

Preparing an Affidavit

FACT SHEET

The affidavit is a very important document because it contains most of your evidence. There are specific rules for preparing an affidavit. This fact sheet has been published by the Yukon Department of Justice, Court Services Branch, to help you complete an Affidavit – Form 59 in a Supreme Court of Yukon family law matter. Affidavit – Form 59 and Rule 49: Affidavits are available online at www.yukoncourts.ca under Supreme Court, Yukon Rules and Forms.

Affidavit Basics

If a written statement of facts is sworn under oath as being the truth, it is called an affidavit. An affidavit is a document that states any information that you want the judge to know. You can file additional affidavits at any time throughout your proceeding as long as the other party has been served with reasonable notice before a hearing.

Be sure that your evidence in an affidavit is complete, accurate, clear and relevant to your application. You must, in all cases, tell the truth. In your affidavit you can only say things that you know personally to be true or things that you believe to be true (but you must give a reason for that belief). There are serious legal consequences for not telling the truth in a sworn document. The other party or other party's lawyer can cross-examine you about anything you include in your affidavit.

Completing an affidavit

Each affidavit is different depending on individual circumstances. However, certain information must be included in every affidavit. Fill in the blanks supplied in the Affidavit - Form 59 to provide the information that is required. Then begin to list the factual points that you want the judge to know in numbered paragraphs. Keep each paragraph brief and to the point.

Dealing with family law matters can be a very emotional experience. When you are preparing an affidavit, remain calm and make logical, factual statements. Stay focused on the issues.

Initial affidavits often contain the following information:

- Date of birth of the parties
- Occupation and employment status of each of the parties
- Details of your relationship, such as:
 - When did you meet?
 - Were you married? If yes, when and where?
 - Did you live together? If yes, when and where?
 - When did you separate?
 - Any other relevant details about the relationship
- Age and date of birth of any children
- Information about a child's health and well-being
- What parenting duties and activities was each party responsible for during the relationship?
- What parenting duties and activities does each party fulfill now?
- Current custody and/or access arrangements
- Requested custody and/or access arrangements
- Any other relevant facts you want the judge to know

If you are preparing an affidavit in response to documents filed by the other party, you may include:

- A list of the facts provided by the other party that you agree with
- A list of the facts provided by the other party that you do not agree with
- Any new facts that you want the judge to know

CAUTION! Every situation is different. Your affidavit will include all the facts you think the judge needs to know to make a decision. The list of potential topics provided in this fact sheet is intended as a starting point only.

Exhibits

Documents that support the information or claims you are making in an affidavit are called exhibits. The following rules apply to exhibits:

- If you have more than one supporting document to attach to any affidavit, you must place consecutively numbered tabs on the first page of each exhibit.
- Each page of an individual exhibit must be numbered consecutively.
- Each exhibit must be signed by a Notary Public. The following wording must be written or stamped onto the exhibit for the Notary Public to fill out:

This is Exhibit _____ referred to in the affidavit of _____ sworn before me on _____ [date].
_____[signature] A Notary Public in and for the Yukon Territory.

Notarizing your affidavit and exhibits

Notarizing your affidavit means that you are taking an oath (swearing or affirming) in front of a Notary Public that the information contained in your affidavit is true. Your affidavit and all exhibits must 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. Do not sign your document until you are having it sworn before the Notary Public or other qualified person!

Bring all copies of your documents and proof of identification with you to be sworn. Some government staff members are Notaries Public, including those working in the Sheriff's Office and the Family Law Information Centre.

FOR MORE INFORMATION, CONTACT THE FAMILY LAW INFORMATION CENTRE

address: Law Courts Building, 1st Floor, 2134 Second Ave, Whitehorse.

mail: Box 2703 (J-FLIC) Whitehorse, Yukon Y1A 2C6

phone: 867-456-6721;

outside of Whitehorse (toll free) 1-800-661-0408, ext. 6721

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