

When a court deals with child support, it looks for answers to many questions. The first question is: does a parent have a duty to support a child. Form 3 gives the court information it needs to decide whether such a duty exists. Other forms in your application will give the court answers to the other questions.

Fill in a Form 3 for each child for whom you are claiming child support. If you have a child who is independent ('on his/her own', married, not counting on you for day-to-day needs) do not fill in a form for that child. Make sure you have enough copies of Form 3 for a working copy and a 'good' copy for **each** child.

Use Form 3 if all of the following statements apply:

- you do not have a child support order naming the respondent
- you do not have a court order which says the respondent is the parent of the child
- you want to claim child support for the child

Example:

Elaine and Frank lived together for 4 years, and then were married for 12 years until their marriage ended 3 years ago. When they divorced, Frank agreed to support the children (Graham and Sam) and child support was not mentioned in the divorce order. There was no formal, written agreement. Now Graham is 16 and Sam is 13, and Frank isn't paying child support anymore.

Elaine is asking the court to 'declare', or say, that Frank is the parent of the children, and therefore has a duty to support them. She will fill out a Form 3 for Sam, and one for Graham. The facts will be different – Graham was born before the couple was married, and Sam was born during the marriage.

Let's go through the form, from the top:

- *I am entitled to claim support for the child named below.*
- *I ask the Court to declare that the respondent is a parent of the child:*

The first statement is about you saying "I have a right to claim child support". It's worded this way because

sometimes a government service may make the claim on behalf of a parent. The second statement is the request to the court. If both statements apply to you, check the two boxes.

Note: If you are receiving social assistance (or income assistance, or welfare) you may have "assigned" your rights to claim child support to the Province. Contact your social worker or financial assistance worker. Your worker can help you prepare the forms and get the documents you need. You may not have the right to claim support for times when you received assistance unless Family and Community Services is involved.

Next on the form is the name and birth date of your child. The box looks like this:

Full Name of Child (Last, First, Middle)	Child's Date of Birth (day, month, year)

In the box on your working copy, write the full name of the child. Remember, you need a separate form for each child. Add the child's date of birth. If the child was born on August 19, 1999, write the date as 19 August 1999.

Now, take some time to go through the main part of Form 3. These are the statements that the court will look at to decide whether the respondent is a parent, and has a duty to support the child. Think about whether a statement applies to **this** child. More than one statement can apply. The statements are repeated below, with extra detail to help you decide:

The claimant and respondent were married to each other, or in a registered relationship, at the time of the child's birth.

*When a couple is married to each other at the time of a child's birth, there is a "presumption of parentage" in most courts. This means unless there is something to prove that they are **not** parents, they are. The same may be true for a "registered relationship" used in some provinces, territories, and countries. If you have a registered relationship, you went through formal steps to register your relationship with a government*

authority (not a church or other religious institution), and you have some sort of certificate to attach to Form 1 in the Family History section.

The marriage of the claimant and respondent ended by a divorce judgment or a divorce order within 300 days before the birth of the child.

Why 300 days? Because it's the outside time frame of a pregnancy. This is another "presumption of parentage". It applies when you and the respondent were married, and you were pregnant, but your marriage ended before the child was born.

The claimant and respondent married each other after the child was born, and the respondent said he is the father.

Remember Elaine and Frank from the example? This statement applies to their son Graham. He was born while his parents were living together, but they married later. Frank always said he was, and acted as, Graham's father. The first two statements do not apply on the form Elaine filled out for Graham. For Sam, however, the first statement would be checked off.

The respondent has said, in writing, that he is the father of the child (copy attached).

A father may have said, "I am the father of this child" in writing at some point. If you have a written document (not a court order, or birth registration), you can check this box. The document could be a Mother's Day card, a note, a letter, or a non-government form used where you worshipped together. This is not the most important "presumption of parentage", but can be attached if you have it.

The respondent is registered as the father of the child on the birth registration or Vital Statistics records (copy attached).

When a child is born the father's name is usually noted in the birth registration, and the father has to agree to list his name. This is an important "presumption of parentage". If the child was born in New Brunswick you can get a copy of the child's birth registration by contacting Vital Statistics (look in the blue pages of your telephone book). There is a form to fill out, and a cost to obtain the birth registration. If the child was born outside New Brunswick, contact the government agency that records births. The Internet, or public library, can help you.

