ONTARIO

Court File Number

(Name of court)

at .....

(Court address)

Form 35.1: Affidavit (decision-making responsibility, parenting time, contact)

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).	*Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).*

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).	*Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).*

My name is *(full legal name)* .....

My date of birth is *(d, m, y)* .....

I live in: *(name of city, town or municipality and province, state or country if outside of Ontario)*

.....

I swear/affirm that the following is true:

PART A:
TO BE COMPLETED BY ANY PERSON SEEKING
DECISION-MAKING RESPONSIBILITY, PARENTING TIME, OR CONTACT

(Write "N/A" if any of the paragraphs do not apply to you or the child(ren). Attach extra pages if you need more space)

1. During my life, I have also used or been known by the following names:

2. The child(ren) in this case is/are:

Child's full legal name	**Birthdate** *(d, m, y)*	**Age**	**Full legal name(s) of parent(s)**	**Name(s) of all people the child lives with now** *(include address if the child does not live with you)*	**My relationship to the child** *(specify if parent, grandparent, family friend, etc.)*

3. I am also the parent of or have acted as a parent (for example, as a step-parent, legal guardian etc.) to the following child(ren): *(include the full legal names and birthdates of any child(ren) not already listed in paragraph 2)*

Child's Full Legal Name	**Birthdate** *(d, m, y)*	**My relationship to the child** *(specify if parent, step-parent, grandparent, etc.)*	**Name(s) of the person(s) with whom the child lives now** *(if the child is under 18 years old)*

4. I am or have been a party in the following family court case(s): *(Include cases involving the child(ren) in this case or any other child(ren). Do not include cases involving a children's aid society in this section. Attach a copy of any court order(s) or endorsement(s) you have.)*

Court location	**Names of parties in the case**	**Name(s) of child(ren)**	**Court orders made** *(include dates of orders)*

5. I have been involved in the following civil protection proceedings: *(attach a copy of any relevant court order(s) or endorsement(s) you have. A civil protection order is made by a civil court, not a criminal court, against a person to protect another person's safety, including a restraining order. For example, the order may prohibit a person from communicating with or being within a certain distance of a specific person.)*

Court location	**Names of people involved in the case**	**Civil protection orders made** *(include dates of orders)*

6. I have been found guilty of the following criminal offence(s) for which I have not received a pardon:

Charge	Approximate date of finding of guilt	Sentence received

7. I am now charged with the following criminal offence(s):

Charge	Date of next court appearance	Terms of release while waiting for trial *(attach copy of bail or other release conditions, if any)*

8. When the court is assessing a person's ability to act as a parent, s. 24 (4) of the *Children's Law Reform Act* and s. 16 of the *Divorce Act* require the court to consider whether the person has at any time committed violence or abuse against:

- his or her spouse;
- a parent of the child to whom the parenting claim relates;
- a member of the person's household; or
- any child.

I am aware of the following violence or abuse the court should consider under s. 24 (4) of the *Children's Law Reform* Act or s. 16 of the *Divorce Act*: *(describe incident(s) or episode(s) and provide information about the nature of the violence or abuse, who committed the violence and who the victim(s) was/were)*

9. Is the other party bound by a civil protection order, such as a restraining order, or involved in a civil protection proceeding? If yes, provide details.

10. Do you know if the other party is currently charged with a criminal offence or subject to any criminal orders that relate to you or to a member of your family? If yes, provide details.

