

GETTING CHILD CUSTODY, VISITATION AND SUPPORT ORDERS WHEN YOU AND THE OTHER PARENT ARE NOT MARRIED TO EACH OTHER

If you need child custody, visitation or child support orders and you and the other parent are not married to each other you can open a parentage case with the court. This will allow you to ask for orders on the issues of parentage, custody, visitation and support, or to seek a final judgment on those issues.

WHAT COURT? Your parentage case should be filed in the county court where the child or children live. These instructions are for Solano County.

HELP: Come to the Legal Access Center for assistance in completing your forms and to get instructions and other information. If this is not possible, see below for information on completing and filing a parentage action. If you do come to our office, keep in mind that that we take a limited number of customers everyday. The earlier you come, the more likely it is that we will be able to help you. We are open every weekday **except Wednesday** from 815 AM to 3 PM. Our hours and services are subject to change.

ABOUT LEGAL FORMS: Almost every form discussed in these instructions can be found at www.courtinfo.ca.gov/forms in the “family law” section. You can fill them out and print them from your computer. All forms are also available at our office.

The fee waiver forms can be found in the “fee waiver” section of the site. You can fill them out and print them from your computer.

The Meet and Confer Orders form discussed below is not available online. You can get it online, at our office, from the court clerk or from us via email.

These forms can be typed or completed by hand in blue or black ink. Forms must be filled out in English.

1. FILL OUT FORMS

To open a parentage case, fill out the forms listed below.

If you are the first to open a parentage case, you are the “Petitioner”. The other parent is the “Respondent”. Always put your name where the forms indicate “Petitioner” and put the other parent’s name where the forms indicate “Respondent”.

Most forms have a box at the top left for you to add your name, address and phone number. Keep in mind that everything you put on these forms will be seen by the other party, including your address and phone number.

- **Petition to Establish Parental Relationship (FL-200).** This form is your chance to tell the court and the other party what your claims and requests are. Make sure you read every question carefully before you answer – this may be your only chance to put this information in front of the court. Make sure you sign and date this form.
- **Summons-Uniform Parentage (FL-210).** This form tells the other party that they have 30 days to respond to your Petition. When you file a Summons, automatic restraining orders go into effect against you. The restraining orders go into effect against the other parent when you get the Summons served on him/her. These orders are found on the second page of the Summons. Read them before you file your papers.
- **Declaration Under the UCCJEA (FL-105).** This form tells the court where your child has lived for the last 5 years and if any other court activity is happening. Make sure you sign and date this form.
- *blank* **Response to Petition to Establish Parental Relationship (FL-220).** This form allows the other parent to respond. You must serve it on the other parent along with your other papers. Don't fill it out – leave it blank.
- **Proof of Service of Summons (FL-115).** This form should be filled out after you have caused the forms to be served on the other party – see below.

You may also need to complete the following forms:

- **Application For the Waiver of Court Fees and Costs (FW-001)**
- **Order Regarding Waiver of Court Fees and Costs (FW-003).**

B. DO YOU NEED A COURT ORDER RIGHT NOW?

Filing and serving the above forms will open your parentage case and allow you to notify the other parent of the case. You may also be able to proceed to a default judgment if the other parent does not respond to service. Or you may go to trial. These processes take time. It is typical for parents to need temporary orders before a final judgment. Examples of temporary orders include child support orders, visitation orders and child custody orders. If you need the court to make orders **right now**, you must complete and file an Order to Show Cause (“OSC”) along with your other papers. Filing an OSC will get you a (relatively) quick court date to ask for temporary orders.

To add an OSC to your other papers, complete these forms:

- **ORDER TO SHOW CAUSE (FL-300).** This form tells the other party that they are ordered to appear at a hearing, and what the hearing is about. Check the boxes that indicate what your request is about. Don't write anything on the form below #1. Everything below this is for the clerk or judge to complete.
- **APPLICATION FOR ORDER AND SUPPORTING DECLARATION (FL-310).** This form allows you to explain your request to the judge and the other party. Make sure you sign and date this form. You may attach papers that support your request to this form.
- **MEET AND CONFER ORDERS.** This is a local form that must be attached to your OSC. The orders contained within this form are not suggestions – they are orders of the court and must be obeyed once the OSC is filed and served. This form can be found at <http://www.solanocourts.com/pdf/forms/family/Form010.pdf> .
- **INCOME AND EXPENSE DECLARATION (FL-150).** You will need to complete this form if you are asking the judge to make an order that concerns money – like child support. Every blank space in this form should have something entered in it, even if it's only a zero or "not applicable". Attach copies of your last two months pay stubs to this form (make sure your pay stub does not have your social security number on it). Make sure you date and sign the form.

