

General Information:

There are extra requirements if you are asking the court for decision-making responsibility **and you are not a parent of the child**. These requirements apply to you, and any person applying with you for decision-making responsibility.

This checklist is not legal advice, but is intended to help guide you through the required steps.

This kind of application is more often made at the Ontario Court of Justice Family Court or the Family Court Branch of the Superior Court of Justice. You can find a list of court addresses by visiting the [Ministry of the Attorney General's website](#).

Court staff can provide you with forms and information about the process of applying for decision-making responsibility, but they cannot give you any legal advice. You should speak with a lawyer about your situation before you file your documents with the court.

You may be eligible to file your application online at any time without visiting a courthouse. You can find more information about this new service at <https://www.ontario.ca/familyclaims>.

Forms can be found at: www.ontariocourtforms.ca. *Ce guide est également disponible en français.*

Step 1: Complete the Required Documents

Complete the following documents. Please make sure you use the same name on all forms.

- [Consent Form for Police Record Check for Non-Parent Decision-Making Responsibility Applicants](#): Complete this form and bring it to your local police station.
 - A fee must be paid at the police station. Make sure you keep track of when you submitted your consent form to the police, as you may need this information for your Form 35.1: Affidavit (decision-making responsibility, parenting time, contact).
 - The request for your police record check must be submitted to police by the time you file your application. However you do not have to wait for the results of your police records check before filing your application with the court.

- [Form 8: Application \(General\)](#): Complete all sections of this form.
 - It is very important that you provide your current legal name and any variations of your name that you may use (e.g. Elizabeth (Liz) or James (Jim)). This will help the court clerk when they do a search to see if there are any other family court cases in the province that you or the child have been involved with.

- [Form 35.1: Affidavit \(decision-making responsibility, parenting time, contact\)](#)**: Complete both Part A and Part B of this form.
 - **If you have your police records check for non-parent decision-making responsibility applicants**, you must attach a copy. The police records check must have been completed not more than **60 days** before you start your case.
 - **If you have requested, but not yet received your police records check for non-parent decision-making responsibility applicants**, you must state at section 16 of the form when you made your request to the police. Once you receive your police records check, you must serve and file it with the court within **10 days** of receiving it.
 - For help on how to fill out Form 35.1, please refer to this [Self-Help Guide](#) available at www.ontariocourtforms.ca.

- [Form 35.1A: Affidavit \(child protection information\)](#)**: Complete if you, the other party and/or the children in the case have been involved in a child protection court case and/or involved with child protection services at any time.

- [Children's Aid Society Report on Records](#)**: Complete only Part A of this form by listing the name of every Children's Aid Society (CAS) in each municipality in Ontario that you have lived in since you turned 18 years old or became a parent (whichever happened first). Court staff can help you with this.
 - Attach a copy of this completed form to your [Form 35.1: Affidavit \(decision-making responsibility, parenting time, contact\)](#). Note that the CAS Report on Records will not be listed in the table of contents you complete for your continuing record (see Step 4).
 - After you have filed this form with the court, court staff will provide the completed Part A to each CAS you have identified. The CASs will complete Part B, stating whether it has any records relating to you.
 - Court staff will contact you by mail if any CAS indicates having records relating to you.
 - See Step 6 for information on steps you may take if you receive this kind of letter from court staff.

Step 2: Review

You may want a lawyer to help you with this process. You can visit the [Family Law Information Centre \(FLIC\)](#) where you can speak with a lawyer for free at certain times. If something is missing from your forms, or if they have not been completed properly, court staff may not accept them.

If you would like to speak with a lawyer, but do not know who to call, the Law Society Referral Service, can provide you with the name of a lawyer. This lawyer will provide a free initial consultation for up to 30 minutes to help determine your rights and options. If you decide to retain the lawyer, their normal fees would apply.

If you would like to be referred to a lawyer, you may submit a request to the Law Society Referral Service at www.findlegalhelp.ca. The telephone number for the service is 1-800-268-8326 or within the Greater Toronto Area, 416-947-3330.

Step 3: Swear or Affirm Form 35.1: Affidavit (decision-making responsibility, parenting time, contact) and Form 35.1A: Affidavit (child protection information), if one is required

Before you file your documents with the court you will need to swear or affirm that the information in your [Form 35.1: Affidavit \(decision-making responsibility, parenting time, contact\)](#) and [Form 35.1A: Affidavit \(child protection information\)](#) and all required attachments is true, and sign your forms in front of a [qualified commissioner for taking affidavits](#). You will need one piece of government-issued photo identification with you when you swear or affirm your documents. Where it is not possible to commission an affidavit in person, the affidavit may be commissioned by video conference, in accordance with the Regulation made under the *Commissioners for Taking Affidavits Act*.

There are commissioners at all [family court offices](#) who will do this for free. It is a criminal offence to swear or affirm a false or misleading affidavit.

Step 4: File Documents with the Court to Start Your Case

The court clerk will review your forms and attachments. If filing in-person, and not online through Family Submissions Online, you will need to provide the court clerk with enough copies of your completed forms so that every person involved in your family court case has a copy. The original documents will be filed with the court.

