

Consent Orders

Family Law Self-Help Guide



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Yukon Government Legal Information Resources

Family Law Information Centre

867-456-6721, or toll free 1-800-661-0408 ext. 6721, www.yukonflic.ca

Court Registry

867-667-5441, or toll-free 1-800-661-0408 ext. 5441

Law Library

867-667-3086, or toll-free 1-800-661-0408 ext. 3086

Maintenance Enforcement Program (Information Line)

867-667-5437, or toll-free 1-800-661-0408 ext. 5437, www.yukonmep.ca

Sheriff's Office

867-667-5365, or toll-free 1-800-661-0408 ext. 5365

Non-Government Legal Information Resources

The Law Line (Yukon Public Legal Education Association – YPLEA)

867-668-5297, or toll free 1-800-668-5297, www.yplea.com

Legal Aid (Yukon Legal Services Society – YLSS)

867-667-5210, or toll free 1-800-661-0408 ext. 5210, www.legalaid.yk.ca

Lawyer Referral Service (Law Society of Yukon)

867-668-4231, www.lawsocietyyukon.com

Family Support Services

Many Rivers Counseling and Support Services

867-667-2970, call collect from outside of Whitehorse, www.manyrivers.yk.ca

Victoria Faulkner Women's Centre

867-667-2693, www.vfwc.net

Family Violence Prevention Unit

867-667-3581, or toll free 1-800-661-0408 ext. 3581, www.justice.gov.yk.ca/prog/cor/vs

Kids Help Line

1-800-668-6868

Submitting a Consent Order : Step-by-step

Step 1

Research the laws and rules that apply to your family law matter

Step 2

Prepare and complete forms

Step 3

Make copies of all your forms and documents

Step 4

Have your Affidavit notarized

Step 5

File your forms with the Supreme Court

Step 6

Receive judge's approval or follow judge's instructions

IMPORTANT!

This guide has been produced by the Yukon Department of Justice, Court Services Branch, with financial assistance from Justice Canada. It is intended to be used as a guide only and is not considered a comprehensive legal resource.

The information provided does not replace a lawyer's advice and cannot teach you everything you need to know. Even if you decide to proceed without a lawyer, you should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

The information provided in this guide is believed to be correct as of its date of publication of March 2009.

At the time of publication, the Yukon *Family Property and Support Act* had not yet been updated to include same-sex relationships. However, the Supreme Court of Yukon changed the definition of marriage to mean "the voluntary union for life of two persons to the exclusion of all others" in 2004, (*Dunbar & Edge v. Yukon (Government of) & Canada (A.G.)* 2004 YKSC 54). The terms "married" and "common-law" throughout the self-help guides refer to either opposite sex or same-sex unions.

At the time of publication of this guide, the *Child and Family Services Act*, the successor to the *Children's Act*, had not been proclaimed. Following proclamation, references in this guide to the *Children's Act* can be taken to refer to the new legislation.

Consent Orders

This guide is provided for people living in the Yukon who are working to resolve a family law issue covered under the *Family Property and Support Act*, the *Children's Act* or the *Divorce Act* (Canada), such as divorce, spousal support and child support, custody and access.

It provides basic information on consent orders and step-by-step instructions for filing a consent order with Supreme Court of Yukon in a family law matter.

It is highly recommended that you seek legal advice when preparing and submitting a consent order. No one should sign a consent order without legal counsel in a situation where violence or another form of power imbalance is a factor.

Other publications produced by the Yukon Department of Justice, Court Services Branch, provide more information on family law that can help you understand your legal issue and court procedures. Additional tools, information and publications on family law and child support can be found on the **Family Law Information Centre** website at www.yukonflic.ca.

Basic Information on Consent Orders

A **court order** is a decision by a judge that the people named in it must follow. A **consent order** is a court order, but the terms are decided by and voluntarily agreed to by the parties involved and approved by a judge. You do not have to go to court for a hearing if you and the other party can come to an agreement and sign a consent order.

If at any step in your family law proceeding you and the other party come to an agreement, you can apply for a consent order. Either party can submit a consent order for filing.

Working it out

Not everyone goes to court to work out the details of a divorce or separation. It is possible to resolve the legal issues of custody, access, child support, spousal support and division of property and debt without ever going to court or even making an application to court. Once you and the other party have reached an agreement, you can file a consent order with the court.

Alternative dispute resolution methods can help you to come to an agreement on your family law issues. For more information, read the fact sheet titled **Alternatives to Court (Family Law)** published by the Yukon Department of Justice, Court Services Branch.

Filing a Consent Order: Step-by-Step

Step 1: Research the laws and rules that apply to your family matter

Before you begin, you should research the laws and rules that apply to your situation. Read the other publications produced by the Department of Justice, Court Services Branch that apply to your family law matter, as well as the Supreme Court of Yukon **Rule 63: Divorce and Family Law**. (Rules can be found on the Supreme Court of Yukon website at www.yukoncourts.ca). You can also read the *Family Property and Support Act*, the *Children's Act*, and the *Divorce Act* (Canada). You should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

Contact the **Family Law Information Centre** at 867-456-6721, toll free 1-800-661-0408 ext 6721, or visit their website at www.yukonflic.ca for more information and links to publications.

