



MOTION TO CHANGE A FINAL FAMILY COURT ORDER OR A SUPPORT AGREEMENT

A Self-Help Guide

When you are served with a motion to change

This guide is not legal advice. If you have questions or need advice about your case, you should speak to a lawyer.

If you decide to hire a lawyer and do not know whom to call, you can contact the lawyer referral service operated by the Law Society of Upper Canada. The lawyer referral service will provide the name of a lawyer in your area who practices family law. That lawyer will provide a free half-hour consultation. The telephone number for the service is 1-800-268-8326.

If you can't afford a lawyer, you may wish to contact Legal Aid Ontario to see if you qualify for legal aid. You may contact Legal Aid Ontario by calling 1-800-668-8258 or by visiting www.legalaid.on.ca. You can also visit an Advice Lawyer (a lawyer provided by Legal Aid Ontario) at the Family Law Information Centre at the family court in your municipality. If you meet the financial requirements for legal aid, an Advice Lawyer can give you legal advice about your case. If you do not meet the financial requirements, an Advice Lawyer can still provide some general information about the family court process.

Ce guide est également disponible en français.

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What is a motion to change?

A motion to change is the court process used when a person wants to ask a judge to:

- change or end a final family court order, or
- change or end an agreement to pay support.

When is a motion to change made?

The most common reason people bring a motion to change is to change a support payment. A motion to change is often brought when one or more of the following happens.

- The support payor is making more money than he or she was when the order or agreement was made.
- The support payor is making less money than he or she was when the order or agreement was made.
- The child has finished school, married or moved out on their own.
- The child or children are now living with the payor or a different person.
- The person receiving spousal support is now able to support himself or herself.

A motion to change can also be used to ask a court to change a final order concerning:

- custody,
- access, or
- a restraining/non-harassment order.

Important terms

Agreement – a domestic contract or agreement, such as a separation or paternity agreement

Assignee – the social service agency that is receiving support payments because the person receiving support is on social assistance

Party – a person who makes a claim in a case or against whom a claim is made. A party may include an agency. In a motion to change, the moving party is the individual who makes a motion to change. The responding party is the individual who is served with a motion to change.

Payor – a person required to pay money under an order or agreement, such as support

Proof of income – income tax returns and notices of assessment; pay stubs; a letter from an employer confirming income; business records; trust agreements; and other financial records

Recipient – a person entitled to receive money under an order or agreement, such as support

What if I am served a motion to change?

If you are served with Form 15: Motion to Change, you should read the forms carefully. If you have a lawyer, you should contact your lawyer as soon as possible. A lawyer can help you understand the motion to change and explain your rights and responsibilities in your situation. You have a limited time to respond to the motion.

Are there special forms to use?

Yes, the forms you need depend on the nature of your case. The forms are:

- Form 15B: Response to Motion to Change
- Form 15C: Consent Motion to Change

In some cases, you may also need a financial statement.

- Form 13: Financial Statement (Support Claims) or
- Form 13.1: Financial Statement (Property and Support Claims).



These forms are available at the family court counter or you can download them from the Ministry of the Attorney General's website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", scroll down and click on "Family Law Rules Forms".

If the motion to change deals with changes to a support order or support agreement you should complete:

- Support Deduction Order Information Form (form number 006-FRO-021E).



This form is available at the family court counter or you can download it at www.forms.ssb.gov.on.ca. Click on "Advanced Forms Search". Go to "Form contains" and enter "support deduction order information form", then "Start Search".

How do I respond to a motion to change?

Rule 15 of the *Family Law Rules* sets out the procedure to change a final order or support agreement. The *Family Law Rules* guide each step of your family court case and tell you the forms each person must complete.



The *Family Law Rules* are on the Ministry of the Attorney General's website www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice" and scroll down to find "Family Law Rules" or "Family Law Rules Forms".

If you are served with a motion to change, you can take the following steps.

Step 1: Decide whether or not you agree with the change being asked for

Step 2: Serve a copy of your response or send your consent to the moving party

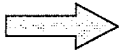
Step 3: File your response and affidavit(s) of service at the family court office

STEP 1: DECIDE WHETHER OR NOT YOU AGREE WITH THE CHANGE BEING ASKED FOR

If you are served with a motion to change, you can agree with some or all of the change the other person has asked for, you can try to negotiate other terms with the person bringing the motion or you may want to make a change of your own.

