

JOINT APPLICATION FOR DIVORCE

ON A DRAFT AGREEMENT



People sometimes contact their local courthouse to find out how to prepare and present a joint application for divorce on a draft agreement. It seems simple at first glance, but such a process should only be undertaken if the parties are well informed of the legal consequences of their agreement and of its present and future impact on them and their children, if any.

This brochure is not intended to cover every situation that may arise during divorce negotiations. Nevertheless, people who are able to assess the implications of their agreement will find that this brochure can guide them through the process in compliance with legal requirements.

The information in this brochure was complete and consistent with the legislation in effect in December 2021.

JuridiQC provides childless spouses with a joint divorce tool. From preparing the necessary documents to filing exhibits at the courthouse to the follow-up, this brochure will guide you through the entire process. [Joint divorce \(gouv.qc.ca\)](http://gouv.qc.ca).

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Names and addresses that appear in the examples are fictitious.

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Resources

After a separation, it can be difficult to negotiate an agreement that satisfies both ex-spouses and adequately protects the rights of their children, if there are any. Resources are available to remedy this situation.

Family mediation can help you negotiate an amicable agreement in the interests of all family members, while reducing your legal costs. To encourage you to use this service, the Ministère de la Justice du Québec will pay the fees of accredited family mediators in the following situations:

- When you attend a 2.5-hour group information session on parenting after separation, presented by accredited family mediators. Topics include the psychosocial aspects of separation, family mediation and the legal aspects of separation. (Ex-spouses will not be registered for the same session, unless they request it.);
 - When you meet, as a couple, with the family mediator of your choice:
 - 5 hours of professional services, if you are in the process of separating;
- or
- 2.5 hours of professional services, if you already have an agreement or court judgment but wish to have it reviewed, if you have already received family mediation services, or if you have already obtained a judgment ordering separation from bed and board (legal separation).

For more information

To find qualified family mediators in your area, see the Ministère de la Justice website at <https://www.quebec.ca/en/family-and-support-for-individuals/separation-divorce/family-mediation/finding-family-mediator>

For more information on family mediation, or to register for a group information session on parenting after separation, contact the Ministère de la Justice :

<https://www.quebec.ca/en/family-and-support-for-individuals/separation-divorce/family-mediation>

Telephone : 418 643-5140, option 3

Toll-free : 1 866 536-5140, option 3

Email : informations@justice.gouv.qc.ca

LEGAL ADVISORS

Before jointly applying for a divorce on a draft agreement, both spouses must be able to carefully assess all the personal and financial consequences of the draft agreement they will sign. If you're not sure of your rights and obligations, it's best to seek legal advice.

Preparing the application

WHO CAN MAKE A JOINT APPLICATION FOR DIVORCE ON A DRAFT AGREEMENT?

Married couples can make a joint application for divorce if they :

- are living separately on the date proceedings* are instituted (note, however, that a divorce judgment can only be issued if the spouses have been living separately for at least one year);
- agree on all the consequences of the divorce.

HOW TO PREPARE YOUR APPLICATION

A joint application for divorce on a draft agreement must be prepared according to certain rules laid down by law. Before starting to study the examples shown below, we advise you to familiarize yourself with the legal requirements listed on pages 18 to 21 of this brochure.

HOW TO DRAW UP PLEADINGS

Divorce is much more complex than you might think. We recommend you read up on the subject so that you understand all its aspects and what the various measures are, in particular the compensatory allowance* and the partitioning of family assets. A good starting point would be to read the following sections published by the Ministère de la Justice :

- [Separation, Divorce and Dissolution of a Civil Union \[in French\]](#);
- [Family Patrimony](#);
- [Marriage and Civil Union](#);
- [Filiation \[in French\]](#);
- [Family Mediation \[in French\]](#);
- [Québec Model for the Determination of Child Support Payments](#).

It's a good idea to discuss all the issues you want to settle together, in light of the additional information you'll find in these documents, before drafting your pleadings*.

To help you put together your file, we've prepared sample documents to include on pages 12 to 17. You must strictly follow all the instructions given in the explanatory notes on pages 9 to 11.

To be complete, your file must contain :

- the original of your divorce application (Example 1, 21.25 cm x 28 cm or 8.5 in. x 11 in., with backing sheet);
- the original of your draft agreement (Example 2, 21.25 cm x 28 cm or 8.5 in. x 11 in., with backing sheet);
- the required exhibits (with backing sheets), which may differ according to each individual's situation ([see page 12, note 17](#)).

If applicable, it must also contain :

- two statements required under article 444 of the Code of Civil Procedure (mandatory if the draft agreement provides for support);

The documents listed below must be signed in front of a Commissioner for Oaths :

- two original sworn statements (Example 3, 21.25 cm x 28 cm or 8.5 in. x 11 in., with backing sheets);

Note : Terms marked with an asterisk (*) are defined in the glossary at the end.

- Child Support Determination Form (see page 15, note 10);
- Form III (Statement of Income and Expenditures and Balance Sheet) of the Regulation of the Superior Court of Québec in family matters (in most editions of the Code of Civil Procedure) for spousal support. You can find it on legisquebec.gouv.qc.ca: click “Advanced search”, click the “Simple” tab, select “Regulations” and “Consolidated”, and enter Regulation of the Superior Court of Québec in family matters in the search terms box. In the list of results, select “C-25.01, r. 0.2.4”. Form III is at the end of the Regulation.

