



# **MOTION TO CHANGE A FINAL FAMILY COURT ORDER OR A SUPPORT AGREEMENT**

## **A Self-Help Guide**

### **How to make a motion to change**

**This guide is not legal advice. If you have questions or need advice about your case, you should speak to a lawyer.**

**If you do not have a lawyer, you may contact the Lawyer Referral Service operated by the Law Society of Upper Canada. The Lawyer Referral Service will provide the name of a lawyer in your area who practises family law. This lawyer will provide a half-hour consultation for free. The telephone number for the service is 1-900-565-4577. There is a \$6 charge to use this service.**

**If you cannot afford a lawyer, you may be able to get legal aid. You can contact the nearest Legal Aid Ontario office to see if you are eligible. The telephone number of the Legal Aid office is listed in your telephone directory. If you cannot find the phone number, Legal Aid Ontario's toll-free line is 1-800-668-8258. To learn more about Legal Aid Ontario, you may wish to visit their website at: [www.legalaid.on.ca](http://www.legalaid.on.ca).**

*Ce guide est également disponible en français.*

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## **What is a motion to change?**

A motion to change is the court process used when a person wants to ask a judge to:

- change or end a final family court order, or
- change or end an agreement to pay support.

## **When is a motion to change made?**

The most common reason people bring a motion to change is to change a support payment.

A motion to change is often brought when one or more of the following happens.

- The support payor is making more money than he or she was when the order or agreement was made.
- The support payor is making less money than he or she was when the order or agreement was made.
- The child has finished school, married or moved out on their own.
- The child or children are now living with the payor or a different person.
- The person receiving spousal support is now able to support himself or herself.

A motion to change can also be used to ask a court to change a final order concerning:

- custody,
- access, or
- a restraining/non-harassment order.

## **Important terms**

Agreement – a domestic contract or agreement, such as a separation or paternity agreement

Assignee – the social service agency that is receiving support payments because the person receiving support is on social assistance

Party – a person who makes a claim in a case or against whom a claim is made. A party may include an agency. In a motion to change, the moving party is the individual who makes a motion to change. The responding party is the individual who is served with a motion to change.

Payor – a person required to pay money under an order or agreement, such as support

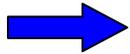
Proof of income – income tax returns and notices of assessment; pay stubs; a letter from an employer confirming income; business records; trust agreements; and other financial records

Recipient – a person entitled to receive money under an order or agreement, such as support

## **What if there is no court order, but we signed an agreement?**

You may want to start by negotiating changes to the agreement. You and the other person may feel that some terms in the agreement are no longer working or fair. If you can both agree on what should be done, you can put the new terms in a new agreement and then you will not need to involve the court. You should consider getting legal advice before you sign a new agreement. If you are not sure how the new agreement might affect you, you should definitely see a lawyer. This can be the easiest and fastest way to make changes.

If you want to change child or spousal support contained in an agreement, but you are not able to negotiate the changes, you will need to ask the court to help. If you have not already done so, you will have to file the agreement with the court first. You will need to complete [Form 26B: Affidavit for Filing Domestic Contract or Paternity Agreement with the Court](#), telling the court that the agreement is in effect and has not been set aside by a court. You must sign the affidavit in front of a person who is a commissioner for taking affidavits. There are staff at the family court office who are commissioners for taking affidavits.



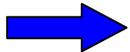
Form 26B is available at the family court office or on the Ministry of the Attorney General's website at [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on "Family Justice", scroll down and click on "[Family Law Rules Forms](#)".

You can file your agreement only at the Ontario Court of Justice or the Family Court branch of the Superior Court of Justice. You cannot file your agreement at other locations of the Superior Court of Justice.

Once you have filed the agreement, the child and spousal support provisions can be enforced and changed as if they were a court order. You cannot change or enforce other terms in the agreement, such as custody and access, by bringing a motion to change. In those cases, you must start an application under [Rule 8](#) of the *Family Law Rules*.

