

How to Make an Originating Application for Variation

Instructions for the Applicant

You may use an **Originating Application for Variation (Form F5.05A)** if you want to change a final family law order or domestic contract, such as a marriage contract, separation agreement, cohabitation agreement or paternity agreement, that has been filed with the Court under s. 42 of the *Family Law Act*. If you start an Originating Application for Variation, you are the *Applicant*. The other person is the *Respondent*. If you are making an application together with the other person (i.e. a joint application), you cannot use this form. You must make a **Joint Originating Application for Variation (Form F5.06A)**.

Completing Your Originating Application for Variation

You can fill out this form by hand or you can download and fill out this form electronically at <https://www.court.nl.ca/supreme/rules-practice-notes-and-forms/family/general/> (If you fill out the form electronically, you must still print the form, file it with the Court, and serve a copy on the Respondent).

You must fill out pages 1-5 of the Originating Application for Variation and attach any schedules and additional forms that apply to you. If you need more space to fill out any section of this Originating Application for Variation, attach an extra page and indicate which section is continued on the extra page.

Filing Your Originating Application for Variation

You must make **3 extra copies** of your completed and signed Originating Application for Variation (including any attachments). File the original Originating Application for Variation with the Court. To file your Originating Application for Variation, you can either bring it to a Supreme Court location near you or you can mail it to a Supreme Court location near you (with the filing fee attached). You can look up the fees online: <https://www.court.nl.ca/supreme/schedule-of-fees/>

Serving Your Originating Application for Variation

Once you have filed your completed Originating Application for Variation with the Court, you must give a copy of the Application and the 'Instructions for the Respondent' page to the Respondent. This is called *service*. You have **180 days** to serve the Respondent after you have filed the Application. If you do not serve the Application in 180 days, it will expire and you may have to file a new Application.

If your Application involves parenting, an adult (who is not you) must hand-deliver the Application to the Respondent. This is called *personal service*. If your Application does *not* involve parenting, you can serve the Respondent by leaving a copy with the Respondent's lawyer, leaving a copy at the Respondent's address, registered mail/courier, or regular mail. You may also serve the Respondent using fax, email, or electronic document exchange, if the Respondent has provided that information.

You may have to file an **Affidavit of Service (Form F8.03A)** or **Acknowledgement of Service (Form F8.04A)** with the Court. These forms are available online: <https://www.court.nl.ca/supreme/rules-practice-notes-and-forms/family/general/>

More Information

Questions? Go to <https://www.court.nl.ca/supreme/family-division/> or contact a Court near you:

Corner Brook: (709) 637-2227

Grand Falls-Windsor: (709) 292-4260

Gander: (709) 256-1115

Happy Valley-Goose Bay: (709) 896-7892

Grand Bank: (709) 832-1720

St. John's: (709) 729-2258

--- It is highly recommended that you get advice from a lawyer ---

If you need help finding a lawyer, you can contact:

Public Legal Information Association of NL (PLIAN): www.publiclegalinfo.com or 1 (888) 660-7788

Legal Aid: www.legalaid.nl.ca or 1(800) 563-9911

--- REMOVE THIS PAGE BEFORE SERVING THE APPLICATION ---

How to Respond to an Originating Application for Variation

Instructions for the Respondent

A family law proceeding has been started against you to vary a family law order or domestic contract. You are the *Respondent* in this proceeding.

The person who has started this family law proceeding is the *Applicant*.

Read the attached **Originating Application for Variation (Form F5.05A)** carefully. The Applicant has explained the family law issues that they would like to have resolved. If you want to oppose any of the Applicant's claims or if you want to make your own claims, you must file and serve a **Response (Form F6.02A)**.

You can find the Response form at any Supreme Court location or online:

<https://www.court.nl.ca/supreme/rules-practice-notes-and-forms/family/general/>

You have only **30 days** after this Originating Application for Variation has been served on you to file and serve your Response (You have 60 days if you have been served outside of Canada or the United States).

If the Applicant is making an application to vary a support order made under the *Divorce Act* and you reside in a different province, you may, within **40 days** of receiving the application, request that the Court convert the application to an inter-jurisdictional proceeding. For more information on this process, you can contact the Court.

For more information on how to fill out, file, and serve a Response, read the "Instructions for the Respondent" page attached to the Response form.

If you do not respond, the Court may proceed and make an order without hearing from you.