Additional documents may be required, depending on the courthouse where you file your application and on the instructions of the Superior Court of Québec. To check whether your file is complete, please contact the courthouse office.

Keep a copy of each document for your records.

HOW TO FILE THE APPLICATION

Once you have all the necessary documents, contact the courthouse of the judicial district where one of you lives and inquire about their current practices before going there.

Payment of costs

You will have to pay the fees charged under the Tariff of judicial fees in civil matters:

- in cash;
- by debit or credit card (Visa, Mastercard or American Express);
- by postal or bank money order made out to the Minister of Finance of Québec; or
- by certified cheque made out to the Minister of Finance of Québec.

You will also have to pay ten dollars (\$10) to the Central Registry of Divorce Proceedings of the Department of Justice Canada:

- in cash;
- by debit or credit card (Visa, Mastercard or American Express);
- by postal or bank money order made out to the Receiver General for Canada; or
- by certified cheque made out to the Receiver General for Canada.

If you are entitled to legal aid, the judicial fees will be covered, but you will have to furnish a copy of your certificate of eligibility.

File opening

You can use the Digital Court Office of Québec to file your documents online with the Superior Court (joint application for divorce along with related documentation), as well as to pay the judicial fees. Using the Digital Court Office is not mandatory. You can always file your documents in hard copy at the Superior Court office in the courthouse of the judicial district where you or your ex-spouse resides.

The court clerk will open the file and assign it a number. The clerk will then sign a certificate attesting that the divorce application and applicants’ statement have been received and registered at the court office, and will set the date of your court appearance if applicable.

Spouses are not usually asked to appear in court if the file contains sworn statements. Otherwise, both spouses must be present on the scheduled date so that the judge can hear the divorce application. When you file your documents, ask the clerk what the usual practice is in the courthouse where you are filing your application.

Key points

RULES FOR THE DETERMINATION OF CHILD SUPPORT

If the joint application dealt with in this brochure affects the parents' obligation of support* toward their children and both parents reside in Québec, it is mandatory that the *Child Support Determination Form* and the prescribed documents be included with the application. If this applies in your case, we suggest that you file a single form for both parties. Both ex-spouses must sign the form and submit a sworn statement..

The Ministère de la Justice brochure about the Québec model for determining child support payments explains the relevant rules and will guide you through the process.

The forms to be filled out and sent with your application are also available in the brochure. It is important to work with a copy of the *Basic Parental Contribution Determination Table* for the year in which you file your application.

You can print the brochures and necessary forms from the Ministère de la Justice website at www.justice.gouv.qc.ca.

If one of the parties in a divorce resides in a province or territory other than Québec, or outside Canada, the Federal Child Support Guidelines apply instead of the Québec rules for determining support payments. Kits containing explanatory brochures and a guide on how to use the federal tables are available at courthouses.

The Department of Justice Canada has a toll-free telephone information service at 1 888 373-2222. In the Ottawa area, call 613 946-2222. You can also consult the Department of Justice Canada website at justice.gc.ca.

MAKING SUPPORT PAYMENTS TO REVENU QUÉBEC

Since the coming into force of the *Act to facilitate the payment of support*, the ex-spouse who is under the obligation of support (support debtor) must make the payments to Revenu Québec for the benefit of the person to whom the support is to be paid (support creditor). However, under certain conditions, the court may exempt a debtor from this obligation.

By law, the debtor may be exempted:

- by setting up a trust* guaranteeing payment of the support and by transmitting a copy of the trust deed* to Revenu Québec within thirty (30) days of the judgment, or
- if the parties, in their application for divorce (Example 1), convince the court that their consent to the exemption is free and informed, and if, within 30 days of the judgment, the debtor provides Revenu Québec with a security sufficient to ensure the payment of one month of support.

In the latter case, the court may ask to hear you, together or separately, to ascertain the nature of your consent.

When support is to be collected by Revenu Québec, a certain amount of time may go by between the date of the judgment and the start of support collection by Revenu Québec. The debtor can pay support directly to the ex-spouse for four (4) months after the judgment or until the Ministère takes charge of the debtor's file, provided the court, on a joint application, authorizes the debtor to do so for that period. The debtor must keep proof of payment in order to provide it upon demand to the person in charge of the debtor's file.

TRANSMITTING YOUR AGREEMENT TO THE MINISTER OF LABOUR, EMPLOYMENT AND SOCIAL SOLIDARITY

If the draft agreement (Example 2) contains provisions on support, a party who is a recipient of last-resort financial assistance must inform the Minister of Labour, Employment and Social Solidarity of the content of the draft agreement at least ten (10) days before the date on which the agreement is to be presented to the court for homologation.