## How do I ask the court to change a final order or support agreement?

[Rule 15](#) of the *Family Law Rules* sets out the procedure to change a final order or support agreement. The *Family Law Rules* guide each step of your family court case and tell you the forms each person must complete.



The *Family Law Rules* are on the Ministry of the Attorney General's website [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on "Family Justice" and scroll down to find "[Family Law Rules](#)" or "[Family Law Rules Forms](#)".

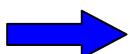
## Are there special forms to use?

Yes, there are seven forms that are commonly used in motions to change. The forms you need depend on the nature of your case. The seven forms are:

- [Form 15: Motion to Change](#)
- [Form 15A: Change Information Form](#)
- [Form 15B: Response to Motion to Change](#)
- [Form 15C: Consent Motion to Change](#)
- [Form 15D: Consent Motion to Change Child Support](#)
- [Form 14B: Motion Form](#)
- [Form 25: Order \(General\)](#)

In some cases, you may also need a financial statement.

- [Form 13: Financial Statement \(Support Claims\)](#) or
- [Form 13.1: Financial Statement \(Property and Support Claims\)](#).



These forms are available at the family court counter or you can download them from the Ministry of the Attorney General's website at

[www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on “Family Justice”, scroll down and click on “[Family Law Rules Forms](#)”.

If you are asking the court to make changes to a support order or support agreement you will have to complete:

- [Support Deduction Order Information Form](#) (form number OO6-FRO-021E) and
- draft [Support Deduction Order](#) (form number 006-FRO-019).



These forms are available at the family court counter or you can download them at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca). Click on “Advanced Forms Search”. Go to “Form contains” and enter “support deduction order”, then “Start Search”.

## How do I make a motion to change?

To make a motion to change, you take the following steps.

[Step 1: Determine if there is an assignee](#)

[Step 2: Decide where to make the motion](#)

[Step 3: Complete the proper forms](#)

[Step 4: File your documents at the family court office](#)

[Step 5: Serve a copy of the documents](#)

[Step 6: File affidavit\(s\) of service](#)

[Step 7: What to do after service](#)

## STEP 1: DETERMINE IF THERE IS AN ASSIGNEE

Some support payments may be directed to a social service agency. If the payments are going through a social service agency then the support is paid or assigned to the agency and the social service agency is called the assignee.

The support will likely be assigned if:

- the person getting support is receiving social assistance through Ontario Works, the local municipality or another source, or
- the person getting support received social assistance in the past and money is still owed to the social service agency.

If you are asking the court to change or end a final support order, or an agreement for child or spousal support, you need to find out if the support has been assigned. If the support is assigned you will need to serve court documents on the assignee and obtain the assignee’s consent to any changes.

If you are not sure if the payments are going through a social service agency, you should submit a confirmation of assignment form to the Ministry of Community and Social Services Confirmation of Assignment Unit. They will confirm for you if the payments are assigned or not.



The Confirmation of Assignment form ([006-3006 English](#) or [006-3007 Français](#)) is available at the family court counter or you can download it at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca). Click on “Advanced Forms Search”. Go to “Form contains” and enter “confirmation of assignment”, then “Start Search”.

If you receive confirmation that the support has been assigned, you must serve the assignee with the motion to change (see [Step 5](#)). If you and the responding party agree to a change and ask the court for an order on consent, the assignee must also consent to the new support order.

### **What if I don't serve the assignee?**

If you do not serve the assignee or get the assignee's consent, the assignee can ask the court to set aside the order you obtain. The court can also order costs against you. This means that you could have to pay the assignee's costs for asking the court to set aside the order.

## **STEP 2: DECIDE WHERE TO MAKE THE MOTION**

In most cases, a motion to change a final order or support agreement must be started in the municipality where you or the other person lives. If the motion is to change custody of or access to a child, the motion should be started in the municipality where the child ordinarily lives.

