



THE SUPREME COURT OF THE NORTHWEST TERRITORIES
LA COUR SUPRÊME DES TERRITOIRES DU NORD-OUEST

PRACTICE DIRECTION

Non-Party Access to Family Law Files

APPLICATION

This Practice Direction applies to anyone who requests access to a Supreme Court file in proceedings under the *Divorce Act (Canada)*, the *Children's Law Act*, SNWT 1997, c 14 the *Family Law Act*, SNWT 1997, c 18 and the *Interjurisdictional Support Orders Act*, SNWT 2002, c 19. For greater certainty, it does not apply to Supreme Court files opened under the *Protection Against Family Violence Act*, SNWT 2003 c 24.

POLICY AND PURPOSE

The “open court” principle means that, among other things, members of the public have a right to access Court records. It is an important element of judicial accountability and may be restricted or denied only in accordance with statutory or regulatory authorities, or judicial orders and directions.

The Court recognizes that Family Law files may contain sensitive personal information pertaining to family members including, but not limited to, statements of property, income information, Social Insurance numbers, dates of birth, academic and school attendance records relating to minors, parenting assessments and health information.

The purpose of this Practice Direction is to balance the open court principle with the need to protect litigants' and children's sensitive personal information from illegitimate use.

DEFINITIONS

In this Practice Direction “Family Court file” refers to the physical contents of the file kept in the Supreme Court Registry, such as pleadings, statements, correspondence, affidavits, reports, exhibits and transcripts. It does not include material in the Register of Actions, including the clerks’ minutes, dockets or scheduling information.

WHO MAY ACCESS A FAMILY COURT FILE

Access to a Family Court file without the consent of the parties or leave of the Court is limited to:

- a. the named parties, their counsel, counsel acting on behalf of a child of one or both named parties;
- b. authorized agents of any of the individuals named above;
- c. subject to the conditions in this Practice Direction, active members of the Law Society of the Northwest Territories; and
- d. the Clerk and deputy Clerks of the Supreme Court, court reporters, the Sheriff and deputy sheriffs acting in the course of their duties.

CONDITIONS OF ACCESS FOR MEMBERS OF THE LAW SOCIETY

Active members of the Law Society of the Northwest Territories who are not acting as counsel for a party or a child of one or both named parties may access Family Court files for reasons legitimately connected to their practice, including:

- a. to review pleadings and other documents for the purposes of representing a party or a child or children of one or both of the parties at a future time;
- b. for educational purposes; and
- c. for the purpose of providing legal advice to a client.

No active member of the Law Society of the Northwest Territories shall access a Family Court file on behalf of, or share information gained through such access with, any person not otherwise be permitted to access the Family Court file without leave.

PROCESS FOR ACCESS TO FAMILY COURT FILES BY OTHERS

Any other person who wishes to gain access to a Family Court file must seek permission from the Court. *Each time access is requested, the person must make a new application to obtain permission.*

The person seeking permission must complete a “Request for Permission to Access Family Court File” in the form attached (the “Request”).

The Request shall be served on the named parties or their counsel (if they are represented) and where applicable, on counsel acting for the child or children. Service shall be effected in accordance with the *Rules of the Supreme Court of the Northwest Territories* or the terms of any Court order.

The Clerk shall provide the addresses for service upon request.

It is the responsibility of the person requesting access to serve the other parties with notice of the Request.

The named parties, their counsel and/or counsel for any child shall have thirty (30) days from the date of service to object to the Request by filing and serving an “Application to Restrict Access” in the form attached and a supporting affidavit. If no Application to Restrict Access is filed, a judge will review the file and may grant permission under such terms and conditions he or she considers appropriate. See “Orders”, below.

Upon the filing of an Application to Restrict Access, the Clerk shall set a date for the hearing. Unless otherwise ordered, the date shall be on a regular Family Court Chambers day. The date shall be chosen so as to provide the parties with at least ten (10) days notice, but it shall not be later than thirty (30) days after the Application to Restrict Access is filed. Upon application by any party, the Court may adjourn the matter to another date.

The Clerk shall provide notice of the Application to Restrict Access to media outlets in accordance with paragraph 6 of the Practice Direction entitled “Publication Bans” dated March 2, 2017.

The judge hearing the Application may order that the hearing be held in private.

ORDERS

Upon considering a Request or an Application to Restrict Access, the judge may make any order deemed appropriate in the circumstances, including:

- a. an order granting unrestricted access to the Family Court file;
- b. an order restricting access to certain documents of the Family Court file;
- c. an order that certain information in the Family Court file be redacted;
- d. an order granting access to the Court file but limiting or restricting publication of certain information; and
- e. an order that some or all of the documents on the Family Court file be sealed.

OTHER

Backers are not required for documents filed in accordance with this Practice Direction.

EFFECTIVE DATE

This Practice Direction takes effect immediately.

Issued this 7th day of March, 2019, by direction of the justices of the Supreme Court of the Northwest Territories.




 Chief Justice L.A. Charbonneau



 Justice K.M. Shaner



 Justice S.H. Smallwood



 Justice A.M. Mahar

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

Name of Party 1

-and-

Name of Party 2

NOTICE OF A REQUEST TO ACCESS FAMILY COURT FILE # _____
(Court file number)

TO: _____
(List all names of parties/lawyers being served)

_____ is requesting access to this Family Court file
(Name of person making request)
for the following reasons:

If you wish to restrict access to this Family Court file, you must file and serve an Application to Restrict Access with the Clerk of the Supreme Court of the Northwest Territories within thirty (30) days of receiving this document, in accordance with Practice Direction.

You may file the Application to Restrict Access at the Supreme Court Registry, located at:

3rd Floor
Court House
4903 – 49th Street
Yellowknife, Northwest Territories

You may serve the Application to Restrict Access on *(name of person making request)* at the following address:

If you do not file and serve the Application to Restrict Access within thirty (30) days, the Court may permit access to the Family Court file upon such conditions as it considers appropriate, including unrestricted access.

Dated this ____ day of _____, 20__

Signature *(of person making request)*

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

Name of Party 1

-and-

Name of Party 2

NOTICE OF APPLICATION TO RESTRICT ACCESS TO ACCESS FAMILY COURT

FILE # _____
(Court file number)

TO: _____
(the person requesting access to the Family Court file)

TAKE NOTICE _____ is making an Application
(Name of person making application to restrict)
to restrict access to this Family Court file. The Application shall be made on
Thursday, _____, 20____ at the Courthouse in Yellowknife, Northwest
Territories, located at 4908 – 49th Street.

The Application is supported by the affidavit of _____ and
(name of affiant)
served with this Notice.

Dated this ____ day of _____, 20____

Signature of Applicant