You must send a copy of the draft agreement to the following address :

Ministère du Travail, de l'Emploi et de la Solidarité sociale
Centre spécialisé des pensions alimentaires
8000, boulevard Henri-Bourassa, 2e étage
Québec (Québec) G1G 4C7

Examples

EXPLANATORY NOTES

1. All pleadings must be written on only one side of a sheet of white paper measuring 21.25 cm x 28 cm, or 8.5 in. x 11 in.
2. Your draft agreement (Example 2) must be written on only one side of a sheet of paper 21.25 cm x 28 cm, or 8.5 in. x 11 in., and filed with your joint application for divorce (Example 1).
3. All pleadings must be written legibly or, preferably, typed.
4. The proposed layout must be strictly followed (for example, content shown on the left must be placed on the left).
5. Content in regular typeface must be reproduced as is. Content in bold must be adapted to your particular case (for example, you have to replace **Micheline Tremblay** with the joint applicant's real name).
6. Enter the name of the judicial district where you are filing your application. It can be filed in the judicial district where either ex-spouse resides. To find out which judicial district your municipality is in, do a search on the Ministère de la Justice website at www.justice.gouv.qc.ca/english/recherche/district-a.asp. The clerk will assign a number to your file when you go to the courthouse.
7. If a fact does not apply to your situation, change the entry accordingly. For example:
 - at allegation* 5, if you got married on or after July 1, 1970, you could write:
 - *“Since our marriage was not preceded by any marriage contract, the regime adopted was the legal regime of partnership of acquests.”*;
 - at allegation 6, you could write: *“No children were born of our marriage.”*
8. You must indicate whether or not you are subject to :
 - a) a protection order under article 509 of the Code of Civil Procedure or an application related to such an order (e.g., an order not to go to a location or contact a person);
 - b) an order, an application, an agreement or a decision relating to youth protection, or;
 - c) an order, an indictment, an undertaking or a recognizance relating to a criminal matter (e.g., prohibition from contact or a recognizance under section 810 of the Criminal Code).

If you are subject to such an order, you must file a notice with the court office on the [Ministère de la Justice website](#). If the other party or a child concerned by the proceedings is named, include a copy of the order, the application or agreement, the indictment, the undertaking or the recognizance, according to the situations in (a), (b) and (c). If the situation changes in the course of the proceedings, the party concerned must file a new notice with the court office as soon as possible and, if the other party or a child concerned by the proceedings is named, include the documents that show that fact.

9. The following persons have to authority to administer oaths :
 - court of justice clerks or their assistants;
 - lawyers;
 - notaries;
 - mayors, clerks and secretary-treasurers in all municipalities;
 - justices of the peace.

10. If you have any other proceedings pending with respect to your marriage, you must mention them in the joint application and produce a certified copy of any judgment previously rendered..
11. An application for divorce must contain a statement to the effect that a party is aware of their obligations under sections 7.1 to 7.5 of the *Divorce Act*, which are reproduced in the References section.
12. When you go to the court office to have your file opened, the court clerk will sign a certificate attesting that the divorce application and applicants' statement have been received and registered at the court office.
13. Along with the *Child Support Determination Form*, you must provide copies of your provincial income tax return and notice of assessment for the last taxation year, or, in the absence of a provincial tax return, copies of your federal income tax return and notice of assessment for the last taxation year. You must also include the following, where applicable :
 - copies of your last three pay slips;
 - a copy of your business or self-employed financial statements;
 - a copy of your statement of income and expenses with regard to an immovable.
14. Your draft agreement must provide for a complete settlement of your divorce. Each case is different and depends on the situation of those involved. Adapt the example to your reality. Elements can be added to or removed from the list of measures given. Consult a legal advisor if you are having trouble preparing your draft agreement or are unsure about its consequences.
15. We recommend using a single paragraph for each aspect of your settlement. You must number each paragraph.
16. If you wish to renounce partition of the earnings registered during the marriage in the name of each spouse under the *Act respecting the Québec Pension Plan* or an equivalent plan, and partition of the pension credits accrued in any other pension plan, your intention must be clearly expressed in the draft agreement. To do this, you may use the following or equivalent wording : "There will be no partition of the earnings registered under the *Act respecting the Québec Pension Plan* or an equivalent plan, and no partition of the credits accrued during the marriage in any other pension plan." You must also confirm that you are aware of the partitionable value of those earnings and the possibility of knowing their exact amount, which may be worded as follows: "Each party states that they are aware of the partitionable value of the earnings registered in the name of the other party under the *Act respecting the Québec Pension Plan* or an equivalent plan and the partitionable value of the credits accrued during the marriage in any other pension plan, and the possibility of knowing their exact amount." **To learn more, visit the Retraite Québec website at <https://www.retraitequebec.gouv.qc.ca/fr/separation/partage/Pages/partage.aspx>**
17. If you or your spouse are receiving benefits under a last-resort financial assistance program or were receiving them during a period covered by the draft agreement, you must, in all cases, declare them in any agreement relating to an obligation of support* that you submit to the court as part of a joint application for divorce.
18. In your draft agreement, it is important to clearly distinguish between the amount of support* owing to children and that owing to one of the parents.
19. If the judge sees that some of your draft agreement clauses do not sufficiently protect the interests of a spouse or the children, you may be asked to change them. The judge may then adjourn* their decision until the amended draft agreement is presented.

