

Directions for Outgoing Applications to Canada

Introduction

Send outgoing requests (which may be called applications) to any Canadian Province or Territory other than Quebec (which does not have a reciprocal arrangement with either the United States or Washington state) to the appropriate office listed for the province or territory in the Intergovernmental Referral Guide on the Office of Child Support Enforcement website (<https://extranet.acf.hhs.gov/irg/welcome.html>).

As in other interstate and international cases, you must include the appropriate forms for the specific action being requested. Reciprocating Canadian provinces and territories have agreed to accept U.S. intergovernmental child support forms (<https://www.acf.hhs.gov/css/policy-guidance/omb-approved-standard-intergovernmental-child-support-enforcement-forms>) plus any specific responding jurisdiction requirements. Canadian officials strongly recommend including the noncustodial parent's Canadian Social Insurance Number, if available, in the application package.

Provincial and territorial Interjurisdictional Support Orders Acts govern how provinces and territories in Canada operate in interjurisdictional support matters. While provincial/territorial ISO Acts are the Canadian counterpart to UIFSA, there are critical differences. Two differences are important for U.S. caseworkers to note. First, ISO contains no long-arm provisions. Second, it does not incorporate the concept of continuing, exclusive jurisdiction that is a key underpinning of U.S. law.

Since the federal intergovernmental forms will be used in outgoing applications to Canada, and Washington caseworkers are familiar with those forms, these instructions will highlight areas that will be different and might require special attention. Please refer to the Matrix of Forms Required and Recommended for Outgoing Referrals to Canada to determine which specific forms should be included with a referral.

Paternity Establishment

If paternity is at issue, it can only be established as part of an interjurisdictional child support application. When completing the Declaration in Support of Establishing Parentage, it is important for the custodial party to include any evidence of paternity and also to indicate a willingness to submit to genetic testing, if necessary. Genetic testing is typically done only if the noncustodial parent contests paternity.

Child Support Order Establishment

Though the referral packet is typically sent to the Maintenance Enforcement Program office, only the courts can establish child support and paternity. The MEP will forward the request to the court. See the section below on the ISO Form D for information on what happens if a noncustodial parent fails to appear after proper service. Once the court establishes an order, in most provinces/territories the order will automatically be enforced. However, if you sent the establishment application to B.C., the Interjurisdictional Support Service in B.C. will send the established order to Washington and close their file. They will not send the order to MEP for enforcement. Washington will need to prepare a new packet requesting enforcement and send that packet to the B.C. MEP office.

Custodial Party's Financial Information

All provinces and territories establish support using only the noncustodial parent's income. However, there are situations that will require the custodial parent's financial information, including:

- The custodial parent is requesting reimbursement for extraordinary expenses, most often medical expenses for health insurance coverage or medical expenses not covered by insurance. It could include day care or tuition expenses if the custodial parent wants reimbursement of those expenses, in addition to the monthly support obligation. If this applies, include the custodial parent's income information with the original packet.
- The custodial parent is asking for current support for a child over the age of majority; for example, when the child is mentally or physically disabled. If this applies, include the custodial parent's income information with the original packet.
- The noncustodial parent asks the court to reduce the amount of child support under the guidelines because of "hardship." This is usually because the noncustodial parent is supporting a second family. If the court agrees that there is hardship, it will require the custodial parent's income in order to compare households. However, since this would not be known when the original packet is sent, the information would have to be sent later, upon request.
- The noncustodial parent's income is over \$150,000 per year. In that circumstance, application of the guidelines is discretionary. The court may look at other factors and that could include the custodial parent's situation. Again, this information would need to be sent upon request.

Interjurisdictional Support Order Form D

If the noncustodial parent was properly served with notice by the Canadian Designated Authority and does not attend the court hearing, the court may make a support order in the parent's absence. The court will impute income to the noncustodial parent and use that imputed income to determine the support order amount under the provincial or territorial child support guidelines.

For applications to establish or modify a support order, the applicant, or the caseworker on behalf of the applicant, should complete ISO Form D. This form provides the Canadian court with information to assist in imputing an appropriate level of income to the noncustodial parent.

Please see the supplemental resource ISO Form D instructions.

Medical Support

Because Canada has universal health care, which is only valid in Canada, the Canadian court cannot order a noncustodial parent in Canada to cover a child in the United States. The MEP also cannot enforce a provision in a U.S. order that requires the parent living in Canada to provide health care coverage for a child in the United States.

However, the child support guidelines in most provinces and territories include a provision that permits the court to order amounts to cover specific expenses over and above the guideline table amount. One category of these special additional expenses is health-related expenses not covered by insurance, which exceed \$100 annually. In determining an amount for health-related expenses, the court may take into account any amount either parent must pay for medical or dental insurance coverage for the child. The Canadian court may therefore order the noncustodial parent to pay specified amounts towards the cost of medical insurance for the child. In order for the court to order medical support, the application must include clear documentary proof of health-related expenses. The application must also include proof of the custodial parent's income because all additional amounts ordered to be contributed to as special expenses are determined based on proportional sharing of the expense based on the parties' incomes.

