

Affidavit of father seeking final order for equal or substantial time with child

Introduction

1. I am the [Applicant/Respondent] seeking parenting orders in relation to the [child/children] of my [marriage/unmarried relationship] with [insert full name of other party] (“[short name]”) (in this sample affidavit referred to as “X”).
2. We [were married/began living together] at [place] on [date].
3. Our [child is/children are]:
 - (a) [full name of child] (“[insert first name]”) born [date]. [He/She] is [insert] years of age.
 - (b) [full name of child] (“[insert first name]”) born [date]. [He/She] is [insert] years of age.

Note – in this sample referred to as “Y” and “Z”.

4. X and I separated on [date].
5. Since separation, Y and Z has/have (insert living arrangement for the children, for example, continued to live with X in our home; and specify in detail the extent of time the child/children have spent with your client since separation).
6. I work as a [occupation], employed [full-time/part-time/casually] at [employer's name] on [insert work hours and any scope for flexibility] [OR] I am unemployed [specifying any prospect of work in foreseeable future].
7. X works as a [occupation], employed [full-time/part-time/casually] at [employer's name].
8. The [child/children] are [in good health/poor health - give details].
9. The [child/children] have been attending the following [day care centre(s)/ school(s)] during these hours [specify, and state which parent delivers & collects, including after school activities].
10. During our [marriage/relationship], my role was that of father and breadwinner and X's that of mother, caring for the [child/children] [full-time/part-time] (if applicable – when she was not working in her part-time/casual job (specify number of hours) hours a week), with some help from me with the [child/children], meals and housework [specify] after getting home from work and more of a share of seeing to the children and domestic chores on weekends.
11. Since their birth, I have been a daily part of our [child/children]'s [life/lives].
 - (a) Before our separation the time I spent with the [child/children] was virtually continuous. I participated daily in [his/her/their] [life/lives] and took a keen

interest in [his/her/their] development. (summarise the average day's duties from morning to night).

- (b) I accept that X has always been more directly involved with our [child/children]'s everyday routine than me, but my concern is that Y and Z be allowed to have as meaningful a relationship with me as they can now that we are no longer all under the same roof.
- (c) I would also like to share parental responsibility for all future major long-term issues equally with X. She and I have always usually discussed things before decisions were made, to do with Y/Z's welfare such as appointments with the health clinic, doctor, hospital, dentist, vaccinations, school enrolment, enrolling in and attending after-school and sports activities, although X (with occasional help from me when I could) was usually the one to take and collect [him/her/them].

[If father is the respondent, the following section should come next. If not, omit this heading and its two paragraphs.]

My reply to X's affidavit

- 12. I have read X's affidavit filed on [date of filing]. Paragraphs [specify para numbers that are undisputed] of X's affidavit are correct, except numbers [specify].
- 13. I dispute paragraph [specify para number]. I deny X's allegation that I [specify]. [In separate paragraphs, give a SHORT reply to each disputed paragraph, stating your client's own evidence on the matters raised. When doing so, try to get your client's point across, so that you don't find yourself in the position of simply being responsive to the initiative of the applicant.]

[Whether father is applicant or respondent, use this next heading to specify the crux of your client's case.]

Parental responsibility

[If seeking shared parental responsibility]

- 14. X and I do discuss the [child/children] and consult each other about arrangements, although we have had differences of opinion about things.
- 15. (Specify any problems with communication or co-operation regarding child arrangements)
- 16. I agree to an order for equal shared parental responsibility.

[If alleging parental irresponsibility by X]

- 17. [Where you have previously written to X or her lawyer to complain about her behaviour] Annexed to this affidavit is a true copy of my lawyer's letter to [X/X's lawyer] dated [date], and a true copy of [her/their] reply [OR] to which there was no reply.

18. [if applicable] X failed/refused to attend family counselling with me, or compulsory family dispute resolution, before these proceedings were issued. [Specify any words of refusal used by X]
19. [In separate paragraphs, set out evidence of X's past failures – especially since separation – to fulfil parental responsibilities as set out in s 60CC(4), such as your client's attempts to obtain her co-operation by discussing the children and arriving at joint decisions; and exactly how she has responded, specifying what she has done and said]
20. I have applied for sole parental responsibility as there has been no sign of X being willing to co-operate with me regarding arrangements for our [child/children].
21. [Where the father does communicate, but ineffectively] X and I never sit down and talk calmly about the [child/children]. Issues arising from our break-up usually come to the surface and we end up with raised voices or X trying to dictate terms [give examples of this].
22. When I try to reason with him, X just gets louder. I have suggested we attend counselling so as to improve how we communicate, but he says he will not go.

My wish for meaningful involvement in my child's life

Note – The court will be looking here for the extent of your client's insight into the personality, likes, dislikes and various needs of *each* child and some examples of how and when they relate with their father.

23. [Specify any conflict, disagreement or obstruction over child/children spending time with his/her/their father since separation.] e.g. On [date] I rang X to ask if I could see Y and Z on [dates/proposal]. She said "[insert response]".
24. On [date] I had to instruct my lawyer to ask that I have the [child/children] on [date] and that I pick them up from school. Annexed to this affidavit is a true copy of my lawyer's letter dated [date]. I received no reply. **OR** Annexed is a true copy of X's reply through her lawyer.
25. [If other requests for time with the child/children have been obstructed, or any child-related decisions made by X unilaterally, set out that evidence, giving date, time, context and exact wording of statements by X indicative of her attitude. Avoid making too much of this, though, unless X is hardened against your client having time with the child/children or attempting to alienate the child/children. It is best, especially if equal or substantial time is being sought, to emphasise your client's hope that he and X can talk more about the children and his intention to do all he can to communicate better with X so as to have the arrangements running smoothly.]
26. My work hours allow me to spend a whole lot more time with Y and Z than X is allowing, specifically, the following occasions every fortnight: [specify every period of time each week he would be able to see Y and Z. Add, after each time period, the activity that the time would allow e.g.]
 - (a) Alternate Wednesdays/Thursdays/[specify] after school through to following Monday for start of school – so I can be involved in his/her/their school routine, at least for a couple of days [seeing to homework being done; discussing