20. Photocopies of the birth certificates of both spouses and the child must be filed. For this purpose, a photocopy of the copy of the act of birth or of any other document issued by a competent authority other than the Québec registrar of civil status is acceptable. In addition, a photocopy of the marriage certificate or of the copy of the act of marriage must be filed, unless the document was issued by a competent authority other than the Québec registrar of civil status, in which case the original must be filed.
21. In some judicial districts, a judgment can be rendered upon presentation of sworn statements (one for each spouse—reproduce the one in the insert). Before filing a sworn statement, check with the court clerk to find out what is the usual practice at your courthouse.
22. If you are granted a divorce upon presentation of your sworn statements, you will not have to appear in court. You will receive a copy of the judgment through the mail.
23. In districts that do not accept sworn statements, both spouses must appear in court on the date set.
24. Both spouses must sign and date the documents.
25. The following documents must have backing sheets attached:
 - joint application for divorce (Example 1);
 - draft agreement (Example 2);
 - sworn statements, if applicable (Example 3);
 - exhibits in support of the application (they may be filed together, in which case the backing sheet must indicate E-1 to E-...).

The backing sheet is a separate sheet attached as the last page of a document, with the written side facing out. The entire document is then folded in two so that the backing sheet becomes the title page (Example 4). Reproduce it as often as necessary.

26. If the draft agreement submitted to support your joint application for divorce provides for support*, then the statement required under article 444 of the *Code of Civil Procedure*, duly completed for each party, must be included with the application. The back of the form has explanations to help you complete it properly. The form is included as an insert with this brochure and must be reproduced.

The following examples are given with numbered references (Note x) to the above instructions.

Examples

Example 1

JOINT APPLICATION FOR DIVORCE (Notes 1, 3, 4, 5)

CANADA
PROVINCE OF QUÉBEC
District of Montréal
N° : (Note 6)

SUPERIOR COURT
Family Division

Sophie Lavoie, technician
residing and domiciled at
6161, rue Saint-Denis
Montréal (Québec) H2S 2R5

AND

Mathieu Desjardins, salesman
residing and domiciled at
255, rue Crémazie Est
Montréal (Québec) H2M 1L5

JOINT APPLICANTS

JOINT APPLICATION FOR DIVORCE

It is declared that :

CIVIL AND FAMILY STATUS (Note 17)

1. **The wife was born on November 17, 1983 in Belœil and is 38 years old. She is the daughter of Johanne Cyr and Philippe Lavoie, as appears from the photocopy of the birth certificate filed as exhibit E-1.**
 - 1.1 At the time of the marriage, her civil status was single
2. **The husband was born on February 24, 1980 in Montréal and is 41 years old. He is the son of Yvette Poirier and Michel Desjardins, as appears from the photocopy of the birth certificate filed as exhibit E-2.**
 - 2.1 At the time of the marriage, his civil status was single
3. **The marriage was solemnized on July 13, 2009 in Montréal, as appears from the photocopy of the marriage certificate filed as exhibit E-3.**
(If the document was issued by a competent authority other than the Québec registrar of civil status, the original must be filed.)
4. **The matrimonial regime they adopted was that of separation as to property, as appears from the marriage contract signed before Mtre. Gilles Potiron, notary, in Montréal, under number 306049, and filed as exhibit E-4. That regime has not been changed. (If there have been changes to the matrimonial regime, indicate which and provide photocopies of supporting documents.) (Note 7)**
5. **The parties are not subject to an order, an indictment, an undertaking or a recognizance relating to a criminal matter. (Note 8)**
 - 5.1 **The parties are not subject to a civil protection order under article 509 of the Code of Civil Procedure or a proceeding related to such an order. (Note 8)**

5.2 The parties are not subject to an order, an application, an agreement or a decision relating to youth protection. (Note 8)

6. The surnames, given names, ages, sexes and birth dates of children born of the marriage are as follows :

Surname	Given name	Age	Sex	Date of birth
Lavoie-Desjardins	Olivia	11	F	1992-07-10

(Notes 7, 17)

The photocopy of the birth certificate of the child referred to in this application is filed as exhibit E-5 (optional).

RESIDENCE

7. **The wife** has been ordinarily resident at **6161, rue Saint-Denis, Montréal (Québec)** since **February 1, 2020**. **The husband** has been ordinarily resident at **255, rue Crémazie Est, Montréal (Québec)** since **February 1, 2020**.

REASON

8. There has been a breakdown of the marriage for the following reason: **The spouses** lived separate and apart at least one year before the divorce judgment and were living separate and apart at the commencement of the proceeding*.

OBLIGATION OF THE PARTIES

9. The parties are aware of their obligations under sections 7.1 to 7.5 of the *Divorce Act*. (Note 11)

COROLLARY RELIEF AND OTHER CLAIMS

10. There is an agreement between the parties as to corollary relief and all other claims contained in the Draft Agreement, a copy of which is filed as exhibit E-6.

11. (If the parties agree to exempt the support debtor from making support payments to Revenu Québec for the creditor). (Note 7)

There is an agreement between the parties to exempt the support debtor from making support payments to Revenu Québec in accordance with section 3 of the *Act to facilitate the payment of support*.

OTHER PROCEEDINGS (Note 24)

12. A judgment granting a separation from bed and board was rendered by the Superior Court for the District of Montréal on January 25, 2018, Court File No. 500-04-001111-018, filed as exhibit E-7. (There have been no other proceedings with regard to the marriage.) (Note 7)

13. There has been no collusion* between the parties.

WHEREFORE, may it please this Court to :

PRONOUNCE the divorce of the parties;
HOMOLOGATE* the agreement between the parties;
and
ORDER the parties to comply therewith.

Without costs.

Signed at _____ this _____.

