

PARENTAL RIGHTS AND RESPONSIBILITIES CASE: What to do with these Court Forms

Here are a few tips for filling out the forms:

- Always use full legal names, not nicknames.
- Type or print neatly. Fillable versions of the forms are available on our website at: http://courts.maine.gov/fees_forms/forms.
- You will file each form with the Court. Before you do that, make copies of your completed forms--one for yourself and one copy for each of the other parties. You will need to find a place to make copies (like a library). The court clerk cannot make copies for you.
- If any children involved in this case receive (or have received) AFDC, TANF or Medicaid, make an extra copy of your court papers and mail them to the Department of Health and Human Services. The address is on the complaint form. You should also do this if you have asked DHHS to collect child support for you.

STEP ONE: Fill Out the Forms

COMPLAINT FOR DETERMINATION OF PARENTAGE, PARENTAL RIGHTS & RESPONSIBILITIES, CHILD SUPPORT

The section at the top of the form is called the "caption." Fill in the location of the District Court (for example: "Bangor"). The clerk will fill in the Docket Number later. You are the Plaintiff and the other party is the Defendant. If there are other parties involved, they will be listed as "Other Party." Write your full legal name in the blank before "Plaintiff." Write the other party's full name in the blank before "Defendant." Fill in the other blanks on the form. Near the end, where it says "Plaintiff Requests," check all the boxes that apply. (If you are not sure, check the box; you can drop that request later.) You must sign

this form in front of a Notary Public. You can find a Notary at a bank, a legal services office, through your town office, or at the court clerk's office.

CHILD SUPPORT AFFIDAVIT

Fill out the "caption" the same way that you did on the complaint form. Fill out the rest of the form to the best of your knowledge. Note that you list last year's earned income and this year's expected earned income separately under #1. Also note that you list other income under #2 and in-kind income under #3. You may have to look at your records, if you have them, to get financial information. You must sign this form in front of a Notary Public. After the Defendant gets your complaint, the Court will ask him/her to fill out the same financial form and send you a copy.

FAMILY MATTER SUMMONS AND PRELIMINARY INJUNCTION

You must use the original form you got from the clerk. It has the clerk's original signature and seal. You cannot use a photocopy or on-line version of this form.

Fill out the "caption" as you did on the complaint. Fill in the name and address of the Court. Date and sign the form. Leave the spaces on the second page empty.

SOCIAL SECURITY NUMBER DISCLOSURE FORM

You are required by both State and Federal law to provide your social security number along with the children's social security numbers. This information is collected on the Social Security Number Disclosure form, which is placed in a

confidential envelope in your file. This form is included in your packet.

DE FACTO PARENTS

A person seeking to be adjudicated as a de facto parent of a child must file with the initial pleadings an affidavit alleging under oath specific facts to support the existence of a de facto parent relationship with the child as set forth in 19-A M.R.S. § 1891(3). The pleadings and affidavit must be served on all parents and legal guardians of the child and any other party to the proceeding.

STEP TWO: Serve the Forms

Now you must give copies to the other party or parties. This is called "serving" the court papers. Court rules say you can do this in one of three ways. You can mail the papers, asking the other party to agree to "service"; you can send the papers by certified mail; you can pay a sheriff to give the copies to the other party. You must file proof of service with the court.

If the child for whom you are seeking to determine parentage has or may have parents or guardians other than the party to the proceeding you must also serve the other possible parents or guardians with all of your pleadings. For example, if you are bringing a parentage case for a child and a court has already determined that another person is the child's parent, you must serve your action on that adjudicated parent. You must also serve your pleadings on any intended or presumed parents.

Service by Mail

Mail or hand-deliver these papers to the other party or parties:

- Copy of Complaint

- Copy of Summons and Preliminary Injunction
- Copy of Child Support Affidavit
- Two copies of Acknowledgment of Receipt of Summons and Complaint (after you have filled in the "caption" on both copies)
- Stamped, self-addressed envelope

The Acknowledgment of Receipt form asks the other party to sign it, showing he/she got the papers, and to return the form to you within 20 days. If you get the signed Acknowledgment back within 20 days, go on to Step 3. If not, then you will need to serve the papers another way.

Service by Certified Mail

Take these papers to the post office along with an envelope:

- Copy of Complaint
- Copy of Summons and Preliminary Injunction
- Copy of Child Support Affidavit

Tell the postal clerk that you want to send the papers by certified mail. Make sure you ask for a "Return Receipt" and "Restricted Delivery." This costs more and involves a few extra steps. The certified restricted mail forms are available at your post office. File with the court clerk the green card you get back from the post office, to prove that the other party got the papers.