You will also need:

- *blank* **RESPONSIVE DECLARATION TO NOTICE OF MOTION OR ORDER TO SHOW CAUSE (FL-320).** This form allows the other party to respond to your request. Don't fill this out – leave it blank and serve it on the other party with your filed papers.
- *blank* **INCOME AND EXPENSE DECLARATION (FL-150)** You need this if you are asking the judge to make an order that concerns money – like child support. Don't fill this out – leave it blank and serve it on the other party with your filed papers.

C. FILE YOUR FORMS

1. Make 2 copies of each form you completed so that you have the original and two copies. Staple the multi-page forms together. If you have an OSC, put it together like this: put the FL-300 on top, the Meet and Confer Orders in the middle and the FL-310 on the bottom.

2. **Remember that the papers should be filed in the county where the child lives!** Assuming the child lives in Solano County, bring your forms to the Family Law Clerk at the Fairfield courthouse or to the Clerk's office at the Vallejo

courthouse. If you intend to ask for a fee waiver, also bring a completed FW-001 and FW-003. Hand your papers to the clerk.

You can also mail your forms to the clerk to file. Mail the originals plus the copies to: Family Law Clerk, Superior Court, 600 Union Avenue, Fairfield, California, 94533. Include a self addressed stamped envelope with enough postage on it so that the clerk can mail your filed papers back to you. Include a check made out to "Solano Superior Court" in the amount of your filing fee (see below) or include a completed fee waiver as described above.

3. The clerk will charge you a filing fee to file your papers. The filing fee is presently \$355 to open a parentage case, plus \$40 if you want to file an OSC and set up a court date. If you feel you cannot afford the fee, you can submit an application for a fee waiver as described above.

The clerk will file one set of forms and return two sets of forms to you stamped with a case number. If you applied for a fee waiver, your request may be approved on the spot by the clerk or may be sent to a judge for a decision. If it is sent to a judge, you will be notified by letter if your fee waiver has been denied. If it is denied, you must either pay the filing fee or file papers to ask the judge to reconsider your fee waiver request.

4. If you submitted an OSC, this will be returned to you with a court date stamped or written on it. Look at your OSC. Sometimes the clerk adds orders that the judge wants obeyed before the hearing date. Look at item 3 to see if any orders have been added. Obey any added orders. Look to see if the clerk has added any rubber-stamped orders to your OSC. Obey them, if any. If you are trying to set a change or establish custody or visitation you will probably be ordered to attend an orientation class before your court date. Your filed and stamped OSC will have instructions added on how to schedule your attendance in the class.

D. SERVE YOUR FORMS

1. Take one set (this means one of each of the forms the clerk returned to you) of your filed forms and add the blank FL-220. If you have an OSC, add a blank FL-320. If you have an OSC and you are asking for child support or other requests about money, add a blank FL-150. All of these forms together are your "service packet".

2. Have another adult (the "server") hand the service packet to the other party. If the other party refuses to accept the service packet it is OK for the server to leave the service packet on the ground next to the other party. If the other party does not live in California, have your server mail the service packet to the other party using Return Receipt Requested mail.

3. Time limits: if you are serving an OSC with your other forms, all of the forms must be personally served on the other party at least 16 court days before the day of the hearing. A court day is a day that the court is open so don't count weekends or holidays. If you are only serving a FL-200, a FL-210 and a FL-105 you have three years from the day you filed the papers to get the other party served. **If service does not occur as set forth here, you will find that you will not be able to proceed you're your case. The rules on service are not suggestions or guidelines. They must be obeyed to the letter.**

4. Make sure your server fills out and signs the Proof of Service of Summons/FL-115 form. If your server mailed the service packet out of state, attach the green Return Receipt signature card to the form. It's a good idea to show us your completed FL-115 form before you file it.

5. File the FL-115 at one of the clerk's offices.

E. WHAT NOW?

If you included an OSC with your papers, you have a court date that you must attend. Be prepared to present your request verbally to the judge. After the court date you can decide how to get to a final Judgment.

If you did not file an OSC **YOU DO NOT HAVE A CUSTODY ORDER.** You have completed the first part of your parentage case. Your goal is a final Judgment that settles all issues in your case. You can also still request a temporary custody and visitation order short of a final judgment by filing an OSC as described above. To get to judgment, you will need to do one of the following:

- Reach an agreement with the other party that settles every issue in your case. There are different ways to do this. We can assist you with this.
- Take the other party's default and proceed to judgment. If the other parent does not file and serve a Response form within 30 days of service, you may be able take his/her default. This means that you proceed without the other parent on the basis of the information you provided in your Petition. We can assist you with this.
- Have a judge make decisions in your case. If there is no agreement, a judge will make your decisions for you. This may mean a trial. If you are going to trial, you may wish to hire a lawyer to represent you.