If you are asking the court to change a final order, you must go back to the same level of court that made the order. For example, if the Superior Court of Justice made the order, you must go back to a Superior Court of Justice location to change it. You will likely go back to the same court that made the order you are asking to change unless one or both of you has moved to another court jurisdiction.

If a support agreement was filed with the court, the motion to change the agreement must be started at a Family Court branch of the Superior Court of Justice or the Ontario Court of Justice.

If you are asking the court to change a final order, the names of the parties will be the same as in the order, regardless of which party is making the motion to change. In other words, the parties continue to be referred to as the applicant or respondent, but if you are the person making the motion you are the moving party. The other person is the responding party.

## **STEP 3: COMPLETE THE PROPER FORMS**

The documents you need to complete will depend on what you are asking the court to do and if the other party consents to this or not. The appropriate form(s) depend on whether you are:

- [A\) Changing only child support on consent,](#)
- [B\) Changing a final order or support agreement on consent \(not just child support\),](#) or
- [C\) Making a motion to change where there is no consent at the beginning of the case.](#)

In any case, be sure to read the forms carefully and follow the directions in the forms. (*The directions are often in italics and brackets next to the part of the form that you need to complete.*) If you are using a fillable form on-line, take as much space as you need to provide all of the information relevant to your case. If you are using a pre-printed form, you may attach extra sheets to the form if necessary. It is important that you provide complete, accurate and truthful information.

## A) Changing only child support on consent

You and the other person may be agreeing, right from the start, to change or end a final order or agreement for child support only. In this case, you should complete [Form 15D: Consent Motion to Change Child Support](#) together. You use one form, and both of you sign it. The assignee, if any, signs the same form.

### Form 15D: Consent Motion to Change Child Support

You each need to sign the consent form in front of a witness. You cannot witness each other's signatures. If the witness does not know you, you will need to provide identification to prove that you are who you say you are.

## B) Changing a final order or support agreement on consent (not just child support)

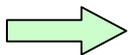
You and the other person may be agreeing, right from the start, to change or end a final order or support agreement for something other than just child support. In this case, you must complete [Form 15A: Change Information Form](#), [Form 15C: Consent Motion to Change](#), and [Form 14B: Motion Form](#).

### Form 15A: Change Information Form

Form 15A is a document that provides the evidence the judge needs to change the order or support agreement in the way you are asking.

If you know or hear back from the Ministry of Community and Social Services Confirmation of Assignment Unit that the support has not been assigned, check the box on Form 15A: Change Information Form that says "this order has not been assigned". In this case, information about the assignee does not need to be completed.

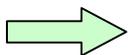
You must swear or affirm that the evidence is true in front of a person who is a commissioner for taking affidavits. If you need help finding a commissioner for taking affidavits, staff at the family court office may be able to help.



It is a criminal offence for a person to swear or affirm a false or misleading affidavit.

### Form 15C: Consent Motion to Change

Use Form 15C if you both are agreeing to change or end a final order or support agreement for something other than just child support. You, the other party, and the assignee, if any, must complete and sign this form.



Form 15C can also be completed whenever you are able to reach an agreement, not just at the beginning of the case.

Remember, if you are changing support that has been assigned to a social service agency, you must get the assignee's written consent.

It is likely that the court will make the order asked for in the consent form. You should consider getting legal advice before you sign it. If you are not sure how the order might affect you, you should definitely see a lawyer.

When you sign Form 15C, you are each confirming that you are aware of your right to consult with a lawyer. You are also confirming that you know that signing the form may lead to a final court order that may be enforced.

You will need to sign the consent form in front of a witness. You cannot witness each other's signatures. If the witness does not know you, you will need to provide identification to prove that you are who you say you are.

You can both agree not to file financial statements. However, you should do this only if you are convinced that the other party has provided complete and accurate financial information. You must also provide complete and accurate financial information to the other party.