More Information

Questions? You can go to [Family Division - Supreme Court of Newfoundland and Labrador](#) or contact a Court near you:

Corner Brook: (709) 637-2227

Gander: (709) 256-1115

Grand Bank: (709) 832-1720

Grand Falls-Windsor: (709) 292-4260

Happy Valley-Goose Bay: (709) 896-7892

St. John's: (709) 729-2258

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Legal Aid: www.legalaid.nl.ca or 1(800) 563-9911

Form F5.05A: Originating Application for Variation (Family Law)



**In the Supreme Court of
Newfoundland and Labrador
(General/Family)**

FOR COURT USE ONLY
COURT FILE NO: _____
CENTRAL DIVORCE REGISTRY NO: _____
Filed at _____, Newfoundland and Labrador, this _____ day of _____, 20____.
_____ Registry Clerk of the Supreme Court of Newfoundland and Labrador

BETWEEN: _____ APPLICANT
(Print full name)

AND: _____ RESPONDENT
(Print full name)

AND: _____ NOT APPLICABLE
(Print full name) SECOND APPLICANT
 SECOND RESPONDENT

You must start your application at the Court location that is closest to you or closest to the other party. However, if your family law matter involves parenting or child support, you must start your application at the Court location that is closest to where your children live. Check off where your application is required to be heard and note the location where you must file your documents:

If your application is required to be heard in...	...then you must file your documents in...
<input type="checkbox"/> Clarenville (Grand Bank Circuit)	Grand Bank Supreme Court
<input type="checkbox"/> Corner Brook	Corner Brook Supreme (Family Division)
<input type="checkbox"/> Gander	Gander Supreme Court
<input type="checkbox"/> Grand Bank	Grand Bank Supreme Court
<input type="checkbox"/> Grand Falls – Windsor	Grand Falls – Windsor Supreme Court
<input type="checkbox"/> Happy Valley – Goose Bay	Happy Valley – Goose Bay Supreme Court
<input type="checkbox"/> Port aux Basques (Corner Brook Circuit)	Corner Brook Supreme Court (Family Division)
<input type="checkbox"/> Rocky Harbour (Corner Brook Circuit)	Corner Brook Supreme Court (Family Division)
<input type="checkbox"/> St. Anthony (Corner Brook Circuit)	Corner Brook Supreme Court (Family Division)
<input type="checkbox"/> St. John's	St. John's Supreme Court (Family Division)
<input type="checkbox"/> Stephenville (Corner Brook Circuit)	Corner Brook Supreme Court (Family Division)
<input type="checkbox"/> Wabush (Happy Valley – Goose Bay Circuit)	Happy Valley – Goose Bay Supreme Court

If you would like to change the terms of an order or domestic contract dealing with one or more of the issues listed in the table below, check the corresponding box(es), fill out the schedule(s) indicated, and attach the additional forms or documents specified in the right-hand column.

Type of Order	Fill Out Schedule	Attach
<input type="checkbox"/> Parenting (Decision-making and parenting time)	1	-
<input type="checkbox"/> Contact Order / Third Party Time with Child*	2	-
<input type="checkbox"/> Child Support	3	Financial Statement (Form F10.02A) and/or income information, if applicable
<input type="checkbox"/> Spousal (<i>married</i>) Support or Partner (<i>unmarried</i>) Support	4	Financial Statement (Form F10.02A)
<input type="checkbox"/> Parental Support (<i>for parents</i>) or Dependant Support (<i>for spouse or child of deceased person</i>)	4	Financial Statement (Form F10.02A)
<input type="checkbox"/> Consent Order or Agreement	5	Signed consent order or agreement
<input type="checkbox"/> Other: _____	5	-

* Under the Divorce Act, a judge's permission is required to make an application for a Contact Order. Once received, your application will first be considered by a judge to determine if it may proceed.

Fill in the details of the order or domestic contract that you are seeking to change and, **if the order or domestic contract is not already filed with the Supreme Court, include a copy of it with this application:**

Date Order issued/Agreement signed	Month:	Day:	Year:
Court that granted Order/filed Agreement			
Place Order made/Agreement filed	City:	Province:	Country:
Name of Justice or Judge that granted Order (if applicable)			

- Check this box if you have more than 1 order or domestic contract that you are seeking to change. Attach an extra-copy of this page in your document and fill in the details for each other order or domestic contract you are applying to change.

Applicant Information

Fill in your information below:

If you have safety concerns and do not want to provide your contact information, you may provide alternate contact information below. You must still provide the Court with your actual contact information in a sealed envelope. This envelope will not be available to the other party.

