

## Generally, a Motion to Institute Divorce Proceedings contains the following information:

### Personal Information About the Spouses

1. Header: as you can see in the model of the *Motion to Institute Divorce Proceedings*, the header indicates the name of the country, the province, the district, and the Court before which the divorce will take place. The file number given by the office of the Court must also be included. Finally, the names and addresses of the spouses must be indicated in the correct places.
2. Information on each spouse (date of birth, place of birth, age, names of both parents of each spouse). *The birth certificate of each spouse is attached to the motion.*
3. Date and place of marriage. *The marriage certificate is attached to the motion.*
4. Status of each spouse at the time of marriage: single, widowed or divorced.
5. Identification of the matrimonial regime (Community of property, Separation as to property, Partnership of acquests or other) and whether or not this regime was modified.
  - Partnership of acquests: The partnership of acquests is the matrimonial regime of most married couples in Quebec.
  - Separation as to property: There is separation as to property when the spouses have signed a marriage contract. If that is the case, they must provide the name of the notary and the date on which the marriage contract was concluded. *The marriage contract is attached to the motion.*
6. Information on each child (name, age, sex and date of birth). Usually, the birth certificates of the children are attached to the motion, but this is not mandatory. If:
  - a court has rendered a decision in the past regarding one of the couple's children, or
  - a case involving one of the couple's children is currently before a court, or
  - an agreement was reached with the director of youth protection with respect to the couple's children,

you must provide full details of these events and *attach the supporting documents to the motion.*

- 7.** The address of the residence of each spouse and how long they've been living there. The spouse applying must demonstrate that the spouses have lived in the province of Quebec for at least one year before the application for divorce.

## Information About the Divorce

- 8.** The reasons (or "grounds") for divorce. Note that the couple must have grounds for divorce recognized by law in order to have the right to divorce. For information on what these grounds may be, consult our Infosheet [The Right to Get Divorced](#)
- 9.** If the spouse is represented by a lawyer, a confirmation that the lawyer on the case discussed the following with the spouse (his client):
- the possibility of reconciliation with the other spouse to save the marriage
  - the opportunity to participate in a mediation session to resolve, in part or in whole, the disagreement between the spouses. To learn more about mediation, consult our Infosheet [Free Family Mediation](#)
- 10.** What the spouse is asking for (child custody, support, division of family property, dissolution of the matrimonial regime, etc.) and why he thinks he should get it, OR the fact that the spouses have agreed on the consequences of the end of their marriage in whole or in part. *If that is the case, the written agreement is attached to the motion.*
- 11.** Information on past legal proceedings related to the marriage, if any (example: judgment in separation from bed and board). *The judgments rendered in the case of such proceedings are attached to the motion.* If no other proceedings have taken place, it is important to indicate as such.
- 12.** Statement that there has been no collusion (that is, an agreement between the spouses to mislead the court), no condonation (for example, when one spouse has forgiven the other spouse for committing adultery), and no connivance (for example, when a spouse has encouraged the other spouse to commit the act for which he now seeks divorce).
- 13.** The provisional measures requested. *If applicable, supporting documents are attached.* Consult our Infosheet [Divorce: Obtaining an Urgent and Temporary Ruling Before the Divorce Trial](#)).
- 14.** The safeguard measures requested ("safeguard orders"). *If applicable, supporting documents are attached.* Consult our Infosheet [Divorce: Obtaining an Urgent and Temporary Ruling Before the Divorce Trial](#)).
- 15.** Conclusions sought – what the spouse wants the judge to do (for example, "For these reasons, asks the court: Grant the divorce").
- 16.** Place, date, signature of the spouse.

## Other Information: Declarations, Notices, etc.

- 17. Affidavit of the spouse:** declaration made before a commissioner of oaths by the spouse who wrote the *Motion to Institute Divorce Proceedings* (or requested it to be written on his behalf) confirming that everything written in the motion is true.
- 18. Attorney's Declaration** (if there is a lawyer in the file): written declaration made by the lawyer confirming that he has complied with section 9 of the *Divorce Act* of 1985.
- 19. Notice to Defendant as to Contestation:** This notice contains important information for the other spouse, such as the deadline before which to appear (that is to say, to indicate that he wishes to act in the divorce file) and the date on which the *Motion to Institute Divorce Proceedings* will be presented for the first time to a judge before the divorce trial.
- 20. Certificate of Clerk:** written statement made by a clerk of the Court confirming that the *Motion to Institute Divorce Proceedings* has been given to the Court and that a file has been opened at Court.
- 21. Disclosure of Exhibits:** it's the list of all the evidence mentioned in the motion. Such evidence may be attached to this document. For example, the spouse's birth certificate.
- 22. If a safeguard order and/or provisional measures are requested** in the motion, an Affidavit and a Notice of Presentation are required. (Consult our Infosheet [Divorce: Obtaining an Urgent and Temporary Ruling Before the Divorce Trial](#)).
- 23. Backing:** a sheet is included that indicates the file number, the name of the Court and the district, the names of the spouses and whether they are acting as plaintiff or defendant, the name of the motion, whether it is the original or a copy for the spouse, the Court, or their own file, and the lawyer's contact information (if the spouse is represented).