### **Form 14B: Motion Form**

There are a number of places in the *Family Law Rules* that direct you to use [Form 14B: Motion Form](#). On Form 14B you ask the court to do something. You should ask the court to make the changes to the existing order or agreement you asked for in Form 15C: Consent Motion to Change. For example, you could write:

“I am asking the court to make an order in accordance with the Form 15C, dated \_\_\_\_\_, which is filed with the court along with this motion form.”

You do not need to see a judge for a Form 14B motion, because the motion to change is on consent. The clerk will present your documents to the judge. However, if, for example, the judge thinks the support amount you have agreed to is not right based on the information you have provided, you may be asked to come to court or provide more information.

### **C) Making a motion to change where there is no consent at the beginning of the case**

You may want to change a final order or support agreement but you have not been able to negotiate a new agreement or obtain the consent of the other person. In this case, you must complete [Form 15: Motion to Change](#) and [Form 15A: Change Information Form](#).

## **STEP 4: FILE YOUR DOCUMENTS AT THE FAMILY COURT OFFICE**

The process for filing your documents depends on what you are asking the court to do and if the other person consents to this or not. The correct process depends on:

- [A\) If you both agree and are asking for an order on consent for child support only;](#)
- [B\) If you both agree and are asking for an order on consent other than just child support;](#) or
- [C\) If you are not proceeding on consent.](#)

### **A) If you both agree and are asking for an order on consent for child support only**

You and any assignee must complete and sign [Form 15D: Consent Motion to Change Child Support](#). You cannot file Form 15D until the assignee, if any, has signed the form.

You must file this form at the family court office together with the following:

- five copies of a draft order ([Form 25](#))
- stamped envelopes addressed to each party (including the assignee, if any)
- [Support Deduction Order Information Form](#) and
- draft [Support Deduction Order](#).

## **B) If you both agree and are asking for an order on consent other than just child support**

You must file:

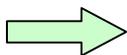
- [Form 15A: Change Information Form](#), including any required attachments or documents
- [Form 15C: Consent Motion to Change](#)
- [Form 14B: Motion Form](#)
- five copies of a draft order ([Form 25](#))
- stamped envelopes addressed to each party (including the assignee, if any)

and if the motion involves support:

- [Support Deduction Order Information Form](#) and
- draft [Support Deduction Order](#).

### **Form 15A: Change Information Form**

Form 15A is a document that you swear or affirm to be true in front of a person who is a commissioner for taking affidavits. If you need help finding a commissioner for taking affidavits, staff at the family court office may be able to help.



It is a criminal offence for a person to swear or affirm a false or misleading affidavit.

Once you have filed your documents in either of these circumstances, the clerk will present them to the judge. You do not need to see a judge because the motion to change is on consent. However, if the judge has questions or concerns, the clerk will contact you with a date to appear in court.

When the judge makes the order, court staff will send the support deduction documents, if any, to the Family Responsibility Office. At this point, your motion is completed and no further steps are necessary.

## **C) If you are not proceeding on consent**

If you and the other person cannot reach an agreement at the beginning of the case, you must:

- take your completed [Form 15: Motion to Change](#) and [Form 15A: Change Information Form](#), including any required attachments or documents, to the family court office.

The clerk will place the court seal on the first page of Form 15 and sign and date the second page. By doing so the clerk has “issued” the motion to change. The clerk will also complete either the box that starts: “THE FIRST COURT DATE IS” or “NO COURT DATE HAS BEEN SET FOR THIS CASE”. The documents are now ready to be served.

If your case is being heard at either the Family Court branch of the Superior Court of Justice or the Ontario Court of Justice the clerk will probably assign a first court date.

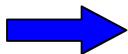
If your motion is started at the Superior Court of Justice (not the Family Court branch), you will not be given a first court date. You, the responding party or the assignee, if any, must ask for a case conference if you want the motion to go forward. A case conference is a meeting where you, the other party and the judge discuss the issues in your motion. You should ask for a case conference if the responding party files [Form 15B: Response to Motion to Change](#) and you are not able to reach an agreement.

