

FORM 70H
THE KING'S BENCH (FAMILY DIVISION)
_____ Centre

BETWEEN:

(full name)

petitioner

– and –

(full name)

respondent

NOTICE OF MOTION TO VARY

TO THE PETITIONER or RESPONDENT: _____
(full name and address including postal code)

THE _____ WILL MAKE A MOTION FOR AN ORDER VARYING
(identify moving party)

the _____ order granted
(specify the order the applicant seeks to vary)

by _____ of _____,
(judge) *(court)*

of _____ pronounced on the _____ day of _____,
(province) *(date)* *(month)* *(year)*

(List any other orders which the moving party is asking to vary.)

The details of the variation the moving party is requesting are found on the attached page.

(If this motion is for an order varying, rescinding or suspending support, add:)

You must do the following things unless the NOTICE OF RIGHT TO REQUEST INTER-JURISDICTIONAL CONVERSION under the Divorce Act (Canada) applies to you AND you submit the REQUEST TO CONVERT APPLICATION INTO AN INTER-JURISDICTIONAL SUPPORT VARIATION APPLICATION UNDER THE DIVORCE ACT (CANADA) within 40 days:

You or a Manitoba lawyer acting for you must file and serve in the court office an affidavit and a financial statement in accordance with Rule 70.37 and Form 70D of the *King's Bench Rules* within the time set out below for filing and serving a notice of opposition to variation.

(If this motion is for an order varying a child support order, add both of the following paragraphs:)

You must also file and serve in the court office an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines* (if either the moving party or you live outside Manitoba) or by section 21 of the *Manitoba Child Support Guidelines Regulation* (if you both live in Manitoba) within the time set out below for filing and serving a notice of opposition to variation.

NOTE that if there are no support or property issues raised in this motion, you do not need to file and serve at this time a financial statement nor an affidavit containing the documents required by section 21 of the applicable child support guidelines.

IF YOU ARE SERVED WITH A DEMAND FOR FINANCIAL INFORMATION IN FORM 70D.1, YOU MUST ALSO PROVIDE THE FINANCIAL INFORMATION REQUIRED OF YOU WITHIN THE TIME SET OUT IN THE DEMAND FOR FINANCIAL INFORMATION, WHICH MAY BE DIFFERENT THAN THE TIME SPECIFIED BELOW FOR FILING A RESPONSE TO THIS MOTION.

IF YOU FAIL TO FILE AND SERVE YOUR COMPLETED FINANCIAL INFORMATION ON TIME, YOU MAY INCUR SERIOUS PENALTIES.

IF YOU WISH TO OPPOSE THIS MOTION AND PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must prepare:

- a notice of opposition to variation (Form 70H.1) except for guardianship, contact or *loco parentis* orders;
- a responding affidavit;
- a Financial Statement (Form 70D) if the motion is to vary, rescind or suspend support;

and file them in the court office where the application is to be heard:

- WITHIN 20 DAYS after this motion is served on you, if you are served in Manitoba;
- WITHIN 40 DAYS after this motion is served on you, if you are served in another province or territory of Canada or in the United States of America;
- WITHIN 60 DAYS after this motion is served on you, if you are served outside Canada or the United States of America.

and serve them on the moving party's lawyer or, where the moving party does not have a lawyer, serve them on the moving party.

IF YOU FAIL TO FILE AND SERVE A NOTICE OF OPPOSITION TO VARIATION, AN ORDER MAY BE GRANTED AGAINST YOU ON ANY CLAIM IN THIS MOTION IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

EVIDENCE TO BE USED AT THE HEARING

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(List affidavits or other documentary evidence on which the moving party will be relying.)

Date

Signature of lawyer or party filing

Name of lawyer or party filing

(Firm name)

(Address)

(Phone)

(Fax)

(E-mail address)

(Strike out paragraph 1 if relief is not being sought under the Divorce Act (Canada) or The Family Law Act.)

- 1. The particulars of all orders, processes and court proceedings affecting any party to this proceeding, including any of the following:

(Give details of any such orders, processes, proceedings, etc. – e.g. nature of the matter, date, court, court file/incident number, status, etc. or state NONE if there are no orders, processes and court proceedings affecting any party.)

- (a) an order or proceeding in relation to parenting arrangements, child support, spousal support or property;

(b) a civil protection order or a proceeding in relation to such an order;

(c) a child protection order, proceeding, agreement or measure;

(d) an order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature.

(Strike out all of paragraph 2 if the moving party is not claiming relief under the Divorce Act (Canada).)

2. Certification of moving party under the *Divorce Act* (Canada):

I certify that I am aware of my duties and responsibilities under the *Divorce Act* (Canada), as follows:

(Strike out paragraphs 2(a) and 2(b) if parenting time, decision-making responsibility or contact are not being sought.)

