

Judicial District 20B

CHILD CUSTODY

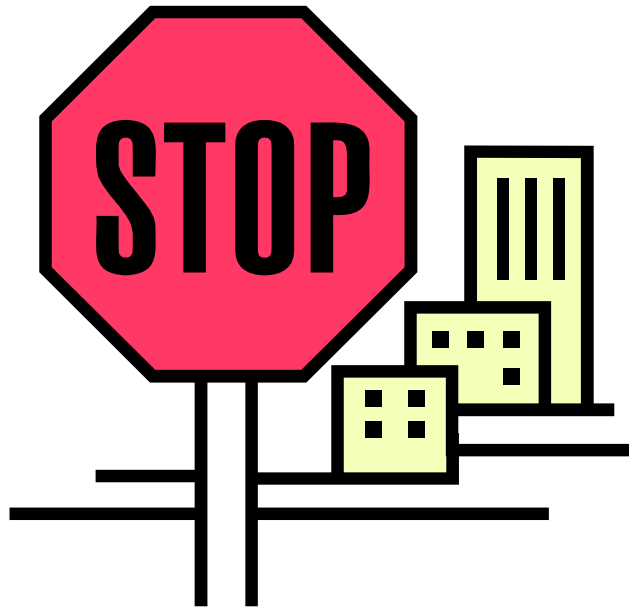
DUE TO THE CHANGING NATURE OF THE LAW, the forms and instructions contained in this packet may become outdated. You should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or anyone contributing to the production of these forms, instructions or guidelines be liable for any indirect or consequential damages resulting from use of the forms or information provided to you.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, or your legal rights, it is strongly recommended that you consult with an attorney.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!

NO ONE AT THE JUDICIAL CENTER, CLERK OF COURT'S OFFICE OR JUDGE'S OFFICE, MAY GIVE LEGAL ADVICE OR TELL YOU HOW TO FILL OUT FORMS!



PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET.

IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.

THESE ARE EDUCATIONAL FORMS AND INSTRUCTIONS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF. PLEASE REVIEW AND FOLLOW THE DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN YOUR CASE. FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

Steps for filing Custody

STEP 1

Filling out the documents

CHECKLIST

You must complete the following documents:

- ◆ **Domestic Civil Action Cover Sheet (AOC-CV-750)**
- ◆ **Civil Summons (AOC-CV-100)**
- ◆ **Complaint**

Please note that the last page of the **Complaint** needs to be signed in the presence of a **Notary Public** *before* bringing to Clerk of Court's office to be filed.

STEP 2

Filing the documents

Take these original documents and 2 copies, \$90.00 filing fee and the \$15.00 fee (if you elect to have the Union County Sheriff serve the documents) to the Civil Filing Department (Union County Judicial Center, 400 N. Main St., 1st Floor). The clerk will file your documents. At that time, you will be assigned a case number. Please make a note of this case number as it should be placed in the upper right hand corner of all subsequent documents in the case.

STEP 3

Further information

You will be mailed notice of any and all dates of hearings for your case. PLEASE MAKE SURE THAT YOUR CORRECT MAILING ADDRESS IS IN THE FILE IN THE CLERK'S OFFICE, AS WELL AS THE CORRECT ADDRESS FOR THE DEFENDANT. **Please note that your claim may be resolved in Mediation. If a signed parenting agreement is reached in mediation, you will not need to be given a hearing date.**

PLEASE NOTE THAT IN UNION COUNTY, IT IS **MANDATORY** THAT ALL PARTIES COMPLETE A PARENT EDUCATION COURSE AND PARTICIPATE IN CUSTODY/VISITATION MEDIATION UNLESS THE JUDGE FINDS GOOD CAUSE OTHERWISE. **FAILURE TO ATTEND COULD RESULT IN CONTEMPT AND A MONETARY FINE.**

All parties will be sent a Notice to Mediation Orientation by the Mediation Office.

STEP 4

Service of Process

North Carolina General Statutes require that you give notice to the defendant about the filing of your claim. This is known as “Service of Process.” The correct way to serve the defendant is determined by law. If the documents are not correctly served on the defendant, the court will not hear your case.

You are now ready to serve the documents on the defendant. Please see the handout in this packet entitled “Service of Process” to complete proper service on the opposing party. In short, if you know where the defendant lives, you may elect to have the sheriff serve the documents, or you may serve them by certified or registered mail, return receipt requested (RRR). If you do not know where the defendant lives, please consult with an attorney on how to properly execute “service of process.”

STEP 5

Attendance

Be sure to attend all scheduled court events on time and dressed appropriately (as if you were going to a job interview). This is very important.

Lawyer Referral Services:
North Carolina Bar Lawyer Referral Service: (800) 662-7660

STATE OF NORTH CAROLINA
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____-CVD-_____ ()

_____,)
Plaintiff.)
VS)
_____,)
Defendant.)

COMPLAINT FOR CHILD CUSTODY

Plaintiff, complaining of defendant, alleges and says:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of _____.
(County and State)
2. Plaintiff's address is _____
_____.
3. Defendant is a citizen and resident of _____.
4. Defendant's address is _____
_____.
5. Defendant's relationship to child: _____.
(Mother, Father, etc.)
6. The name(s), age(s) and birth date(s) of the child or children at issue in this case is/are as follows : _____
_____.
7. Explain your standing to bring this civil action (*e.g., I am the mother/father/other relative of the child/children*): _____

_____.

8. That during the past five years (or since birth if the child is less than five years old), the (child) (children) have lived with:

Name of child _____, birthdate _____, birthplace _____.