STATEMENT OF APPLICANTS

We, the undersigned, certify that we are aware of our obligations under sections 7.1 to 7.5 of the *Divorce Act* :

- 7.1 A person to whom parenting time or decision-making responsibility has been allocated in respect of a child of the marriage or who has contact with that child under a contact order shall exercise that time, responsibility or contact in a manner that is consistent with the best interests of the child.
- 7.2 A party to a proceeding under this Act shall, to the best of their ability, protect any child of the marriage from conflict arising from the proceeding.
- 7.3 To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process.
- 7.4 A party to a proceeding under this Act or a person who is subject to an order made under this Act shall provide complete, accurate and up-to-date information if required to do so under this Act.
- 7.5 For greater certainty, a person who is subject to an order made under this Act shall comply with the order until it is no longer in effect.

Signed in **Montréal** this **26th day of February, 2022**.

(Signature)

(Signature)

Parties demandresses
(Note 21)

CLERK'S CERTIFICATE

I, the undersigned, Clerk for the District of **Montréal**, certify that the joint application for divorce and the statement of the applicants have been received and registered at the office of the Court.

(Time and date)

(Signature)
Clerk
(Note 9)

Example 2

DRAFT AGREEMENT (Notes 2, 3, 4, 5)

CANADA
PROVINDE OF QUÉBEC
District of **Montréal**
No. : (Note 6)

SUPERIOR COURT
Family Division

Sophie Lavoie

AND

Mathieu Desjardins

JOINT APPLICANTS

DRAFT AGREEMENT

WHEREAS (Indicate the financial resources and situation of the parties, unless you have completed and produced the *Child Support Determination Form* or a sworn statement of your financial situation in Form III of the *Regulation of the Superior Court of Québec in family matters*, or have already given the information in your sworn statements.)

THE PARTIES AGREE : (Notes 10, 11, 12, 13)

(The following is a list of matters that may be covered in a draft agreement.)

- parenting time;
- exercise of parental authority;
- support (if the rules for determining child support payments apply to you and if you have agreed to an amount of support* that is different from the amount that would be applicable under the rules, your agreement must clearly indicate the reasons for the discrepancy);
- settlement of the marriage contract;
- partition of the family patrimony or renunciation of the partition, as the case may be;
- if applicable, waiver of partition of earnings registered during the marriage in the name of each spouse under the *Act respecting the Québec Pension Plan* or an equivalent plan, and partition of the credits accrued in any other pension plan (Note 13);
- right of use;
- ownership of immovables;
- settlement of the matrimonial regime;
- payment of a compensatory allowance*;
- debtor's exemption from the obligation to make support payments to Revenu Québec for the benefit of the support creditor;
- any other matter, as necessary.

The parties have signed this Draft Agreement in **Montréal**, on **February 26, 2022**. (Notes 14, 15, 16, 21)

(Signature)
Joint applicant

(Signature)
Joint applicant

Example 3

SWORN STATEMENT (NOTES 1, 3, 4, 5, 18, 19, 20)

CANADA
PROVINCE OF QUÉBEC
District of **Montréal**
No.: (Note 6)

SUPERIOR COURT
Family Division

Sophie Lavoie
JOINT APPLICANT

SWORN STATEMENT

I, the undersigned, **Mathieu Desjardins**, domiciled and residing at **255, rue Crémazie Est in Montréal**, District of Montréal, solemnly declare that:

1. I am a joint applicant in this proceeding*.
2. I wish to obtain a divorce judgment in this proceeding*.
3. Child support for the minor child of the parties has been established in accordance with the *Regulation respecting the determination of child support payments*.
4. We have not been living together since _____
Day / Month / Year
5. It is my wish that the Draft Agreement, which we have signed together, be homologated by the Court.
6. There has been no collusion* between the other joint applicant and myself.

ALL THE FACTS ALLEGED HEREIN ARE TRUE.

AND I HAVE SIGNED

(Signature)

Mathieu Desjardins

Sworn before me in **Montréal**,

this day _____ of _____ (Note 8)

(Signature)

Commissioner for Oaths

Example 4

BACKING SHEET (Notes 4, 22)

No. :
SUPERIOR COURT FAMILY DIVISION District of Montréal
Sophie Tremblay AND Mathieu Gagnon Joint applicants
<ul style="list-style-type: none">• Joint application for divorce or or• Draft agreement or• Sworn statement or• Exhibits in support of the application: E-1 to E-...
Sophie Tremblay 6161, rue Saint-Denis Montréal (Québec) H2S 2R5 AND Mathieu Gagnon 255, rue Crémazie Est Montréal (Québec) H2M 1L5

References

LEGAL PROVISIONS

Divorce Act

S. 7.1 > Best interests of child

“ A person to whom parenting time or decision-making responsibility has been allocated in respect of a child of the marriage or who has contact with that child under a contact order shall exercise that time, responsibility or contact in a manner that is consistent with the best interests of the child. ”

S. 7.2 > Protection of children from conflict

“ A party to a proceeding under this Act shall, to the best of their ability, protect any child of the marriage from conflict arising from the proceeding. ”

S. 7.3 > Family dispute resolution process

“ To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process.”