## STEP 5: SERVE A COPY OF THE DOCUMENTS

After the clerk has issued your motion to change, the court will keep the original documents and you must serve the responding party, and the assignee, if any, with copies. Be sure to keep a copy for yourself.

You must serve the responding party with the following documents:

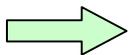
- [Form 15: Motion to Change](#)
- [Form 15A: Change Information Form](#)
- [Form 13](#) or [Form 13.1](#): Financial Statement (if required)
- blank [Form 15B: Response to Motion to Change](#) and
- blank [Form 15C: Consent Motion to Change](#).



These forms are available at the family court counter or you can download them from the Ministry of the Attorney General website at [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on “Family Justice”, scroll down and click on “[Family Law Rules Forms](#)”.

The *Family Law Rules* require these documents to be served by special service. To carry out special service, a copy of the document should be left:

- with the person to be served or
- with the person’s lawyer.



For more information on other options and more details on service, see [Rule 6](#) of the *Family Law Rules*.

To serve the documents on the responding party:

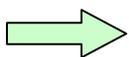
- You can have your lawyer, a friend or someone else serve the documents for you.
- You can hire someone to do it. You can look in the yellow pages under “Process Server”.
- If you are concerned about your safety or it would be difficult for you to arrange service because of cost or distance, tell court staff and they will arrange to have the documents served for you.

If there is an assignee:

- you can serve the assignee by regular mail. The documents are considered served five days after you mail them.

## **STEP 6: FILE AFFIDAVIT(S) OF SERVICE**

Whoever serves the documents must complete [Form 6B: Affidavit of Service](#). In this document, the person who served the documents will swear or affirm in front of a person who is a commissioner for taking affidavits that they served the responding party or their lawyer, and an assignee, if any, and state when they were served and what documents they gave them.



If you need help finding a commissioner for taking affidavits, staff at the family court office may be able to help.

## **STEP 7: WHAT TO DO AFTER SERVICE**

### **A) If you reach an agreement**

If you and the other party reach an agreement at any time during the case, you can complete and sign [Form 15C: Consent Motion to Change](#). The process then proceeds the same as in [Step 4B](#).

### **B) If there is no response or consent**

If you have served the responding party with a motion to change, they have 30 days from the date of being served to:

- sign and send to you [Form 15C: Consent Motion to Change](#) or
- to serve you and file with the court [Form 15B: Response to Motion to Change](#).

If the responding party does not take either of these steps, you can proceed with your motion. However, if support has been assigned, the assignee must consent to the change you are asking for.

You must file [Form 14B: Motion Form](#) asking for what has been set out in Form 15.

To speed up the process, you can also file:

- five copies of a draft order ([Form 25](#))
- stamped envelopes addressed to each party (including an assignee, if any)

and if the motion involves support:

- [Support Deduction Order Information Form](#) and
- draft [Support Deduction Order](#).

Once you have filed your documents, the clerk will present them to the judge. You do not need to see a judge because there is no response. However, if the judge has questions or concerns, the clerk will contact you with a date to appear in court.

When the judge makes the order, court staff will send the support deduction documents, if any to the Family Responsibility Office. At this point, your motion is completed and no further steps are necessary.

## GOING TO COURT

If the responding party files [Form 15B: Response to Motion to Change](#), you will have to go to court unless you and the other party can work out an agreement.

If the motion to change was started at the Family Court branch of the Superior Court of Justice or at the Ontario Court of Justice, the clerk probably gave you a first court date when your motion to change was issued.

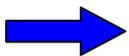
You must attend court on that first court date. If you are not able to attend you should ask a lawyer or someone else to attend on your behalf to explain your absence. You will probably see a clerk at that time. The clerk will make sure that you are ready to see a judge. For example, the clerk will want to check that you served the motion to change on all other parties, including an assignee, if any, and that affidavits of service have been filed with the court.