11. To the best of my knowledge, since birth, the child(ren) in this case has/have lived with the following caregiver(s): *(including a parent, legal guardian, children's aid society etc.)*

Child's Name	**Name(s) of Caregiver(s)** *(if the child was in the care of a children's aid society, give the name of that children's aid society)*	**Period(s) of Time with Caregiver(s)** *(d,m,y to d,m,y)*

12. My plan for the care and upbringing of the child(ren) is as follows:

a) I plan to live at the following address: .....

b) The following people (other than the child(ren) involved in this case) will be living with me:

Full legal name and other names this person has used	**Birthdate** *(d, m, y)*	**Relationship to you**	**Has a child of this person ever been in the care of a children's aid society?** *(if yes, give details)*	**Has this person been found guilty of a criminal offence (for which he/she has not received a pardon) or is he/she currently facing criminal charges?** *(if yes, give details)*

c) **Decisions for the child(ren) (including education, medical care, religious upbringing, extra-curricular activities, etc.) will be made as follows:**

☐ **jointly by me and** *(name(s) of person(s))* .....

☐ **by me**

☐ **by** *(name(s) of person(s))* .....

(If necessary, provide additional details below.)

d) ☐ **I am a stay-at-home parent.**

☐ **I work:** ☐ **full time.** ☐ **part time.**

☐ **I attend school:** ☐ **full time.** ☐ **part time.**

at: *(name of your place of work or school)* .....

☐ **I anticipate that my plans for work and/or school may change as follows:** *(complete if you know or expect that you will be doing something different from what you are doing now)*

e) **The child(ren) will attend school, daycare or be cared for by others on a regular basis as follows:**

f) **My plan for the other parent's time with the child, which is in the child's best interests, is as follows:**

g) **My plan for the child(ren) to have contact with others, including other family members, is as follows:**

h) Check the appropriate box:

☐ **The child(ren) does not/do not have any special medical, educational, mental health or developmental needs.**

☐ **The child or one or more of the children has/have the following special needs and will receive support and services for those needs as follows:** *(if a child does not have special needs, you do not have to include information about that child below)*

Name of child	**Special need(s)**	**Description of child's needs**	**Support or service child will be receiving** *(include the names of any doctors, counsellors, treatment centres, etc. that are or will be providing support or services to the child)*
	☐ medical ☐ educational ☐ mental health ☐ developmental ☐ other		
	☐ medical ☐ educational ☐ mental health ☐ developmental ☐ other		
	☐ medical ☐ educational ☐ mental health ☐ developmental ☐ other		
	☐ medical ☐ educational ☐ mental health ☐ developmental ☐ other		

i) **I will have support from the following relatives, friends or community services in caring for the child(ren):**

13. I acknowledge that the court needs up-to-date and accurate information about my plan in order to make a parenting order in the best interests of the child(ren) (subrule 35.1 (7)). If, at any time before a final order is made in this case,

a) there are any changes in my life or circumstances that affect the information provided in this affidavit; or

b) I discover that the information in this affidavit is incorrect or incomplete,

I will immediately serve and file either:

a) an updated affidavit in support of my parenting or contact claim (Form 35.1); or,

b) if the correction or change is minor, an affidavit in Form 14A describing the correction or change and indicating any effect it has on my plan for the care and upbringing of the child(ren).

14. I, the other party and/or the children in this case have received services from a child protection agency at any time. *(check one)*

☐ **Yes** ☐ **No**

15. If I, or the other party and/or the children in this case have been involved in a child protection court case or received services from a child protection agency, I acknowledge that I must complete Form 35.1A and file it with the court office.

_____ *(Initial here to show you have read paragraphs 13 to 15 and you understand them.)*

If you are not a parent of the child, as determined under the *Children's Law Reform Act*, and you are seeking an order for decision-making responsibility you must also complete Part B of this affidavit.

For the purposes of this form and under the *Children's Law Reform Act*, a parent may include:

- **The person who gives birth to a child (a "birth parent").**
- **Where a child is conceived through sexual intercourse, the person who is married to or living with the person who gives birth to the child at the time that the child is born (a "spouse").**
- **The person certified as a parent of the child under the *Vital Statistics Act*.**
- **A person found or recognized by a court as a parent to the child.**

For more information about whether you are a parent for the purposes of this form, see the *Children's Law Reform Act* or talk to a lawyer.

