

Planning for Your Family After Separation or Divorce



CHILD and SPOUSAL SUPPORT ORDERS



The first step is to come to an agreement about parenting and guardianship. How the custody of children is shared will be used to determine the amount that is required to be paid for support.

The court considers what is required for Child Support before an amount for Spousal Support is considered.

CHILD SUPPORT is the CHILD'S RIGHT

A **CHILD SUPPORT ORDER** states the judge's decision about money to be paid from one parent to the other for care of a child.

WHO PAYS CHILD SUPPORT?

- Anyone who has acted in the place of a parent from the child's perspective may have to pay support.
- A couple cannot create an agreement that allows one partner to avoid paying child support.
- A parent, a guardian or the child may apply for child support.

HOW MUCH WILL A PARENT PAY?

In Alberta, the judge uses the **FEDERAL CHILD SUPPORT GUIDELINES** to decide.

Things the judge considers:

- The parenting arrangement, or how much time the child(ren) live with each parent.
- The number of children.
- The age of children—support must be paid for children under 18 and ones over 18 who attend school full-time or are still dependent.
- The amount of each parent's income before taxes.
- The financial assistance to the child from the band for education.

The judge uses income before taxes to determine payment amount. If income is earned on Reserve, the judge may **ADD** an amount to untaxed income to set payment.

Both parents must provide financial support, even if one makes a lot more money than the other. The judge will **ONLY** consider differences in income when:

- one parent faces circumstances that make it hard to pay (called undue hardship)
- when determining support amounts for extraordinary expenses (these include extra costs for health care, education, or extracurricular activities)

A SPOUSAL SUPPORT ORDER can help if your financial situation is changing because your relationship is ending.

The order states the support paid from one partner to the other, to ensure BOTH can be financially independent.

You can apply for a **SPOUSAL SUPPORT ORDER** if:

- you were married OR
- in an adult interdependent relationship AND lived together for 3 years, or have a child together, or signed an Adult Interdependent Partnership Agreement.

SPOUSAL SUPPORT IS NOT GUARANTEED.

If you are applying for both spousal and child support, the court will consider **CHILD SUPPORT** needs before **SPOUSAL SUPPORT**.

If you were **MARRIED**, the judge will consider:

- how long you lived together
- each partner's responsibilities during the marriage
- any previous agreements about support

If you had an **ADULT INTERDEPENDENT PARTNERSHIP**, the judge will consider whether either partner has a legal obligation to support other people.



HOW MUCH SPOUSAL SUPPORT WILL BE PAID ?

- The judge may use the **SPOUSAL SUPPORT ADVISORY GUIDELINES** to set the amount but does not have to use them.
- The judge will consider: each partners' income before taxes, the number of years you live together, and childcare expenses.

WHAT IF MY SPOUSE DOES NOT PAY?

The **MAINTENANCE ENFORCEMENT PROGRAM** can help you collect owed Child Support and Spousal Support that is owed.

- You can register if you receive payments or make them.
- Once you register, you must always use the program to make or receive payments.
- If your spouse will not pay, the program will take steps to find them and make them pay.
- You may be able to collect un-paid support for up to the past three years.



For more information contact:

**Native Counselling Services of Alberta
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