S. 7.4 > Complete, accurate and up-to-date information

“ A party to a proceeding under this Act or a person who is subject to an order made under this Act shall provide complete, accurate and up-to-date information if required to do so under this Act. ”

S. 7.5 > Duty to comply with orders

“ For greater certainty, a person who is subject to an order made under this Act shall comply with the order until it is no longer in effect. ”

S. 7.6 > Certification

“ Every document that formally commences a proceeding under this Act, or that responds to such a document, that is filed with a court by a party to a proceeding shall contain a statement by the party certifying that they are aware of their duties under sections 7.1 to 7.5. ”

S. 8(2) > Breakdown of marriage

“ Breakdown of a marriage is established only if

- a) the spouses have lived separate and apart for at least one year immediately preceding the determination of the divorce proceeding and were living separate and apart at the commencement of the proceeding* [...].”

Code of Civil Procedure

Art. 430

“ Spouses filing a joint application for [...] a divorce [...] may, together with the application, submit to the court for approval a draft agreement, dated and signed by them, that provides a complete settlement of the consequences of their application.

The draft agreement applies from the date of the application to the date of the judgment, subject to any provisional measures that the spouses have set out in it.

The draft agreement must identify, if one is required, the liquidator of the matrimonial [...] regime and of the spouses' other patrimonial rights. »

Art. 431

“ The joint application lapses if, following an adjournment order, the spouses fail to present an amended draft agreement within three months or any other time limit set by the court. The joint application also lapses if one of the spouses discontinues it and neither of them amends it and continues the proceeding within the following three months.”

Art. 443

“ The Minister of Justice, by regulation, establishes standards for determining the child support payable by a parent. The standards are established on the basis of, among other factors, the combined basic child support contribution payable by the parents, childcare expenses, postsecondary education expenses, special expenses for the child and the custodial time of each parent.

The Minister of Justice prescribes and publishes in the *Gazette officielle du Québec* the statement form and the support determination form the parties are required to file. The Minister also prescribes and publishes a table determining the combined basic child support contribution payable by the parents on the basis of their disposable income and the number of children they have. The Minister also identifies the documents that must be filed with the forms.”

Art. 444

“ No ruling on a support obligation may be made unless the parties have each filed a statement containing the information prescribed by regulation with the court office and, in the case of a parental child support obligation, the support determination form duly completed by each party and the other prescribed documents. [...]”

Art. 447

“ Child support is determined without consideration of any spousal support claimed by a parent for themselves.

A judgment awarding child support and spousal support must clearly specify the amount to be paid in child support and the amount to be paid in spousal support. [...]”

Art. 448

“ Parents who agree on a child support amount that differs from the amount that would be payable under the child support determination rules must clearly set out, in their agreement and in the support determination form, the reasons for the difference. [...]”

Art. 449

“ If an agreement is reached on an application relating to a support obligation and one of the parties is receiving benefits under a social assistance, social solidarity or basic income program created under the Individual and Family Assistance Act (chapter A-13.1.1), that party must state as much in the agreement. If a party was receiving benefits under such a program during any period covered by the agreement, that fact must also be stated in the agreement.”

Art. 454

“ The court seized of an application for the homologation of an agreement or a draft agreement between the parties may amend the agreement or draft agreement on the basis of the interests of the children or one of the spouses. The court may also postpone its decision until the parties have amended the agreement or draft agreement, or deny homologation, in which case the proceeding continues.”

Regulation of the Superior Court of Québec in civil matters

S. 3

“ Pleadings must be legibly written on one side of a good quality paper measuring 21.25 cm × 28 cm (8.5 inches × 11 inches) – the nature and object of the pleading must be indicated on the back, with the record number and the names of the parties, the party filing it [...]

Agreements to be attached to a judgment must be drafted on one side only of a good quality paper measuring 21.25 cm × 28 cm (8.5 inches by 11 inches).

An originating application indicates the name, address and postal code of the parties.

[...] If a party is not represented by a lawyer or notary, the pleading must be signed by the party. [...]

Regulation of the Superior Court of Québec in family matters

S. 16

“ **Mandatory information:** In all pending cases, the parties must attest to whether or not they are subject to:

- a) a civil protection order provided for in article 509 of the Code of Civil Procedure (chapter C-25.01) or an application concerning such an order;
- b) an order, an application, an agreement or a decision relating to youth protection, or
- c) an order, an indictment, an undertaking or a recognizance relating to a criminal matter.

A party in one of the situations referred to in subparagraph a or c of the first paragraph must file a notice with the court office and, if the other party or a child concerned by the proceedings is named, include a copy of the order, undertaking, recognizance, indictment or application concerning a protection order.

A party in the situation referred to in subparagraph b of the first paragraph must file a notice with the court office and, if a child concerned by the proceedings is named, include a copy of the order, application, agreement or decision.

If the situation changes in the course of the proceedings, the party concerned must file a new notice with the court office as soon as possible and, if the other party or a child concerned by the proceedings is named, include the documents that show that fact.

A model notice is posted on the Superior Court website.”

S. 17

“ **Documents attesting to the birth of a child** : In every originating application concerning custody, access, parenting time, contact [...], a photocopy of the birth certificate, of the copy of the act of birth or of any other document issued by a competent authority other than the registrar of civil status in Québec attesting to the birth of the child concerned by the application must be filed [...]