If you are completing Part B, you do not have to swear/affirm the affidavit at this point. You will swear/affirm at the end of Part B.

Sworn/Affirmed before me at .....
municipality

in .....
province, state, or country

on ..... _____
Date *Commissioner for taking affidavits*
(Type or print name below if signature is illegible.)

_____
Signature
(This form is to be signed in front of a lawyer, justice of the peace, notary public or commissioner for taking affidavits.)

PART B
TO BE COMPLETED ONLY BY A NON-PARENT SEEKING A DECISION-MAKING RESPONSIBILITY ORDER

You are not required to complete this Part if you are the child's parent, as determined under the *Children's Law Reform Act*, and you want decision-making responsibility for the child.

Individuals who may not be a parent may include:

- A grandparent, aunt, or uncle.
- A sperm donor.
- A surrogate.
- A step-parent.

For more information about whether you are a parent for the purposes of this form, see the *Children's Law Reform Act* or talk to a lawyer.

NOTICE: If you are a non-parent seeking a decision-making responsibility order for a child, court staff will conduct a search of the databases maintained by the Ontario courts to identify previous or current family court cases in which you or the child(ren) may have been or may be involved and provide you with a list of those cases. This information will be shared with the court and you must provide a copy to any other party.

If the list contains information about someone other than you, you may swear or affirm an affidavit indicating that you are not the same person as the person named in the list.

In addition to the information in Part A, I swear/affirm that the following is true:

16. To the best of my knowledge, the child(ren) in this case has/have been involved in the following decision-making, parenting time, or contact cases: *(do NOT include cases in which the child was charged under the* Youth Criminal Justice Act (Canada)*)*

Child(ren)'s name(s)	Type of Case	Details of Case

17. You must file a police records check with the court. Choose the option below that applies to you:

☐ **I have attached to this affidavit a copy of my police records check, dated** *(date of report from local police force)* _____ **. Since the date that the attached police records check was completed, I have been found guilty of or charged with the following offence(s):**

☐ **On** *(date)* _____ **, I sent a request to** *(name of local police force)* **for a police records check.**

I agree to serve and file the police records check with the court within 10 days after the day I receive it. I understand that the court may not make a decision-making responsibility order for the child(ren) until I have filed the police records check.

18. Since I turned 18 years old or became a parent, whichever was earlier, I have lived in the following places:

Approximate dates *(month/year to month/year)*	**City, town or municipality where you lived** *(if outside of Ontario, give name of province, state or country)*

19. I have provided a signed consent form to the court, which authorizes each of the children's aid societies listed below to send a report to me and to the court indicating:

- **whether the society has any records within the meaning of the *Children's Law Reform Act* regulations relating to me; and**
- **the date(s) on which any files were opened and/or closed (if applicable).**

i) Name of children's aid society: .....

ii) Name of children's aid society: .....

iii) Name of children's aid society: .....

iv) Name of children's aid society: .....

v) Name of children's aid society: .....

vi) Name of children's aid society: .....

20. I understand that if any report from a children's aid society indicates that the children's aid society has records related to me, then, unless the court orders otherwise, that report will be shared with:

a) the court;

b) any other parties in this case; and

c) the child(ren)'s lawyer, if there is one in this case.

If I wish to bring a motion asking the court not to release all or part of this report, I understand that I must file my motion with the court no later than **20 days** from the day that the last report is received by the court.

I also understand that any report indicating that a children's aid society has no records relating to me will not be shared with the court, any other party or the child(ren)'s lawyer.

_____ *(Initial here to show that you have read this paragraph and you understand it.)*

Sworn/Affirmed before me at .....
Municipality

in .....
province, state, or country

on .....
Date

_____
Commissioner for taking affidavits
(Type or print name below if signature is illegible.)

_____
Signature
(This form is to be signed in front of a lawyer, justice of the peace, notary public or commissioner for taking affidavits.)