A) If you consent

If you agree with the changes the other person has asked for, you should let them know by completing Form 15C: Consent Motion to Change and sending it to them. Read the form carefully and follow the directions in the form. (*The directions are often in italics and parenthesis next to the part of the form that you need to complete.*) You may not agree with everything the other person has proposed. But you still might want to contact the other person or their lawyer to see if you can negotiate a consent.



Form 15C can also be completed whenever you are able to reach an agreement, not just at the beginning of the case.

Form 15C: Consent Motion to Change

Use Form 15C if you are agreeing to change or end a final order or support agreement. You, the other person, and the assignee, if any, must complete and sign this form.



If you have not been served with a blank Form 15C, this form is available at the family court counter or you can download it from the Ministry of the Attorney General website at www.attorneygeneral.ius.gov.on.ca. Click on "Family Justice", scroll down and click on "Family Law Rules Forms".

It is likely that the court will make the order asked for in the consent form. You should consider getting legal advice before you sign it. If you are not sure how the order might affect you, you should definitely see a lawyer.

When you sign Form 15C, you are confirming that you are aware of your right to consult with a lawyer. You are also confirming that you know that signing the form may lead to a final court order that may be enforced.

You will need to sign the consent form in front of a witness. You and the other party cannot witness each other's signatures. If the witness does not know you, you will need to provide identification to prove that you are who you say you are.

Even if you reach an agreement about support, you may have to complete a financial statement (Form 13 or Form 13.1). If you are required to provide a financial statement, you must provide complete and accurate financial information to the other party. If you are not sure if you have to file a financial statement, you should refer to Rule 13 of the *Family Law Rules*.

You can both agree not to file financial statements. However, you should do this only if you are convinced that the other party has provided you with complete and accurate financial information. Even if you agree to not file financial statements, the payor and sometimes the recipient will need to provide proof of income in some circumstances (for example, if there are special or extraordinary expenses under section 7 of the *Child Support Guidelines*.)

B) If you do not consent

If you do not agree with what the moving party is asking for and you cannot negotiate an agreement, it is important for you to respond to the motion on time. You must serve the moving party, and an assignee, if any, and file with the court Form 15B: Response to Motion to Change, and any required documents, **within 30 days** of being served. Read the form carefully and follow the directions in the form. *(The directions are often in italics and parenthesis next to the part of the form that you need to complete.)*

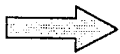
Form 15B: Response to Motion to Change

Use Form 15B to tell the court what you agree and disagree with in the moving party's documents. You can also use this form to ask for changes of your own.



If you have not been served with a blank Form 15B, this form is available at the family court counter or you can download it from the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", scroll down and click on "Family Law Rules Forms".

Form 15B is a document that you swear or affirm to be true in front of a person who is a commissioner for taking affidavits. If you need help finding a commissioner for taking affidavits, staff at the family court office may be able to help.



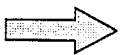
It is a criminal offence for a person to swear or affirm a false or misleading affidavit.

STEP 2: SERVE A COPY OF YOUR RESPONSE OR SEND YOUR CONSENT TO THE MOVING PARTY

Once you have completed Form 15C: Consent Motion to Change or Form 15B: Response to Motion to Change and attached the necessary documents, you must serve a copy on the moving party, and the assignee, if any. Be sure to keep a copy for yourself.

You can serve the moving party by regular service. This can be done by:

- giving a copy personally to the moving party or their lawyer,
- mailing a copy to the moving party or their lawyer, or
- faxing a copy to the moving party or their lawyer.



For more information on other options and more details on service, see Rule 6 of the *Family Law Rules*.

If there is an assignee:

- you can serve the assignee by regular mail. The documents are considered served five days after you mail them.

The support will likely be assigned if:

- the person getting support is receiving social assistance through Ontario Works, the local municipality or another source, or

- the person getting support received social assistance in the past and money is still owed to the social service agency.

If you are not sure if the payments are going through a social service agency, you should submit a confirmation of assignment form to the Ministry of Community and Social Services Confirmation of Assignment Unit. They will confirm for you if the payments are assigned or not.



The Confirmation of Assignment form ([006-3006 English](#) or [006-3007 Français](#)) is available at the family court counter or you can download it at www.forms.ssb.gov.on.ca. Click on "Advanced Forms Search". Go to "Form contains" and enter "confirmation of assignment"; then "Start Search".