PERIOD	ADDRESS	PERSON LIVED WITH	PRESENT ADDRESS
_____ to present	_____	_____	_____
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____

Name of child _____, birthdate _____, birthplace _____.

PERIOD	ADDRESS	PERSON LIVED WITH	PRESENT ADDRESS
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____

(If there are more than two children, insert additional sheets.)

9. That I have have not participated as a party witness other capacity in litigation concerning the custody/visitation of the minor child in this another State, viz. _____
 on , _____ (if answer is affirmative, give details, stating capacity, name and address of court.)

10. That I have do not have information of any custody/visitation proceeding concerning a child mentioned above pending in a Court of this or any other State. (If answer is affirmative, give details) _____

11. That I know do not know of a person who has physical custody of the child .
 _____ , or
 (Name) (Address)
 claims to have custody or visitation rights with respect to the child, :
 _____ .
 (Name) (Address)

12. The District Court of Union County has personal jurisdiction over the parties and subject matter jurisdiction (including jurisdiction under the Uniform Child Custody Jurisdiction Act) to decide the claim(s) and render a custody determination in this action.

13. Venue of this action is properly in Union County, North Carolina.

CUSTODY CLAIM

14. Plaintiff is a fit and proper person to have primary custody of the aforesaid minor child/children and an award of custody to her/him would best promote the interests and welfare of the aforesaid minor child/children.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays the Court for relief as follows:

1. That custody of the minor child/children be awarded to plaintiff.
2. That defendant be taxed with the costs of this action.
3. That plaintiff have and recover such other and further relief as the court may deem just and proper.

This _____ day of _____, _____.

(Signature of Plaintiff)

ADDRESS AND TELEPHONE NUMBER OF PLAINTIFF:

STATE OF NORTH CAROLINA
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____CVD_____

VERIFICATION

_____, being first duly sworn, deposes and says that he/she is the plaintiff in the foregoing action, that he/she has read the foregoing COMPLAINT and knows the contents thereof to be true of his/her own personal knowledge except for those matters and things alleged therein upon information and belief, and as to those matters and things, he/she believes same to be true.

(SIGN HERE)

Sworn to and subscribed before me
this ____ day of _____, _____.

Notary Public

Printed name of notary

My Commission expires_____

SERVICE OF PROCESS
PLEASE READ THIS SECTION VERY CAREFULLY.

If you have concerns or are confused, consult with an attorney immediately!

In order for your case to be binding against the Defendant, the Defendant must be given notice of the case, or *served* in a manner that is recognized by the court. **PLEASE NOTE that service of process must be *completed successfully* for your case to proceed and avoid dismissal.** This means that if you have the sheriff serve the documents, **IT IS YOUR RESPONSIBILITY** to follow up and make sure service was completed. If you serve by certified or registered mail, **YOU MUST** file the *Affidavit of Service of Process by Registered or Certified Mail* found in your packet along with the green return-receipt card you receive in the mail. Please note also that, if you are a third party (e.g. grandparent) suing for custody of a grandchild(ren), you **MUST** serve **BOTH PARENTS** since they are both Defendants. The forms needed for *Service of Process* and the procedures you must follow are complex and will vary. In order to learn which steps to take next, review the following and choose the correct forms and procedures for your case:

1. The Defendant lives in North Carolina, and can be served papers by the sheriff. If the Defendant lives in North Carolina and will not accept service of process, you will need to pay a \$15.00 service fee to the sheriff of the county where the Defendant(s) is/are located to serve the papers, and you will need the following forms:

- **A Summons**
- **A Complaint**

If the Defendant lives in Union County, you may take the \$15.00 service fee (cash, money order, or certified check) along with the original Summons and a copy of the Summons and Complaint to the Clerk's Office when you file your case. The Clerk's Office may deliver the Complaint to the sheriff for you. Otherwise, you must deliver the payment and the necessary forms to the sheriff yourself. If the Defendant does not live in Union County, you must mail or deliver the original Summons and a copy of the Summons and Complaint to the sheriff in the county where the Defendant is located. You should include a cashier's check or money order for the fee for service made payable to the sheriff of that county. **NOTE: The Defendant may be served personally at any location in the state. You must provide the Defendant's most recent address in the Summons along with any other information that will assist the sheriff in locating the Defendant.**

2. Service of Process by registered or certified mail, return-receipt requested. Service of Process can be completed within the state and outside of the state, but within the US (**note:** Please consult with an attorney if the Defendant is in the military) by mailing a copy of the Summons and of the Complaint by registered or certified mail, return-receipt requested, addressed to the party to be served and delivering to the address. A postal worker can help you fill out the necessary forms for the registered or certified mailing. If you choose this type of service, you must file an *affidavit* (document sworn to and signed in the presence of a Notary Public) of service of process by certified or registered mail stating:

A copy of the Summons and Complaint was mailed, postage prepaid, by registered or certified mail, return-receipt requested. (A postal worker can help you fill out the necessary forms).

That the documents were received by the Defendant as shown by the signed and returned receipt.

YOU MUST ATTACH THE ORIGINAL RETURNED RECEIPT TO YOUR AFFIDAVIT.

3. You do not know where the Defendant is. If you do not know where the Defendant is located, you will need to serve the Defendant by "publication." This is a complex process using the newspaper to run notice of the case. You should speak to an attorney regarding this type of service. If you need an attorney, you can contact the **North Carolina Lawyer Referral Service** at **1-800-662-7660**. If you cannot afford an attorney you may be eligible for representation or assistance from **Legal Services of Southern Piedmont** at **704-376-1600**.

PLEASE NOTE: This is service of "last resort." If you know where the Defendant is, or if you can find out where the Defendant is, you should never attempt this type of service.