If you do not have a lawyer, you may have the chance to speak to duty counsel, who is a lawyer provided by Legal Aid Ontario. Duty counsel is available to give unrepresented parties who would qualify for Legal Aid some basic legal information and advice.

If you do not attend court or ask the court for an adjournment, the court may dismiss your motion to change.

If the motion to change was started at the Superior Court of Justice, you or the other party must ask the clerk to set a date for a case conference, if the motion is to proceed. A case conference is a meeting where the parties and a judge discuss the issues and try to come to an agreement.

The party who asks for the case conference must serve every other party with [Form 17: Conference Notice](#).



More information on case conferences is available in the Guide to Procedures from the Ministry of the Attorney General's website at [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on "Family Justice", then go to "Guides to Procedures".

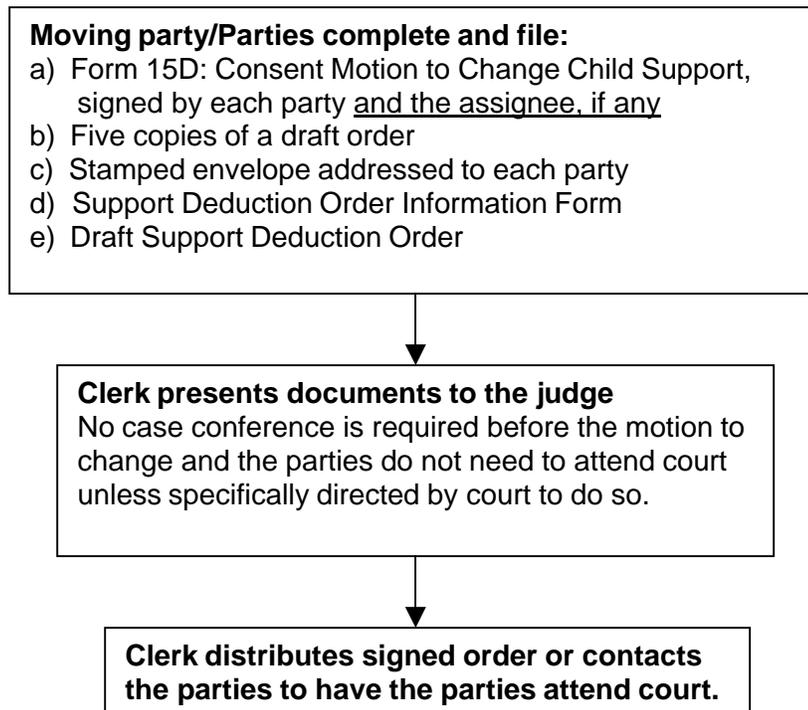
In some Superior Court of Justice locations, your motion to change may be sent to a Dispute Resolution Officer instead of a judge. A Dispute Resolution Officer is an experienced family law lawyer who has been asked by the court to meet with you and assist you in settling your issues.

## WHAT HAPPENS NEXT

This will depend on your case and the steps the judge thinks are necessary.

# FLOWCHARTS

## MOTION TO CHANGE (CONSENT, CHILD SUPPORT ONLY)



## MOTION TO CHANGE (CONSENT)

**Moving party/Parties complete and file:**

- a) Form 15A: Change Information Form
- b) Form 15C: Consent Motion to Change, signed by each party and an assignee, if any
- c) Form 13 (or 13.1) Financial Statement for each party, as required
- d) Form 14B: Motion Form
- e) Five copies of a draft order
- f) Stamped envelope addressed to each party
- g) Support Deduction Order Information Form
- h) Draft Support Deduction Order