Current Last Name		Last Name at Birth:
First Name		Last Name the Day before the Day of Marriage:
Middle Name(s) (if any)		
Gender		
Residential Address		
	<i>Street Address</i>	<i>City Province Postal Code</i>
Mailing Address (if different from Residential Address)		
	<i>Street Address or PO Box</i>	<i>City Province Postal Code</i>
Telephone Number (if any)	Home:	Cell:
Fax Number (if any)		
Email Address (if any)	Please note that if you provide your email address, the Court may contact you by email.	
Date of Birth	Month:	Day: Year:
Occupation(s) or Job(s)		
Citizen / Immigration Status	<input type="checkbox"/> Canadian Citizen <input type="checkbox"/> Permanent Resident <input type="checkbox"/> Foreign National	
Are you a registered Indian under the <i>Indian Act</i>?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, what is the name of your band?
		Do you live on a reserve?
Will you need an interpreter in court?*	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, state the language and dialect:
Lawyer's name, office address, email address, telephone number and fax number (if any)		

* Please note that you must arrange to have a qualified interpreter appear in court and you will be responsible for any fees associated with this, unless a judge orders otherwise.

Respondent Information

Fill in the Respondent's information below (to the best of your knowledge):

Current Last Name		Last Name at Birth:
First Name		Last Name the Day before the Day of Marriage:
Middle Name(s) (if any)		
Gender		
Residential Address		
	<i>Street Address</i>	<i>City Province Postal Code</i>
Mailing Address (if different from Residential Address)		
	<i>Street Address or PO Box</i>	<i>City Province Postal Code</i>
Telephone Number (if any)	Home:	Cell:
Fax Number (if any)		
Email Address (if any)		
Date of Birth	Month:	Day: Year:
Occupation(s) or Job(s)		
Citizen / Immigration Status	<input type="checkbox"/> Canadian Citizen <input type="checkbox"/> Permanent Resident <input type="checkbox"/> Foreign National	
Is the Respondent a registered Indian under the Indian Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, what is the name of the Respondent's band?
		Does the Respondent live on a reserve?
Lawyer's name, office address, email address, telephone number and fax number (if any)		

Fill in the information about your relationship with the Respondent:

Your relationship with the Respondent					
Date the parties started living together	Month:	Day:	Year:	OR	<input type="checkbox"/> Not applicable
Date of marriage	Month:	Day:	Year:	OR	<input type="checkbox"/> Not applicable
Place of marriage					OR <input type="checkbox"/> Not applicable
Prior to the marriage, I was	<input type="checkbox"/> Unmarried <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed OR <input type="checkbox"/> Not applicable				
Prior to the marriage, the Respondent was	<input type="checkbox"/> Unmarried <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed OR <input type="checkbox"/> Not applicable				
Date of separation	Month:	Day:	Year:	OR	<input type="checkbox"/> Not applicable
Date of divorce	Month:	Day:	Year:	OR	<input type="checkbox"/> Not applicable

- Check this box if you are starting a proceeding against more than one Respondent. Attach an extra page to this Application to provide the information of the other Respondent(s) and the details of your relationship with the other Respondent(s).

Fill in the information for every child of your relationship (Include children under and over 19 and non-dependent children):

	Child 1	Child 2
Child's Full Name		
Full Name of Each Parent of the Child (place each name on a separate line)		
Date of Birth (month/day/year)		
Gender		
Child is Currently Living With (Name)		
Disabilities and/or Special Needs		

	Child 3	Child 4
Child's Full Name		
Full Name of Each Parent of the Child (place each name on a separate line)		
Date of Birth (month/day/year)		
Gender		
Child is Currently Living With (Name)		
Disabilities and/or Special Needs		

Check this box if there are more than 4 children. Attach an extra page to provide the details of those children.

Have child protection services, in this province or elsewhere, ever been involved with you, the Respondent(s), and/or any of the children listed above?

- No
- Yes.

If yes, please provide details in the box below.

*Provide the details of any **current** or **ongoing** court proceedings, court orders, and/or written agreements involving you, the Respondent(s), and/or the children. This includes all Provincial Court matters, criminal matters, proceedings in other provinces or countries, peace bonds, emergency protection orders, restraining orders, no-contact orders, safety plans, family centered action plans, and kinship care agreements or any other agreements stemming from CSSD involvement.*

- Check this box if not applicable.

Schedule 1 Parenting Order

Complete this schedule if you are applying to change the terms of an order or domestic contract dealing with parenting issues (decision-making and/or parenting time).

Why are you asking to have the parenting order or domestic contract changed?

Describe what has changed since the time the order or contract was made.

