

Preparing an Affidavit



The affidavit is a very important document because it is the main way you share evidence with the judge. There are specific rules for preparing an affidavit (see rule 49). This fact sheet has been published by the Yukon Department of Justice 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 yukoncourts.ca/en/supreme-court/rules-forms under Supreme Court, 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. Your affidavit should only include information that is relevant to your application, or directly responding to the other party's affidavit. Avoid repeating information that has been included in a previous affidavit.

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, 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 did you start living together and where?
 - Did you live together? If yes, when and where?
 - When did you separate?
 - Are you still sharing a residence?
 - Any other relevant details about the relationship
- How long have you lived in the Yukon?
- Full name, age and date of birth of any children and how long have they lived in the Yukon.
- 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 decision making responsibility and parenting time (custody and access) arrangements
- Requested decision making responsibility and parenting time (custody and 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

i 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:

- Exhibits are attached to affidavits in the order that they are referenced within the affidavit.
- If you have more than one to attach to any affidavit, you must place consecutively numbered tabs on the first page of each exhibit.
- References to exhibits within the affidavit should include the tab number of the exhibit.
- All of the exhibit pages should be numbered consecutively.
- Each exhibit must be signed by a Notary Public. The following wording must be written or stamped onto the first page of each for the Notary Public to fill out:

This is Exhibit

referred to in the affidavit of

sworn before me at

LOCATION

on

DATE

SIGNATURE

A Notary Public in and for the Yukon Territory.

Notarizing your affidavit and exhibits

Notarizing your affidavit means that you take an oath (swearing or affirming) that the information the affidavit contains is true. The notarizing must be done before a Notary Public or another individual authorized to administer an oath, such as a lawyer, justice of the peace, or a commissioner or oaths. **Do not sign your affidavit until you have taken your oath before a Notary Public or other qualified person!**

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

For more information, contact the Family Law Information Centre

E-MAIL

flic@yukon.ca

WEBSITE

yukon.ca/en/family-law-information-centre

PHONE

867-456-6721; outside of Whitehorse (toll free) 1-800-661-0408, ext. 6721

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