

How to Make an Originating Application

Instructions for the Applicant

An **Originating Application (Form 4.03A)** is a document you must use to start a family law court proceeding. Your Originating Application tells the Court that there are family law issues that you would like to have resolved. If you start an Originating Application, you are the *Applicant*. The other person is the *Respondent*.

If you are making an application together with the other person (ie. a joint application), you cannot use this form. You must do a **Joint Originating Application (Form F4.04A)**.

Completing Your Originating Application

You can fill out this form by hand or you can download and fill out this form electronically at www.court.nl.ca/supreme/family/forms.html (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 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, attach an extra page and indicate which section is continued on the extra page.

Filing Your Originating Application

You must make **3 extra copies** of your completed and signed Originating Application (including any additional documents). To file your Originating Application, 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: www.court.nl.ca/supreme/fees.html

Serving Your Originating Application

You must give a copy of the Originating Application 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 Originating Application.

If your Application involves divorce and/or parenting, an adult (who is not you) must hand-deliver the Application to the Respondent. This is called *personal service*. You will have to file an **Affidavit of Service (Form F8.11A)** with the Court.

If your Application does *not* involve divorce or parenting, you can serve the Respondent by personal service, leaving a copy with the Respondent's lawyer, leaving a copy at the Respondent's address, registered mail/courier, or regular mail. You can also serve by fax, email, or electronic document exchange, if the Respondent has provided that information. You will have to file an **Affidavit of Service (Form F8.11A)**, **Acknowledgement of Service (Form F8.04A)**, a copy of the document with the recipient's lawyer's endorsement on it, a reply email, or a delivery confirmation with the Court.

More Information

Questions? Go to www.court.nl.ca/supreme/family 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 or getting 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 ON THE RESPONDENT ---

How to Respond to an Originating Application

Instructions for the
Respondent

A family law proceeding has been started against you. You are the *Respondent* in this proceeding.

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

Read the attached **Originating Application (Form 4.03A)** 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 get a Response form at any Supreme Court location or online: www.court.nl.ca/supreme/family/forms.html

You have only **30 days** after this Originating Application 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).

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 www.court.nl.ca/supreme/family 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

Form F4.03A: Originating Application (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: _____
(Print full name)

☐ NOT APPLICABLE
☐ 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

Check the type of order(s) that you are seeking:

You must fill out the Schedule(s) that relate to your claim(s) and attach any additional forms or documents required.

Type of Order	Fill Out Schedule	Attach
<input type="checkbox"/> Divorce	1	Original marriage certificate
<input type="checkbox"/> Parenting (Decision-making and parenting time)	2	-
<input type="checkbox"/> Contact Order / Third Party Time with Child*	3	-
<input type="checkbox"/> Child Support	4	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	5	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>)	5	Financial Statement (Form F10.02A)
<input type="checkbox"/> Division of Matrimonial (<i>married</i>) Property, Common Law (<i>unmarried</i>) Property, or Property under the <i>FHRMIR Act</i>	6	Property Statement (Form F10.04A)
<input type="checkbox"/> Return of Child (within Canada)	7	Emergency Interim Application (Form 17.03A) if applicable
<input type="checkbox"/> Consent Order or Agreement	8	Signed consent order or agreement
<input type="checkbox"/> Other: _____	8	-

***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.**

Applicant Information

Fill in your information below. Note: 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				
Middle Name(s) (if any)				
Gender				
Residential Address				
	Street Address	City	Province	Postal Code
Mailing Address (if different from Residential Address)				
	Street Address or PO Box	City	Province	Postal Code
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, Telephone Number, and Address (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				
Middle Name(s) (if any)				
Gender				
Residential Address				
	Street Address	City	Province	Postal Code
Mailing Address (if different from Residential Address)				
	Street Address or PO Box	City	Province	Postal Code
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, Telephone Number, and Address (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, you were	<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 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 no children.

☐ 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.

(Note: This Schedule is intended for divorce applications under the *Divorce Act*. If you are seeking a divorce under the *Civil Marriages Act*, fill out Schedule 7.)

Schedule 1 Divorce

In order to apply for a divorce, **you must be able to satisfy all 4 of the requirements below:**

1	<input type="checkbox"/> There has been a breakdown in our marriage and there is no likelihood that we will get back together.	
2	<input type="checkbox"/> I am a resident of Newfoundland and Labrador and have been a resident of Newfoundland and Labrador for at least 1 year immediately prior to this application.	OR <input type="checkbox"/> My spouse is a resident of Newfoundland and Labrador and has been a resident of Newfoundland and Labrador for at least 1 year immediately prior to this application.
3	<input type="checkbox"/> I have attached the original Certificate of Marriage (or Registration of Marriage) to this Application. <i>If you were married in Canada, you can obtain your Certificate of Marriage from the provincial Vital Statistics Agency.</i> <input type="checkbox"/> Check this box if your Certificate of Marriage is not in English or French. You must attach a translation and an Affidavit from the translator.	<input type="checkbox"/> I was married outside of Canada and I am unable to attach a copy of my Certificate of Marriage (or Registration of Marriage) because it is impossible or impractical to obtain. <i>You will have to make an Interim Application for a Procedural Order (using Form F16.03A) for an Order dispensing with the need to file a Certificate of Marriage.</i>
4	<input type="checkbox"/> There has been no collusion in relation to this application for a divorce.	