What are the current parenting arrangements for:

Decision-making about the child(ren):

Regular parenting schedule (daily, weekly, monthly, or other):

Parenting schedule for holidays and special occasions:

Schedule for other communication (eg. phone, internet, etc.):

Other important issues in relation to parenting the child(ren):

What are your proposed parenting arrangements for:

Decision-making about the child(ren):

Regular parenting schedule (daily, weekly, monthly, or other):

Parenting schedule for holidays and special occasions:

Schedule for other communication (eg. phone, internet, etc.):

Other important issues in relation to parenting the child(ren):

Schedule 2 **Contact Order/ Third Party Time with Child**

Complete this schedule if you are applying to change the terms an order or domestic contract providing for a non-parent's contact or time with a child.

What is your relationship to the child (i.e. grandparent, foster parent, step-parent, other relative):

Why are you asking to have the order or domestic contract changed?
(Describe what has changed since the time the original order or domestic contract was made.)

What is the current contact arrangement set out in the order or domestic contract?

What changes to the contact arrangement with the child are you seeking?

Are there any orders or other past or present proceedings or circumstance that may be relevant to your request to change the contact order or domestic contract (i.e. previous convictions, involvement with child protection authorities)?

Other information that may be relevant to the court in determining whether to grant a change to the contact order or domestic contract:

Schedule 3 Child Support

Complete this schedule if you are applying to change the terms of an order or domestic contract providing for child support.

<p>What is your current child support arrangement?</p>	
<p>Are there arrears or unpaid support?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, attach the most current Support Enforcement (SED) statement and specify:</i> Amount: \$ _____ As of (date) (month/day/year): _____</p>
<p>Is child support assigned to be paid to someone else? <i>(eg. Department of Advanced Education, Skills and Labour)</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, provide the details of the assignment arrangement:</i></p>

Check all of the boxes that apply and fill in the information required:

I am seeking a **change in the *Child Support Guidelines* basic table amount of child support:**

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

Describe the facts and your reason(s) for seeking a change in the amount of child support:

You must attach all of the financial documents required by page 4 of the Financial Statement (Form F10.02A).

- I am seeking a **change in child support to an amount that is different from the *Child Support Guidelines basic table amount***.

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

List your reason(s) for seeking an amount of child support different from the *Child Support Guidelines*:
 Depending on your reasons for seeking an amount different from the *Child Support Guidelines*, you may have to file additional documentation.

- The Respondent and I have agreed to child support in the amount of \$ _____ per month.
- I have parenting time with the child(ren) for 40% or more of the year.
*You must complete and attach a **Financial Statement (Form F10.02A)**.*
- The child(ren) is(are) 19 years of age or older.
*You must complete and attach a **Financial Statement (Form F10.02A)**.*
- One or more of the persons who is obligated to pay support has an income that is more than \$150,000 annually.
*You must complete and attach a **Financial Statement (Form F10.02A)**.*
- I am claiming undue hardship for the following reason(s):

*You must complete and attach a **Financial Statement (Form F10.02A)**.*

- Other:

*Depending on your claim, you may be required to complete and attach a **Financial Statement (Form F10.02A)**.*

- I am seeking a **change in the amount of special and/or extraordinary expenses**.

*You must complete and attach a **Financial Statement (Form F10.02A)**. You must also provide the information below:*

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

Describe the facts and your reason(s) for seeking a change in the amount of special and/or extraordinary expenses:

I am seeking **retroactive child support**.

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

What is the amount of retroactive child support that you are seeking? \$ _____

Describe the facts and your reason(s) for seeking retroactive child support:

I am seeking a **termination of child support**.

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

List your reason(s) for terminating child support:

I am seeking **child support** because a change in our parenting arrangement(s) has given rise to child support and there is no child support order currently in place.

*You must file and complete **Schedule 1 – Parenting** of this form. If you are seeking an amount different from the Child Support Guidelines basic table amount, you must also complete and attach a **Financial Statement (Form F10.02A)**.*

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

What is the amount of child support that you are seeking? \$ _____

Describe your claim, the facts, and your reason(s) for seeking support:

Other changes to child support:

For the following child(ren):			
Effective Date:	Month:	Day:	Year:

What is the amount of child support that you are seeking? \$ _____

Describe your claim, the facts, and your reason(s) for seeking a change in support:

Schedule 4 Spousal, Partner, Parental, or Dependant Support

*If you are seeking a change in spousal, partner, parental or dependant support, you must complete and attach a **Financial Statement (Form F10.02A)***

Complete this schedule if you are applying to change the terms of an order or domestic contract providing for spousal, partner, parental, and/or dependant support.

