apply. Determining what law to ask the other court to apply may be a complicated issue that can affect the outcome of your application – you may wish to speak with a lawyer for advice about what is best in your circumstances.

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It may be wise to include a copy of the family support laws of your province or territory **and to include a statement that shows how you are entitled to support for the child or for yourself under the law of your province or territory** if your application:

- will be sent to a foreign country (other than the United States); and/or
- involves a child over the age of majority; and/or
- is for support (or variation of support) for a person who is not a child (for example, “spousal” support).

The following general information may help you understand the issues surrounding the question of which law would be most appropriate given your circumstances, and whether it would be appropriate to seek legal advice.

**A: If the Respondent resides in another province or territory in Canada<sup>1</sup>**, then you do not have a choice of the law that the court will apply to decide your application. The law in that province or territory requires the court to apply a specific law:

1. If your application is for child support:

- a) In some provinces and territories, the court will first apply their own law to determine if there is entitlement to child support but if the child(ren) named in the application are not entitled to support under that law, then the court will consider whether the child(ren) are entitled to support under the law of your province or territory.
- b) In other provinces and territories, the court will first apply the law of your province or territory to determine if there is entitlement to child support but if the child(ren) named in the application are not entitled to support under that law, then the court will consider its own law to make this decision.
- c) The court in the other province or territory will apply its own child support guidelines to determine the amount of child support.

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<sup>1</sup> You can find the “choice of law” or “applicable law” provisions in the ISO Act of the province or territory where the Respondent resides by going to the government website of that province or territory and searching for “The Interjurisdictional Support Orders Act” or “Interjurisdictional Support Orders Act”. Look for the sections of the Act that refer

to “choice of law” or “applicable law”. Make sure you are looking at the section that applies to the type of application you are making (support application or support variation application). If the Respondent resides in Québec, you will need to search for the Civil Code of Québec (Sections 3094-3096).

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2. If your application is for support for yourself (“spousal support”, for example) and the Respondent resides in a province or territory other than Québec, the court will first apply their own law but if you are not entitled to support under that law, the court will then consider the law of the jurisdiction where you and the Respondent last resided together as a couple.

If the Respondent resides in Québec, specific rules of the *Civil Code of Québec* may apply. Based on those rules, the court will determine which law is applicable to your case.

**B: If the Respondent resides in the United States**, it will generally not be necessary to include a copy of the law of your province or territory as the courts or other authorities of American states will apply their own law to determine your application.

**C: If the Respondent resides outside Canada or the United States**, the court or other authority that will decide your application will have its own rules to determine what law it can or must apply. You may wish to seek legal advice about the law of this other country or you may wish to ask the Designated Authority to include a copy of the law of your own province or territory just in case the court in the other country will consider that law.

If you have decided that you want to ask the court in the foreign country to consider the law of your province or territory, **you should include a statement that shows how you are entitled to child support for the child or support for yourself under the law of your province or territory**. It will still be up to the court in the other jurisdiction to decide if it will consider the law of your province or territory or if it will apply its own law.