(a) If I am granted parenting time or decision-making responsibility or allocated contact:

- (i) I will exercise it in a manner that is consistent with the best interests of the child.
- (ii) Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act* (Canada) to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.

- * Any move — including a local move — is a change of residence.
- A “relocation” is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child’s relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
- A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.
- Notice of a relocation must be given at least 60 days in advance.
- A person with contact who proposes any change of residence, must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
- **The specific details of the notice requirements are set out in the *Divorce Act*, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the [Notice of Relocation Regulations](#) under the *Divorce Act*, Canada. See Justice Canada web site: www.laws-lois.justice.gc.ca**

- (b) If I am granted parenting time or decision-making responsibility, before relocating myself or the child, I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act* (Canada), to any other person who has parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.

(Strike out paragraph 2(c) if there are no children of the marriage.)

- (c) I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding.
- (d) I will, to the extent that is appropriate to do so, try to resolve this matter with the responding party through a family dispute resolution process.
- (e) I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act* (Canada).
- (f) I will comply with any order made under the *Divorce Act* (Canada).

(Strike out all of paragraph 3 if relief is not being claimed under The Family Law Act.)

3. Certification of moving party under *The Family Law Act*:

I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:

- (a) I will act in a way that strives
- (i) to minimize conflict;
 - (ii) to promote cooperation; and
 - (iii) to meet the best interests of any child involved in the dispute.

(Strike out paragraph 3(b) if parenting time, decision-making responsibility or contact is not being sought under The Family Law Act.)

- (b) If I am granted parenting time or decision-making responsibility or contact with a child under a contact order:
- (i) I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.
 - (ii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:
 - (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,

- (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*;
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and
 - (5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.
- (iii) Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who:
- (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***

I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.

(Strike out paragraph 3(c) if there are no children in the relationship.)

- (c) I will, to the best of my ability, protect any child from conflict arising from the proceeding.
- (d) I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.
- (e) I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.
- (f) I will comply with any order made under *The Family Law Act*.

Dated at _____, this _____ day of _____, _____.

Signature of moving party

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

The moving party's Lawyer is:

(Name of lawyer)

(Firm name)

(Address)

(Phone)

(Fax)

(E-mail address)

(Strike out the Statement of Lawyer below if moving party is not claiming relief under the Divorce Act (Canada).)

Statement of Lawyer under the *Divorce Act* (Canada):

I, _____, the lawyer for _____, the moving party, certify to this court that I have complied with the requirements of subsection 7.7(2) of the *Divorce Act* (Canada).

Dated at _____, this _____ day of _____.

Signature of lawyer

Name of lawyer

(Strike out the Statement of Lawyer below if moving party is not claiming relief under The Family Law Act.)

Statement of Lawyer under *The Family Law Act*:

I, _____, the lawyer for _____, the moving party, certify to this court that I have complied with the requirements of subsection 9(1) of *The Family Law Act*.

Dated at _____, this _____ day of _____.

Signature of lawyer

Name of lawyer

NOTICE OF RIGHT TO REQUEST INTER-JURISDICTIONAL CONVERSION

If you reside in another province or territory in Canada other than Manitoba you may request that the Manitoba Court convert this application into an inter-jurisdictional support variation application under section 18.1 of the *Divorce Act* (Canada).

You must make this request within 40 days of being served with this Notice of Motion to Vary.

If you do not make this request within this time period, you must comply with all other requirements set out in this document.

To make this request, you must complete the attached page and send it to:

The Court of King's Bench of Manitoba (Family Division)
[ADDRESS]
[FAX #]

THE KING'S BENCH (FAMILY DIVISION)

_____ Centre

BETWEEN:

(full name)

petitioner

- and -

(full name)

respondent

REQUEST TO CONVERT APPLICATION INTO AN INTER-JURISDICTIONAL SUPPORT VARIATION APPLICATION UNDER THE *DIVORCE ACT* (CANADA)

I, _____ am the Petitioner / Respondent named
(insert your full name) *(cross out word that does not apply)*

in the Notice of Motion to Vary that I received on _____.
(date)

I reside in the Province/Territory of _____.
(insert name of your province or territory)

I request that the Court convert this application into an inter-jurisdictional support variation application under section 18.2 of the *Divorce Act* (Canada).

My address for service of documents relating to an inter-jurisdictional support variation application is:

(Insert your address, postal code, telephone number and email address and/or the name, address postal code, telephone number and email address of your lawyer.)

I agree to receive communication by email from the Manitoba Court or the Designated Authority under the *Divorce Act* (Canada).

Date of Request

Signature of Requesting Party