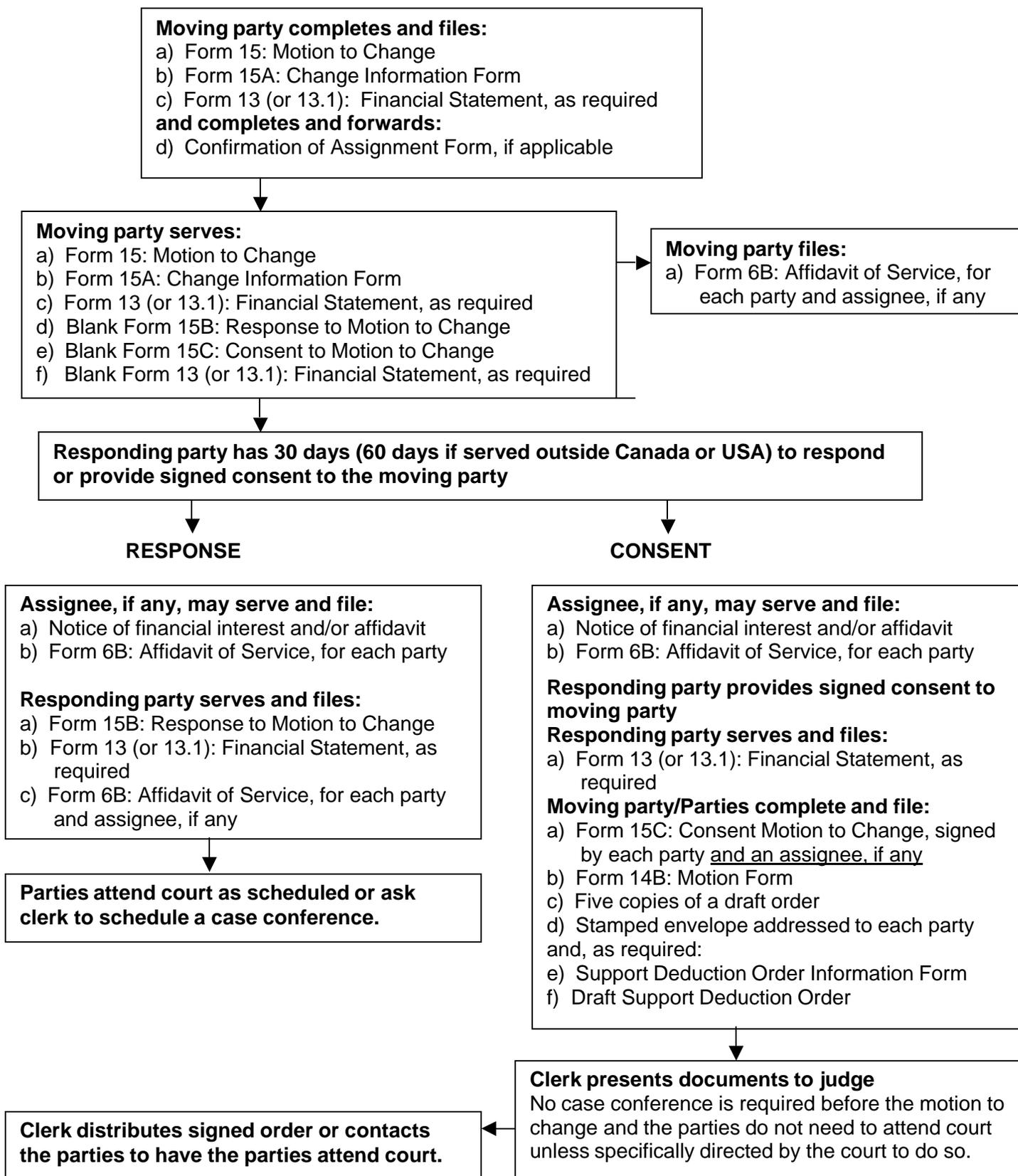
**Clerk presents documents to the judge**

No case conference is required before the motion to change and the parties do not need to attend court unless specifically directed by court to do so.



**Clerk distributes signed order or contacts the parties to have the parties attend court.**

## MOTION TO CHANGE (NO CONSENT BEFORE SERVICE)



## MOTION TO CHANGE (NO RESPONSE, NO CONSENT)