S. 17.1

“ **Documents attesting to the birth of a child** : In every originating application concerning custody, access, parenting time, contact [...], a photocopy of the birth certificate, of the copy of the act of birth or of any other document issued by a competent authority other than the registrar of civil status in Québec attesting to the birth of the child concerned by the application must be filed [...]

S. 17.2

“ **Documents attesting to marriage** : In every application for divorce [...], a photocopy of the marriage certificate or of the copy of the act of marriage must be filed, unless [...] the document was issued by a competent authority other than the registrar of civil status in Québec, in which case the original must be filed. [...]

S. 21

“ **Joint application** : All exhibits must be filed with the court office at the same time as the joint application.”

S. 25

“ **Consent or draft agreement** : The consent or draft agreement of the parties or their affidavits for judgment must describe each party’s financial resources and situation, unless they have completed and submitted a sworn financial statement in accordance with Form III or, as the case may be, with the child support determination form.”

S. 28

“ **Renunciation** : A party that renounces the partition of benefits accrued during the marriage or civil union under a retirement plan or the partition of earnings registered in the name of a spouse pursuant to the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan must confirm that he or she knows the extent of the value which may be partitioned and the possibility of being informed of its exact amount.”

Individual and Family Assistance Act

S. 64, 2nd para.

“ The adult must, however, inform the Minister of the content of an agreement concerning the obligation of support at least 10 days before it is presented to the court, or, in the case of a joint procedure for the dissolution of a civil union, at least 10 days before the date on which the agreement is to be executed before a notary.”

GLOSSARY

Trust deed

A legal document establishing a trust.

Acte de procédure

A document provided for by law that must be written by a party, i.e. an applicant or a defendant. The document is written with a view to commencing legal action, ensuring the proper conduct of the proceeding*, suspending or terminating the proceeding, or executing a judicial decision.

Adjourn

To postpone until a later date.

Allegation

An affirmation or contention.

Support

Everything required for a person's subsistence, in other words everything needed to feed and provide for a person.

Collusion

Secret agreement, between two or more people who appear to have conflicting interests, to evade the law or the judicial system, to mislead a court or to harm another party. An example would be two married people who agree to lie about the duration of their separation so they can file a joint application for divorce on a draft agreement.

Trust

The result of an act by which a person transfers property from his or her patrimony to another patrimony constituted by that person and designates it for a specific purpose, namely for payment of support to the person to whom it is owed, and by which another person, by accepting it, undertakes to safeguard and administer it.

Homologate

To approve and validate an agreement so that its legal value is equivalent to that of a judgment.

Proceeding

This word designates both the dispute brought before the court and all pleadings filed from the beginning of legal action until a judgment is rendered.

Obligation of support

A mutual obligation established by law between certain persons (ascendants and descendants, married or civil union spouses) under which one person, who is in need, may claim support from the other person. Support means the monetary amounts required for food, shelter, clothing and care.

Order

A court decision.

Compensatory allowance

A monetary amount or property granted to an ex-spouse to compensate the goods or services they contributed to the enrichment of their spouse during their marriage or civil union.

Inserts

Joint application for divorce

Draft agreement

Sworn statement

Backing sheet

Statement required under article 444 of the Code of Civil Procedure

CANADA
PROVINCE OF QUÉBEC
District of
No. :

SUPERIOR COURT
Family Division

AND

JOINT APPLICANTS

JOINT APPLICATION FOR DIVORCE

It is declared that :

CIVIL AND FAMILY STATUS

1. _____

as appears from the photocopy _____ filed as exhibit E-1.

1.1 At the time of the marriage, this spouse's civil status was _____

2. _____

as appears from the photocopy _____ filed as exhibit E-2.

2.1 At the time of the marriage, this spouse's civil status was _____

3. The marriage of the parties was solemnized on _____ in _____

as appears from the photocopy _____ filed as exhibit E-3.

4. The matrimonial regime adopted was _____

That regime has _____

5. The parties are _____ an order,
an indictment, an undertaking or a recognizance relating to a criminal matter.

5.1 The parties are _____ a civil protection order under article 509 of the *Code of Civil Procedure* or a request related to such an order.

5.2 The parties are _____ an order, an application, an agreement or a decision relating to youth protection.

6.

Surname	Given name	Age	Sex	Date of birth

RESIDENCE

7. _____ has been ordinarily resident at _____
since _____
_____ has been ordinarily resident at _____
since _____

REASON

8. There has been a breakdown of the marriage for the following reason :
The _____ lived separate and apart at least one year before the divorce judgment and were living separate and apart at the commencement of the proceeding.

OBLIGATIONS OF THE APPLICANTS

9. The parties were aware of their obligations under sections 7.1 to 7.5 of the *Divorce Act* before signing this application.

COROLLARY RELIEF AND OTHER CLAIMS

10. There is an agreement between the parties as to corollary relief and all other claims contained in the Draft Agreement, a copy of which is filed as exhibit E-_____.

11. _____

OTHER PROCEEDINGS

12. _____

13. There has been no collusion between the parties.

WHEREFORE, may it please this Court to :

PRONOUNCE the divorce of the parties;

HOMOLOGATE the agreement between the parties;

and

ORDER the parties to comply therewith.

Without costs.

Signed at _____ this _____.