STEP 3: FILE YOUR RESPONSE AND AFFIDAVIT(S) OF SERVICE AT THE FAMILY COURT OFFICE

After a copy of your response to motion to change has been served, you must file the original Form 15B: Response to Motion to Change, including any required attachments or documents, and your affidavit(s) of service with the court.

Whoever serves the documents must complete Form 6B: Affidavit of Service. In this document, the person who served the documents will swear or affirm in front of a person who is a commissioner for taking affidavits that they served the moving party or their lawyer, and an assignee, if any, and state when they were served and what documents they gave them.



If you need help finding a commissioner for taking affidavits, staff at the family court office may be able to help.

What happens if I do not respond to the motion to change?

If you do not serve and file your response within 30 days of being served, you will have no further rights in the case. The moving party will be able to ask the court to make the order it has asked for and that order may be enforced against you.

If you cannot file your response to motion to change within 30 days, you can file Form 14B: Motion Form with the court asking to extend the time for you to file. On the form, explain why you need more time. You must serve the moving party or their lawyer, and an assignee, if any, with Form 14B.



Form 14B is available at the family court counter or you can download it from the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", scroll down and click on "Family Law Rules Forms".

GOING TO COURT

If the motion to change was started at the Family Court branch of the Superior Court or at the Ontario Court of Justice, the documents will probably contain a first court date. You can find the first court date on the first page of Form 15: Motion to Change.

If you have not provided the moving party with Form 15C: Consent Motion to Change, you should attend court on the day and time indicated on the form. You will probably see a clerk at that time. The clerk will make sure that you are ready to see a judge. For example, the clerk will want to check that you served the response to motion to change on all other parties, including the assignee, if any, and that affidavits of service have been filed with the court.

If you do not have a lawyer, you may have the chance to speak to duty counsel, who is a lawyer provided by Legal Aid Ontario. Duty counsel is available to give unrepresented parties who would qualify for Legal Aid some basic legal information and advice.

If you cannot attend the first court date, you should contact the moving party or their lawyer to try to change the date. If you cannot agree on a different date, you can file Form 14B: Motion Form asking the court for an adjournment. On the form, explain why you are unable to attend. You must serve the moving party or their lawyer, and an assignee, if any, with Form 14B.



Form 14B is available at the family court counter or you can download it from the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", scroll down and click on "Family Law Rules Forms".

Unless the court grants an adjournment, you will be required to go to court at the time and date indicated on Form 15. If you are not able to attend you should ask a lawyer or someone else to attend on your behalf to explain your absence.

If you do not attend court or get an adjournment, the court may make an order that can be enforced against you.

If your motion was started at the Superior Court of Justice (not the Family Court branch), you will not be given a first court date. You or the other party must ask the clerk to set a date for a case conference if the motion is to proceed. A case conference is a meeting where the parties and a judge discuss the issues and try to come to an agreement.

The party who asks for the case conference must serve every other party with Form 17: Conference Notice.



More information on case conferences is available in the Guide to Procedures from the Ministry of the Attorney General's website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", then go to "Guides to Procedures".

In some Superior Court of Justice locations, the motion to change may be sent to a Dispute Resolution Officer instead of a judge. A Dispute Resolution Officer is an experienced family law lawyer who has been asked by the court to meet with you and assist you in settling your issues.

WHAT HAPPENS NEXT

This will depend on your case and the steps the judge thinks are necessary.

FLOWCHARTS

MOTION TO CHANGE (CONSENT, CHILD SUPPORT ONLY)

Moving party/Parties complete and file:

- a) Form 15D: Consent Motion to Change Child Support, signed by each party and the assignee, if any
- b) Five copies of a draft order
- c) Stamped envelope addressed to each party
- d) Support Deduction Order Information Form
- e) Draft Support Deduction Order



Clerk presents documents to the judge
No case conference is required before the motion to change and the parties do not need to attend court unless specifically directed by court to do so.



Clerk distributes signed order or contacts the parties to have the parties attend court.