Service by Sheriff

Mail or take to your county sheriff's office:

- Copy of Complaint
- The original Summons and Preliminary Injunction, plus one copy
- Copy of Child Support Affidavit

In a letter, or in person, ask the sheriff's office to serve the papers on the other party or parties. Give the other party's home and/or work address.

The deputy who "serves" the papers will complete page two of the Summons and return the original to you. The Sheriff charges for this service (about \$20-\$40).

STEP THREE: File the Forms

Fill out the Family Matter Summary Sheet, which has its own instructions. The court clerk will not accept your papers for filing without this form. You must file at least one type of proof of service for each other party to the case.

Within 20 days after serving the other party or parties, hand-deliver or mail to the court clerk these original forms:

- Summary Sheet**
- Complaint**
- SSN Disclosure Form**
- Child Support Affidavit**
- Summons** (REQUIRED regardless of how service was completed, and should be filed with deputy's signature **if** you used sheriff's service)
- Acknowledgment of Receipt** (if you used service by mail)
- Green card** (if you used certified mail service)

The Court charges a fee to file your papers. Later you may be charged a mediation fee (shared by the parties). You should contact the court clerk for exact fee amounts. If you cannot afford the court fees, you can ask the clerk for an Application to Proceed Without Payment of Fees and an Affidavit. Fill out these forms, and sign them in front of a Notary Public. Then file the forms with the clerk along with your other papers. A judge will review your financial information and decide whether you qualify for a fee waiver. If the waiver is denied, you must pay the filing

fee within 7 days. If the waiver is granted, you won't have to pay some or all of the court fees.

STEP FOUR: Case Management Conference

You and the other party or parties must go to a case management conference at the Court. Within two weeks after you complete all of the steps above, the Court will notify you of the date and time of the conference. Read all of the papers you get from the Court, including the one titled: Important Information Regarding Case Management Conference.

If you and the other party or parties agree on temporary arrangements for your children (such as where they will stay, visits with the other parent, and how they will be supported), you may fill out and file a form called Certificate in Lieu of Case Management Conference. You can get this form from the court clerk. You and the other party or parties must each sign the certificate. You may not have to go to the case management conference if you file the certificate before the conference date. The Court will send you a notice in the mail if you do not need to go to the conference.

If you and the other party or parties would like to go to mediation first, you may ask the court for a "deferral" of the case management conference for up to 90 days. The court clerk can provide you with a form called "Deferral of Case Management Conference," which you **and** the other parent(s) or an attorney must sign. Be sure to include the mediation fee when you file the deferral form with the court clerk. The clerk will give you a date for mediation, and the case management conference will be held after mediation is complete.

HELPFUL RESOURCES

Video: Most courts have a video explaining the court process and your rights and responsibilities. If you would like to view this video please contact the court clerk.

Mediation: A mediator may be able to help you and the other party or parties reach an agreement on issues relating to your case. The court has a video explaining what mediation is. Mediation can be arranged through the court or a private mediator.

Parent education: A parent education program specifically designed for divorcing or separating parents may help you focus on the needs of your children. The court may order you to attend one of these four-hour sessions.

Child Support Table: These guidelines, by law, are issued by DHHS and are used to help determine child support obligations according to income. This table is available online at: http://courts.maine.gov/fees_forms/forms/index.shtml or from any District Court clerk's office.

For more information about these resources, speak with the court clerk or visit the Maine Judicial Branch website at: <http://courts.maine.gov>.

Definitions:

*An **acknowledged** father is a person who is the genetic father of the child and signed a valid acknowledgment of paternity with the intent to establish paternity. 19-A M.R.S. § 1861*

*An **adjudicated** parent is a person determined to be a parent of the child(ren) by a court order.*

*A **presumed** parent is a person who was married to the other parent when the child was conceived or born; or a person that resided in the same household with the child and openly held out the child as that person's own from the time the child was born or adopted and for a period of at least 2 years thereafter and assumed personal, financial, or custodial responsibilities for the child.*

*A **biological** parent is a person who is the genetic parent of the child.*

*A **de facto** parent is a person who, pursuant to 19-A M.R.S. § 1891, is recognized as a parent of the child. A person seeking to be adjudicated a de facto parent of a child must complete and file an affidavit alleging under oath specific facts to support the existence of a de facto parent relationship with the child.*

*An **intended** parent is a person married or unmarried, who manifests the intent to be legally bound as the parent of a child resulting from assisted reproduction or a gestational carrier agreement. In the case of a married couple, any reference to an intended parent includes both spouses.*