I am seeking a divorce because there has been a permanent breakdown in our marriage based upon:

<input type="checkbox"/> Separation: <p><i>Check this box if you and your spouse currently live separate and apart and will have lived separate and apart for at least 1 year prior to the determination of the divorce proceeding.</i></p> <p><i>If you and your spouse have been living separate and apart for less than 1 year, you may still file an Originating Application for divorce on the ground of separation. However, you must wait until 1 year has elapsed to file an Application for Judgment for divorce.</i></p>
<input type="checkbox"/> Adultery: <p><i>Check this box if you are seeking divorce because the Respondent has committed adultery. Attach an extra page with details of the adultery.</i></p> <p><i>You may be required to present further evidence of the adultery. You do not need to name any other person involved. If you choose to name another person, you must serve this Originating Application on that person by personal service. That other person(s) will have the same rights as the Respondent in relation to the adultery claim and may file a Response.</i></p> <p><input type="checkbox"/> Check this box to declare that you have not condoned or connived in the adultery.</p>
<input type="checkbox"/> Cruelty: <p><i>Check this box if you are seeking divorce because your spouse has treated you with physical or mental cruelty that makes continued cohabitation intolerable. Attach an extra page with details of the cruelty.</i></p> <p><i>You may be required to present further evidence of the physical or mental cruelty.</i></p> <p><input type="checkbox"/> Check this box to declare that you have not condoned or connived in the cruelty.</p>

Schedule 2 Parenting Order

If you are making an application for a parenting order (decision-making and/or parenting time), or are a person looking to step into the role of parent, fill in the information below.

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 (ie. phone or internet):

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 3**Contact Order/ Third Party Time with Child**

If you are a non-parent making an application for contact or time with a child, fill in the information below:

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

What contact/ time do you presently have or have you had with the child?:

What contact/ time 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 for contact/ time with the child (i.e. previous convictions, involvement with child protection authorities)?:

Other information that may be relevant to the court in determining whether to grant you contact/time with the child:

Schedule 4**Child Support**

Check all of the boxes that apply:

☐ I am seeking the **basic table amount** as per the *Child Support Guidelines*.

☐ I am seeking **special and/or extraordinary expenses**.

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

☐ I am seeking **an amount of child support that is different from the *Child Support Guidelines* basic table amount**.

*Depending on your reason(s) for seeking an amount different from the *Child Support Guidelines*, you may have to attach further documentation.*

List your reason(s) for seeking an amount of child support different from the *Child Support Guidelines*:

☐ 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 **retroactive child support**.

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

What is the date from which you are seeking retroactive child support? (month/day/year) _____

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

Schedule 5**Spousal, Partner, Parental, or Dependant Support**

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

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

☐ I am seeking :

- ☐ **Spousal support**
- ☐ **Partner support**
- ☐ **Parental support**
- ☐ **Dependant support**

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

☐ I am seeking:

- ☐ **Retroactive spousal support**
- ☐ **Retroactive partner support**
- ☐ **Retroactive parental support**
- ☐ **Retroactive dependant support**

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

What is the date from which you are seeking retroactive support? (month/day/year) _____

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

Schedule 6 Division of Property

*If you are seeking a division of matrimonial property or common law property, you must complete and attach a **Property Statement (Form F10.04)***

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

☐ I am seeking an **equal division of matrimonial property**.

☐ I am seeking an **unequal division of matrimonial property**.

Describe the facts and your reason(s) for seeking an unequal division of property:

☐ I am seeking **exclusive possession of the matrimonial home**.

Describe the facts and your reason(s) for seeking exclusive possession of the matrimonial home:

☐ I am seeking a **division of common law property**.

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

☐ I am making a claim under the ***Family Homes on Reserves and Matrimonial Interests or Rights Act***.

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

☐ Other:

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

Schedule 7 Return of Child (within Canada)

*If you are seeking a court order for the return of a child or children (within Canada), answer the questions below:
You may provide any additional affidavit(s) necessary.*

At what address does the child(ren) habitually (normally) live?

Set out all of the available facts and information that you have relating to the whereabouts of the child(ren):

Set out all the available facts and information that you have regarding the identity of the person that the child(ren) is/are presumed to be with:

Set out your reasons for making the application:

Schedule 8 Other Applications

If you are seeking a court order for something other than the claims requested in the other Schedules, state what you are seeking, describe the facts, and give reasons:

Statement of Truth

You must swear or affirm that the facts and information that you have written in this Originating 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. Court Registry staff are commissioners of oaths and you may sign this application at the Court when you file it.

I declare the facts and information in this Originating Application 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)

If you are applying for a divorce and you are represented by a lawyer, your lawyer must complete this certificate. If you are not applying for divorce or do not have a lawyer, you do not have to fill out this certificate.

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

(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.

Address of Lawyer