- Search of family court cases:** When you file your documents, the court clerk will do a search to see if there are any other family court cases in the province that you or the child have been involved with.
 - The results of this search must be attached to the court forms that you serve on the other people involved with your case (see Step 5).
 - If the court clerk's search results show cases involving another person(s) with the same name as you, you can swear or affirm an affidavit stating that you are not that person. Ask the court clerk for a [blank affidavit](#) for this purpose. A copy of this sworn or affirmed affidavit must also be given to all other people involved in your case.
- [Continuing Record](#) and [Table of Contents](#):** Most documents you file in your case are included in a continuing record, which is kept in your court file at the courthouse.
 - You are responsible for creating the cover page and table of contents for the continuing record. Court staff can help you with this.
 - The [Formal Requirements of the Continuing Record](#) and rule 9 of the [Family Law Rules](#) tell you how to create and update your continuing record.

Once the court clerk has reviewed your documents to make sure they are complete, they will:

- Issue your application. This means that they give your case a court file number, and sign, date and place a court seal on the application.
- Schedule a first court date.
- Schedule a Mandatory Information Program (MIP) session for every person involved in your case

Step 5: Serve your Documents

After the court issues your application, you will need to arrange to serve (i.e. give) the following documents to each respondent in your case:

- A copy of your issued Form 8: Application (General) and attached Form 35.1: Affidavit (decision-making responsibility, parenting time, contact)
- A copy of the results of the search completed by the court clerk of any other family court cases in the province that you or the child have been involved with
- A copy of your police records check, if you have it already. If you receive it later, serve a copy within 10 days of you receiving it
- Notice to attend a MIP session
- A copy of your Continuing Record and Table of Contents
- A blank [Form 10: Answer](#)
- A blank [Form 35.1: Affidavit \(decision-making responsibility, parenting time, contact\)](#) and [Form 35.1A: Affidavit \(child protection information\)](#)

You are not allowed to serve these documents yourself. You can ask a friend or a family member who is over the age of 18 to do this, or you can hire a process server to serve the documents for you. After this person serves your documents, they must sign and swear or affirm [Form 6B: Affidavit of Service](#), which must then be filed with the court.

For more information on the different ways to serve documents see rule 6 of the [Family Law Rules](#) and the [guide on serving documents](#), available on the Ministry of the Attorney General's website.

Step 6: Children's Aid Society Report on Records

After court staff contact each CAS you listed at Part A of the Children's Aid Society Report on Records, the CASs complete Part B, stating whether it has any records relating to you. The CAS will provide the court with this information within 30 days. If one or more CAS reports having a record relating to you, you will receive a letter from court staff with this information.

If you want this letter to be kept confidential, you have **20 days** to bring a motion to ask the court to seal these records. To do this, complete and file a [Form 14B: Motion Form](#) and a [Form 14A: Affidavit \(general\)](#) with the court.

If the court does not grant an order to seal the records or if you do not bring a motion to the court within 20 days, a copy of the completed CAS Report on Records will be mailed to every other person involved in your case and included in the court file.

Step 7: Mandatory Information Program

In most cases, the Mandatory Information Program (MIP) session will take place before your first court date.

Attend your MIP session on its scheduled date or in accordance with the direction on the MIP notice, and have your Certificate of Attendance signed by the person who delivers your session. You must add the signed certificate to your continuing record the next time you go to court. You do not need to file it right away.

Step 8: Going to Court

Your first court date will normally not involve a judge, but will be with the court clerk. The clerk will:

- Review your file and make sure all of the required documents have been filed.
- Make sure that each CAS that was contacted has responded.

If some of the required information is missing, the clerk will normally schedule another date to conduct an additional review of your materials.

If all of the required documents have been filed, the clerk will schedule a case conference before a judge. For more information about your next steps, you may wish to consult with a lawyer.

For general information, you may wish to review [Part 7 of the Guide to Procedures in Family Court](#), available on the Ministry of the Attorney General's website.

Additional Information:

What you should know if you are a non-parent applying for decision-making responsibility

- This pamphlet includes frequently asked questions and answers, and may be accessed here: <http://ontariocourtforms.on.ca/static/media/uploads/courtforms/nonparentpamphlet/non-parent-pamphlet-mar21-en.pdf>

How to complete Form 35.1: Affidavit (decision-making responsibility, parenting time, contact)

- This Guide may be accessed here: http://ontariocourtforms.on.ca/static/media/uploads/courtforms/family/35_1/parenting-aff-self-help-guide-mar21-en.pdf

To locate a Children's Aid Society, see the Ontario Association of Children's Aid Societies' website:

- <http://www.oacas.org/childrens-aid-child-protection/locate-a-childrens-aid-society/>

For information on accessibility of court services, including accessible formats of this document for people with disability-related needs, contact:
Tel: 416-326-2220/1-800-518-7901
TTY: 416-326-4012/1-877-425-0575