The claimant and respondent lived together as a couple when the child was born, or the child was born within 300 days of the end of the relationship. The claimant and respondent had lived together for approximately _____(years, months).

This "presumption of parentage" has two parts, and applies to couples that were not married. The first part is about a child who was born when the parents were together. The second part applies if the parents were together when the child was conceived, but split up before the child was born. Write in the length of time you were together as a couple.

The claimant did not have sexual intercourse with any other man during the time 30 days before to 30 days after the date the child was conceived.

You are a person claiming support for this child. As such, you are also saying, "no one else could be the father of this child". That's what this statement is for. The 30 days before and after conception deals with the fact that conception dates are not precise, nor are due dates.

A genetic test was done to establish parentage. It shows the respondent is a parent of the child (copy attached).

Sometimes the parents may disagree on parentage even before a child support claim is made. If there has been a genetic (or DNA, or paternity) test that shows the respondent is the parent, attach the test results. Please note that genetic testing is rare in Canada, and you do not have to go out and get a genetic test to prove parentage to make this claim. If parentage becomes an issue later, a court can order that a genetic test be done.

The respondent is not a biological parent of the child, but has acted as a parent to the child.

*This "presumption of parentage" looks simple, but isn't. It applies when the respondent is not the biological parent of the child. This can apply to same-sex couples, to couples where one parent is a step-parent, or to any other relationship where the respondent is not a biological (or 'natural') parent of the child. The key is that the respondent has **acted** as a parent. In the Family History section on Form 1 you will list the dates of the relationship. If you believe the respondent may not agree with parentage, see the 'Note' box in the next section of this Guide.*

In the next section you are asked for your opinion on something important: do you believe the respondent will agree, or disagree, with your claim that he/she is the parent of this child. Remember, you are making this claim for **one** child on this form, and your answer does not have to be the same for each child. And this form is about the court declaring that the respondent has a legal duty to support the child – it's not about the amount of support yet. Check one of the following:

- I believe the respondent will agree with a finding of parentage; or
- I believe the respondent may dispute parentage of the child. I attach Form 4 and additional documents to support my claim that the respondent is (or acted as) a parent of the child.

If you believe the respondent will agree.

Has the respondent ever said anything to you or someone else which makes you think that he/she may say, "I'm not the parent", or "I shouldn't have to pay child support"?

If you think the respondent will agree with a parentage order (or at least will not object to one) put a check mark in the first box on your working copy.

If you believe the respondent will dispute parentage.

When would a respondent dispute parentage? Here are some of the things a respondent might say – do any of them apply in your relationship?

- I'm not the father – it was someone else.
- The mother slept with someone else.
- We weren't together when the child was conceived.
- We lived together, and I looked after the child, but the biological parent should pay support.
- I did not agree to take responsibility for the child.

A respondent can dispute parentage for many reasons. Often, if one or more of the "presumptions of parentage" exist, the dispute will not be successful. But if there is a dispute, the court may want more information, and the court is not in New Brunswick. If you think the respondent may argue against a declaration of parentage, it is wise to fill out Form 4.

physical) parent, the court needs information to show that the respondent acted as a parent. This can be the situation when the respondent is a step-parent, or same-sex partner, or other relationship. You can use the statements in section 2 of Form 4 as a guide for the kinds of information the court needs. Write the information in the blank area at the bottom of Form 3. Add an extra page if necessary.

If the court does not have enough information to deal with the respondent's dispute, there will be a delay before an order is made. Remember that the first question the court asks is whether the parent has a duty to support a child. That answer is needed before a support order is made. To get the information, the court will prepare a Request for Further Information. It will ask for the details it needs to deal with the parentage question. The request will be sent back to New Brunswick and you will have to prepare a sworn statement answering the questions. It takes time to send the information back and forth, and have a new court hearing where the respondent lives. The choice is up to you. You probably have the best idea of what the respondent will do.

Worksheet

As you read through Form 3 and this ISO Guide, and made choices by checking the boxes, did you notice any documents that you need? In the space below write down the documents you need for this child. As you get each one, check off the 'done' column, and keep the documents with your Form 3.

Document / To Do	Done

Form 3 is part of your evidence. You will sign it as claimant/applicant in the blank provided at the bottom of the form when you swear/affirm Form 1.

Note:

Form 4 is about biological parentage. If the respondent is not a biological (or "natural", or