Enforcement of a Canadian Agreement

In some cases, the parties in Canada will make an agreement regarding child support, rather than having a child support order established. If the agreement is filed with the court in Canada, it is typically enforceable. However, due to the complexity of this issue, it is recommended that the Washington attorney confer with the attorney in the MEP in the responding province before asking for enforcement of the agreement.

Enforcement of a U.S. Order

The process for Canada to enforce an order issued in the United States is very similar to the process used in interstate cases. IJSS sends the U.S. order to the court to be registered. A notice is sent to the noncustodial parent, who has 30 days to object.

A registration may be set aside if the Canadian court finds:

- The respondent did not have proper notice or a reasonable opportunity to be heard.
- The order is contrary to public policy in the province/territory where the application to set aside is heard. OR
- The court that made the order did not have jurisdiction to make the order.

It should be noted that proper exercise of long-arm jurisdiction by a U.S. court involving a provincial/territorial respondent may not, in all cases, be recognized as a proper exercise of jurisdiction under provincial/territorial law. If the registration is set aside, the court must treat the order as a support application or an application for a modification and proceed to a hearing. The court may request additional information from the custodial parent. If there is no contest or a contest is denied, the order is recognized and enforced as if it was a final order of the province or territory. Some provinces/territories may begin enforcing the order as soon as it is registered; others do not begin enforcement until the expiration of the challenge period. If there is a challenge, the court will not send the order to the enforcement office until it has ruled that the challenge was unsuccessful.

Modification of a Canadian Order

Support orders issued under a provincial/territorial ISO are governed by ISO if a modification (called a variation in Canada) is sought. Therefore, a request for modification of a Canadian order should be sent to the province or territory in which the responding party resides. The Maintenance Enforcement Program does not conduct the modification process but will file the application with the appropriate court. Once the court modifies the order, the province will send a copy of the modified order to Washington and to the MEP for enforcement. British Columbia is an exception. If Washington sends an application for modification of a Canadian order to B.C., and the B.C. MEP does not already have an open case with Washington for enforcement of the initial Canadian order, once B.C. sends Washington the modified order, Washington will have to provide B.C. with a complete package of documents requesting enforcement of the modified order.

If the support order was established under the Canadian federal Divorce Act, the Canadian courts only recognize modifications made by a Canadian court. Therefore, the court in the province or territory where one of the parties resides would be responsible for modifying the order. The IV-D agency should contact the provincial/territorial authority for information on the procedures that would need to be followed to pursue modification of a DA order. See the section above on the ISO Form D for information on what happens if a noncustodial parent fails to appear at the hearing after proper service.

Note: If the order was issued in the U.S., the modification would be done in the U.S., as described in the training.

Locate-only Requests

Most provinces and territories are not authorized to collect and disclose personal information to another jurisdiction where there is no existing support order and where the requesting jurisdiction requests the information for the purpose of seeking a support order against a resident of the province or territory based on long-arm jurisdiction. While some provinces and territories may be able to provide the actual locate information, most provinces and

territories are only able to confirm that a person can or cannot be located in the jurisdiction. However, once a IV-D agency learns that the respondent is found within the province or territory, the agency may then send the appropriate application seeking enforcement of an existing order or establishment or modification of an order.

To send a locate-only request, use the federal Child Support Locate Request form and include the following information:

- The person making the request is an authorized representative of the IV-D agency in the initiating state.
- If there is no existing support order, confirmation that the purpose of the request is related to the establishment of a support order. OR
- If there is no existing support order, the purpose of the request.

IV-D agencies may not apply to Canada Post to verify a postal address. Similarly, provincial/territorial support enforcement agencies do not have access to Canada Post information for location purposes.

Additional Resources:

Matrix of Required Forms and Supplemental Documents for Outgoing Referrals to Canada

ISO Form D Instructions

Age of Majority Information

Interest Resource

[A Caseworkers Guide to Processing Cases with Canada](https://www.acf.hhs.gov) on the OCSE website at <https://www.acf.hhs.gov>

[Canada - Foreign Reciprocating Country | The Administration for Children and Families \(hhs.gov\)](#) – Canada reference documents on the OCSE website

[Intergovernmental Child Support Enforcement Forms | The Administration for Children and Families \(hhs.gov\)](#)
– Federal OMB-approved intergovernmental forms and instructions

[Understanding the Child Support Enforcement Intergovernmental Forms | The Administration for Children and Families \(hhs.gov\)](#) – Training on federal OMB-approved intergovernmental forms