

Varying or Changing Your Court Order

The role of the Maintenance Enforcement Program (MEP) is to monitor and enforce court-ordered maintenance payments.

It is not possible for MEP to change the amount of maintenance required each month. However, MEP may decide to enforce a lesser amount for global child support orders (orders which set a total amount of money for the support of a number of children instead of an amount per child). A lesser amount may be enforced for global orders when one or more of the dependants covered by the order is no longer eligible for child support. MEP's decision to enforce a lesser amount does not change the court order itself.

If either creditors or debtors wish to change the amount of support required, they need to have the amount of support recalculated or vary the court order.

The Child Support Recalculation Program

The Child Support Recalculation Program (RP) recalculates child support in eligible court orders based on changes in the parents' incomes.

For a yearly service fee of \$75 per client per recalculation, RP recalculates future monthly child support based on the federal *Child Support Guidelines* tables, as well as proportionate shares of extra expenses. Either a recipient or payor of child support can choose to register with RP. It uses income tax information provided by clients to set new child support amounts, so there is no need for clients to go to court to recalculate. For more information, including whether you may be eligible for this program, visit www.recalculation.gov.ab.ca or contact RP at 780-401-1111 in Edmonton and area or phone toll-free in Alberta at 310-0000.

Varying Court Orders

How to proceed

Parties wishing to vary their court orders should consult a lawyer for more information. If you do not have a lawyer, other resources are available to assist you in making an application. More information can be obtained by referring to MEP's information sheets: *Referrals to Resources* and *Family Law Information Centres*.

What the court may consider

The court may consider changing an order for maintenance when there has been a change in circumstances since the previous order was made. Examples of significant changes include a change in the number of children dependent on the parties, a change in employment that results in a long-term change in income, a change in access costs, or a change to the section 7 expenses (also known as special or extraordinary expenses) incurred for children named in the order.

The judge may also consider the debtor's ability to make the current maintenance payments and may change an order based upon full financial disclosure, as well as any other factors required by the legislation under which the order was made.

How a court order may be varied

A court order may be varied:

1. **By consent.** A consent order is a court order agreed to by both parties
2. **By application.** When the parties do not agree on the variation in support, an application can be made through the court to settle the issue. This application is brought in the court that originally issued the court order, unless:
 - the applicant is applying for a variation under the *Interjurisdictional Support Orders Act*. This includes filing an application in Alberta that will be heard by a court in another jurisdiction, or obtaining a provisional order in Alberta to be confirmed by a court in another jurisdiction
 - an application is first made to change the venue on either a temporary or permanent basis

If you file a court application to vary your support order, you must ensure that MEP is served with the Application (or Claim) and a supporting Affidavit (or Statement). Although MEP does not provide a lawyer for either the creditor or debtor in these situations, counsel will typically appear on behalf of the government (Crown) if any of the Crown's rights to maintenance payments or arrears are affected.

Once the court grants a variation, the parties or their legal counsel should provide MEP with a filed copy of the order as soon as possible so that MEP can adjust its records appropriately.

- MEP has other Information Sheets, on a variety of helpful topics. To see them, visit MEP's website at www.albertamep.gov.ab.ca.
- To contact MEP, phone 780-422-5555 or toll-free in Alberta at 310-0000.
- To view information about your MEP file, log in to *MEP Accounts Online* on MEP's website and select "Account login".