<p>What is your current spousal, partner, parental, and/or dependant support arrangement?</p>	
<p>Are there arrears or unpaid support?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, attach the most current Support Enforcement (SED) statement and specify:</i> Amount: \$ _____ As of (date) (month/day/year): _____</p>
<p>Is support assigned to be paid to someone else? <i>(eg. Department of Advanced Education, Skills and Labour)</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, provide the details of the assignment arrangement:</i></p>

Check all of the boxes that apply and fill in the information required:

I am seeking a **change in spousal, partner, parental, or dependant support.**

For the following person(s):	
Effective Date:	Month: Day: Year:

Describe the facts and your reason(s) for seeking a change in support:

I am seeking **retroactive spousal, partner, parental, or dependant support.**

For the following person(s):			
Effective Date:	Month:	Day:	Year:

Describe the facts and your reason(s) for seeking retroactive support:

I am seeking a **termination of spousal, partner, parental, or dependant support.**

For the following person(s):			
Effective Date:	Month:	Day:	Year:

Describe the facts and your reason(s) for terminating support:

Other change(s) to spousal, partner, parental, or dependant support:

For the following person(s):			
Effective Date:	Month:	Day:	Year:

Describe your claim, the facts, and your reason(s) for seeking a change in support:

Schedule 5 Other

If you want to change a term of a court order or domestic contract dealing with an issue not listed in the schedules, state why you are applying for the change, describe the current arrangement specified in the order or contract, and describe the change you are seeking to the arrangement:

Statement of Truth

You must swear or affirm that the facts and information you have written in this Application and the attached Schedule(s) is the truth. You must swear or affirm and sign this Statement of Truth in front of a commissioner of oaths, notary public, justice of the peace, or lawyer. You may also do this at the court registry.

I declare that the facts and information in this Originating Application for Variation are true to the best of my knowledge and belief.

SWORN TO or AFFIRMED at _____, this _____ day of _____, 20____.

Signature of Applicant

Signature of Person Authorized to Administer Oaths

Lawyer's Signature for Fee Waiver

I am employed by the Newfoundland and Labrador Legal Aid Commission or a Newfoundland and Labrador government department under the *Executive Council Act* and I am the lawyer of record in this matter.

Signature of Lawyer (if any)

Print Name of Lawyer (if any)

Party's Certificate

If you are applying for relief under the Divorce Act, you must complete this certificate.

I, _____,
(Print Party's Name)

the Applicant, certify to this Court that I am aware of the duties set out in sections 7.1 to 7.5 of the *Divorce Act*, which provide:

- 7.1 A person to whom parenting time or decision-making responsibility has been allocated in respect of a child of the marriage or who has contact with that child under a contact order shall exercise that time, responsibility or contact in a manner that is consistent with the best interests of the child.
- 7.2 A party to a proceeding under this Act shall, to the best of their ability, protect any child of the marriage from conflict arising from the proceeding.
- 7.3 To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process.
- 7.4 A party to a proceeding under this Act or a person who is subject to an order made under this Act shall provide complete, accurate and up-to-date information if required to do so under this Act.
- 7.5 For greater certainty, a person who is subject to an order made under this Act shall comply with the order until it is no longer in effect.

DATED at _____, this _____ day of _____, 20_____.

Signature of Applicant

Lawyer's Certificate

If you are applying for relief under the Divorce Act and you are represented by a lawyer, your lawyer must complete this certificate.

I, _____, the Lawyer for _____,
 (Print Lawyer's Name) (Print Applicant's Name)

the Applicant, certify to this Court that I have complied with s.7.7 of the *Divorce Act*, which provides:

- 7.7 (1) Unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so, it is the duty of every legal adviser who undertakes to act on a spouse's behalf in a divorce proceeding
- (a) to draw to the attention of the spouse the provisions of this Act that have as their object the reconciliation of spouses; and
- (b) to discuss with the spouse the possibility of the reconciliation of the spouses and to inform the spouse of the marriage counselling or guidance facilities known to the legal adviser that might be able to assist the spouses to achieve a reconciliation.
- (2) It is also the duty of every legal adviser who undertakes to act on a person's behalf in any proceeding under this Act
- (a) to encourage the person to attempt to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process, unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so;
- (b) to inform the person of the family justice services known to the legal adviser that might assist the person
- (i) in resolving the matters that may be the subject of an order under this Act, and
- (ii) in complying with any order or decision made under this Act; and
- (c) to inform the person of the parties' duties under this Act.
- (3) Every document that formally commences a proceeding under this Act, or that responds to such a document, that is filed with a court by a legal adviser shall contain a statement by the legal adviser certifying that they have complied with this section.

DATED at _____, this _____ day of _____, 20_____.

 Signature of Lawyer

 Address of Lawyer