STATEMENT OF THE APPLICANTS

We, the undersigned _____ and _____, certify that we are aware of our obligations under sections 7.1 to 7.5 of the *Divorce Act* :

- 7.1 A person to whom parenting time or decision-making responsibility has been allocated in respect of a child of the marriage or who has contact with that child under a contact order shall exercise that time, responsibility or contact in a manner that is consistent with the best interests of the child.
- 7.2 A party to a proceeding under this Act shall, to the best of their ability, protect any child of the marriage from conflict arising from the proceeding.
- 7.3 To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process.
- 7.4 A party to a proceeding under this Act or a person who is subject to an order made under this Act shall provide complete, accurate and up-to-date information if required to do so under this Act.
- 7.5 For greater certainty, a person who is subject to an order made under this Act shall comply with the order until it is no longer in effect.

Signed at _____ this _____

Applicants

CLERK'S CERTIFICATE

I, the undersigned, Clerk for the District of _____, certify that the joint application for divorce and the statement of the applicants have been received and registered at the office of the Court.

_____, on _____

Clerk

CANADA
PROVINCE OF QUÉBEC
District of
No. :

SUPERIOR COURT
Chambre de la famille

AND

JOINT APPLICANTS

DRAFT AGREEMENT

WHEREAS

THE PARTIES AGREE :

The parties have signed this Draft Agreement at _____ on _____

Joint applicant

Joint applicant

No. :

SUPERIOR COURT

Family Division

District of

AND

Joint applicants

•

AND

Please complete in block letters

IDENTITY OF DECLARING PARTY:

Plaintiff

Defendant

1 Surname(s) _____ Given name(s) _____
2 Surname at birth _____
3 Sex M F 4 Language French English
5 Home address _____
Postal code _____ Province _____ Country _____
Home phone number _____ Work phone number _____ Cellphone number _____
Mailing address (if different) _____
Postal code _____ Province _____ Country _____
6 Date of birth _____ Social insurance number _____
Année Mois Jour

INFORMATION ON EMPLOYMENT AND INCOME

7 Salaried worker Self-employed worker
Name and address of employer _____
Postal code _____ Province _____ Country _____
Remuneration _____ Language of communication Français Anglais
8 The declaring party is unemployed
9 The declaring party receives last-resort financial assistance File No. (CP12) _____
10 Other income (**Indicate source and amount for each**) _____

OTHER INFORMATION

11 Declaring party's mother's maiden name _____
12 Other name(s) used by declaring party _____
13 Indicate the nature and date of the application accompanying this statement

14 If this statement accompanies an application for review of the obligation of support, indicate the date of the judgment granting that support _____ and the file number, if different _____
Year Month Day

INFORMATION (IF KNOWN) ABOUT THE OTHER PARTY

15 Home address _____
16 Home phone number _____ Work phone number _____ Cellphone number _____
17 Date of birth _____ Social insurance number _____
Year Month Day

STATEMENT

I declare that the information given is correct and complete, and I have signed :

at _____ on the _____ day of _____

Signature of declaring party

**STATEMENT REQUIRED UNDER ARTICLE 444
OF THE CODE OF CIVIL PROCEDURE (CHAPTER C-25.01)**

Drafting assistance for the declaring party

Under the *Code of Civil Procedure* (chapter C-25.01), all support-related applications must be accompanied by this statement, completed by each party to the application for their own situation. The information required is determined by regulation.

It is your responsibility to complete the statement in full and sign it.

Under the *Code of Civil Procedure*, declarations filed with the court office are destroyed if the court does not award support or if no judgment is rendered within one year of filing.

In addition, if the court awards support, the information given will be entered in the support register kept by the court clerk. **The information in the register is confidential.**

District of : Indicate the name of the judicial district where the application regarding the obligation of support is made.

File No. : Indicate the file number of the application regarding the obligation of support.

Identity of declaring party : Tick the box corresponding to your designation on the application regarding the obligation of support.

1 Surname, given name

Give your full surname(s) and given name(s).

2 Surname at birth

Enter it even if it is the same as in point 1.

3 Sex

Check the appropriate box.

4 Language

Check the appropriate box.

5 Home address

Indicate your full address at your usual place of residence (including city).

6 Date of birth and SIN

Indicate the year, month and day of your birth, as well as your social insurance number.

7 Salaried/Self-employed worker

Check the box corresponding to your main employment. Provide name of employer and all other information requested. For remuneration, indicate the salary and the frequency of payment (e.g. every two weeks). If you are unemployed, please indicate this at point 8.

8 Unemployed

Tick the boxes applicable.

9 Last-resort financial assistance

Tick if you receive last-resort assistance and indicate your file number with the Ministère du Travail, de l'Emploi et de la Solidarité Sociale (CP12).

10 Other income

Indicate all your other sources of income, whatever their nature (annuities, rent, dividends, other employment, etc.). If necessary, use an additional sheet of paper.

11 Declaring party's mother's maiden name

Indicate your mother's maiden name.

12 Other name(s) used by declaring party

Indicate the surname and/or given name by which you are known, if different from those given in points 1 and 2.

13 Type and date

Indicate the type of application (e.g. application for provisional measures) that your statement accompanies, and the date of the application.

14 Application for review

If the statement accompanies an application for review of a support award, indicate the date of the judgment and, if different, the file number in which it was rendered.

15 à 17 Provide the requested information **about the other party, if known** (including city of residence).

Statement : Indicate the place and date, and sign on the appropriate line.