MOTION TO CHANGE (CONSENT)

Moving party/Parties complete and file:

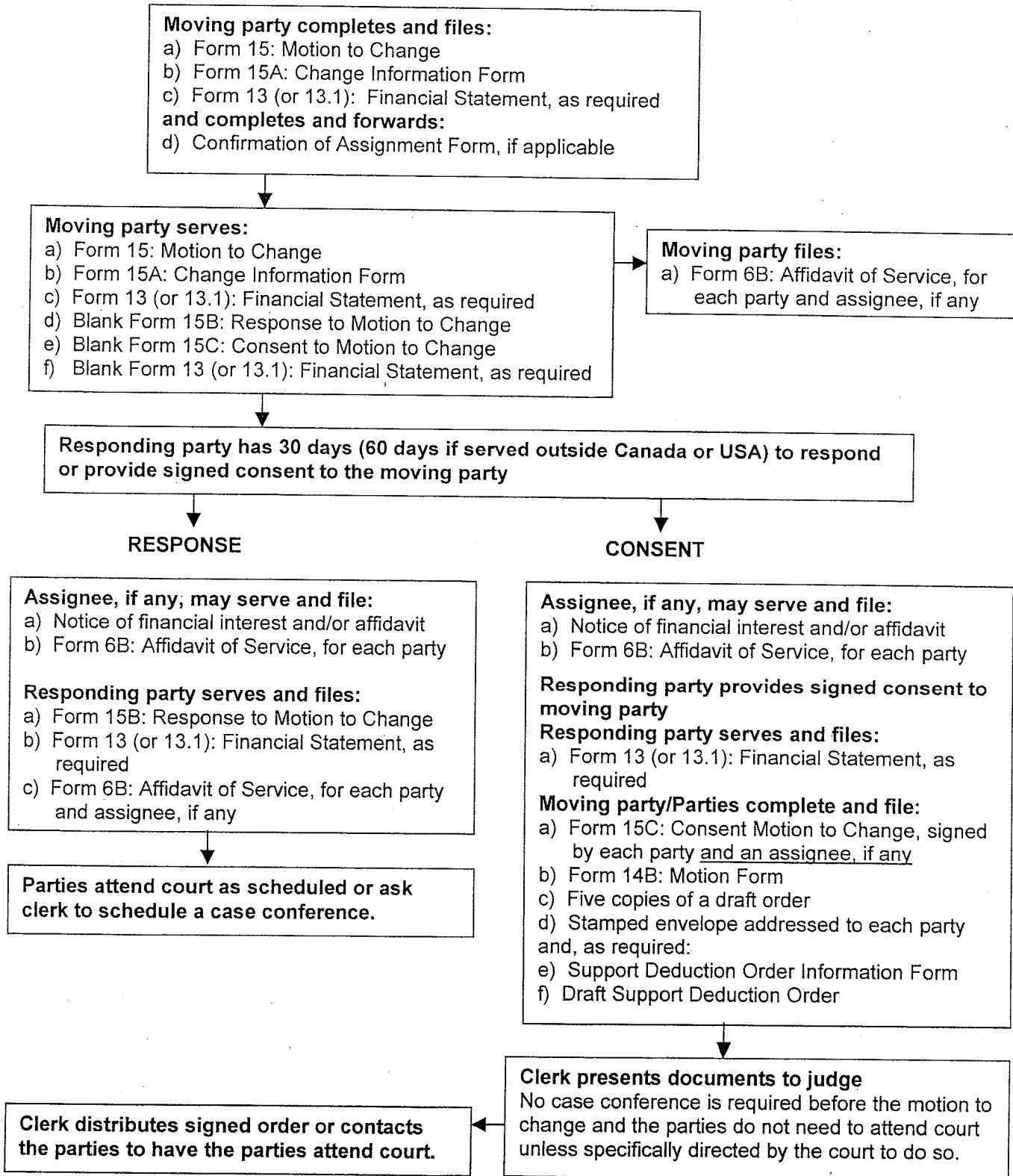
- a) Form 15A: Change Information Form
- b) Form 15C: Consent Motion to Change, signed by each party and an assignee, if any
- c) Form 13 (or 13.1) Financial Statement for each party, as required
- d) Form 14B: Motion Form
- e) Five copies of a draft order
- f) Stamped envelope addressed to each party
- g) Support Deduction Order Information Form
- h) Draft Support Deduction Order

Clerk presents documents to the judge

No case conference is required before the motion to change and the parties do not need to attend court unless specifically directed by court to do so.

Clerk distributes signed order or contacts the parties to have the parties attend court.

MOTION TO CHANGE (NO CONSENT BEFORE SERVICE)



MOTION TO CHANGE (NO RESPONSE, NO CONSENT)