Step 2: Prepare and complete forms

To file a consent order, you will need to fill out forms to submit to the court registry with information specific to your case. Supreme Court forms can be found in Microsoft Word format at www.yukoncourts.ca under Supreme Court, Yukon Rules and Forms. The staff at the **Family Law Information Centre** can help you to complete your Supreme Court forms either over the telephone or on one of the workstations at their office. They cannot provide legal advice or tell you what to write in your court forms, but they can provide guidance on the rules for completing the forms and help with using Microsoft Word.

IMPORTANT! When preparing your documents, remember that family law issues are adult problems. Do not involve your children in drafting affidavits or reviewing court documents.

Generally, the forms you will need to file when applying for a consent order are:

- A) Appearance – Form 9 or Notice of Self-Representation – Form 14
- B) Requisition for Order – Form 3
- C) Affidavit – Form 59
- D) Agreement as to annual income and amount of child support - Form 96, (if children are involved)
- E) Consent Order – Form 53

If you are filing a Consent Order in a family law matter that has already been assigned a Supreme Court File Number, continue to record that number on all your forms.

Completing your forms:

A) Appearance – Form 9 or Notice of Self-Representation – Form 14

Both forms tell the court that you are the person to be contacted for the file (you are the person “on record”). Each party must submit his or her own Appearance or Notice of Self-Representation form.

Contact the clerk of the Supreme Court of Yukon at 867-667-5937, toll free 1-800-661-0408 ext. 5937, or at the Supreme Court counter in the courthouse to find out which form to use in your situation.

B) Requisition for Order – Form 3

This form is used to request an order from the court. In the form, you must identify the laws that apply to your situation. The table below has been provided to help you to complete the form:

Situation	LEGISLATION		
	Canada <i>Divorce Act</i>	Yukon <i>Family Property and Support Act</i>	Yukon <i>Children's Act</i>
Divorcing			
Married without children	divorce, spousal support	property	
Married with children	divorce, spousal and child support, access	property	guardianship
Separating			
Married without children		property, spousal support	
Married with children		property, spousal and child support	custody, access, guardianship
Common-law without children		spousal support	
Common-law with children		spousal and child support	custody, access, guardianship

C) Affidavit – Form 59

An affidavit is the document that states any information that you want the judge to know. In it, you will list facts about yourself, the other party, the children involved, whether or not you were legally married, common-law, or not married, and how long you lived together and where. You will also provide reasons for the consent order.

Your affidavit and all exhibits must be sworn. (See **Step 5: Have your Affidavit notarized**). Do not sign your document until you are having it sworn before the Notary Public or other qualified person!

The Yukon Department of Justice has published an information sheet titled **Preparing an Affidavit (Family Law)** to help you complete an Affidavit – Form 59.

D) Agreement as to annual income and amount of child support - Form 96, (if children are involved)

This form requests all of the information required under the Child Support Guidelines. Both parties will sign this form.

E) Consent Order – Form 53

Include all the terms that you and the other party agree to in the Consent Order – Form 53. This can include child custody and access arrangements, child and spousal support amounts, and division of property and debt. Both parties will sign this form.

Step 3: Make copies of all your forms and documents

Make four copies of all your forms. You will need three sets of your forms to submit for filing. The original filed document will always remain on the court file and the two sets of filed copies will be returned to you after the order has been approved. You should keep one set of forms for your own reference. If the judge does not approve the consent order, you may need to look at the documents to prepare another affidavit or to prepare for a hearing or family law case conference.

Step 4: Have your affidavit notarized

Bring all copies of your documents and proof of identification with you to be sworn by a Notary Public or someone else who is allowed to hear an oath, such as a lawyer, justice of the peace or a commissioner of oaths. Some government staff members are Notaries Public, including those working in the Sheriff's Office and the Family Law Information Centre.

Step 5: File your forms with the Supreme Court

When you mail or bring your forms to the court registry for filing, the Clerk of the Supreme Court will review your forms before accepting them. The clerk will look to see that you have followed the Rules of Court but will not provide advice or comment on the content of your documents. If a file has not already been opened, the clerk will open a file and a Supreme Court file number will be assigned to your case. Your forms will be stamped by the clerk with the date that they were filed.

Step 6: Receive judge's approval or follow judge's instructions

A judge will review your documents. If a judge approves the consent order, the clerk of the Supreme Court will file and issue the consent order. The original will be kept on the court file and the filed copies will be returned to the person who submitted the consent order. That person is responsible for giving a copy to the other party.

If the judge does not approve the consent order, the clerk will contact you. You may be instructed to:

- Provide more information by submitting another affidavit; or
- Schedule a hearing or a family law case conference.

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For more information, or to obtain copies of these publications, please contact:

Government of Yukon, Department of Justice

Court Services

Andrew A. Philipsen Law Centre

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Box 2703, Whitehorse, Yukon Y1A 2C6

www.justice.gov.yk.ca

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