# Service in Custody Cases

D.C. Code §16-4602.5, D.C. Code §16-914(b), and D.C. Code §16-83 address who must be given notice of a custody proceeding.

Each defendant must be served with a summons and a copy of the complaint. At the time the complaint is filed, the clerk will issue a summons for each defendant. The plaintiff is responsible for effecting service. Service is governed by SCR-Dom.Rel. 4.

**Service of Complaint**

**Methods of service**: *See* SCR-Dom.Rel. 4(d)

* Personal delivery to the defendant by any person over the age of 18 who is not a party to the action, or by leaving the summons and complaint at the defendant’s dwelling house or usual place of abode with a person of suitable age and discretion who lives at the home.
* Certified mail with return receipt signed by the defendant or a person of suitable age and discretion living at the individual’s dwelling house or usual place of abode.
  + *NOTE: Although service by certified mail is permissible according to the Domestic Relations Rules, the court may still insist that the movant also attempt to serve the defendant in person. This is often the court’s preference when the defendant is known to live locally.*

**Time period for service**: *See* SCR-Dom.Rel. 4(l).

* Within 60 days of the filing of the complaint; may be extended for one additional 60 day period by the clerk (at the Central Intake Center), then may be extended by filing a motion for additional time.

**Proof of service**: an affidavit of service must be filed. *See* SCR-Dom.Rel. 4(c)(1) and (2)

* If personally served, the affidavit must be signed by the process server
* If mailed, the affidavit should be signed by whoever did the mailing (usually the attorney or pro se party) with signed return receipt attached
  + *NOTE: The signed return receipt is often in the form of a “green card.” However, signatures captured electronically can be used*

**Long-arm jurisdiction (personal jurisdiction over and service on an individual outside of the District):** *See* D.C. Code §§ 13-423, -424; 13-431 *et seq*.

**What if the parties cannot be found?**

The code and court rules permit constructive service through publication or service by posting upon a showing of inability to pay the costs of publication. *See* D.C. Code § 13-336 et seq.; D.C. Code § 13-340(a); SCR-Dom.Rel. 4(f), (g).

Plaintiff must file a motion requesting approval for constructive service. The motion must be supported by an affidavit concerning efforts made to locate the party. See *Cruz v. Sarmiento*, 737 A.2d 1021 (D.C. 1999); *Bearstop v. Bearstop*, 377 A.2d 405 (D.C. 1977). Such efforts are sometimes called a “diligent search.”

* *NOTE: The statute appears to require non-residence of the defendant or absence from the jurisdiction for at least six months as a prerequisite to publication/posting. However, the court often draws the inference of non-residence or absence from the inability to locate the defendant after a diligent search.*

**Diligent Search**

The law is not specific regarding what must be done to satisfy a diligent search. The judge will usually want to see “generic” efforts (e.g., checking last known addresses, telephone directories, criminal court case records, D.C. Jail, and the Federal Bureau of Prisons) and also any case-specific efforts that can be made (e.g., checking with known family members or former employees). DC Bar has a form for completing the motion, along with a worksheet to demonstrate attempts made to serve the party: <http://www.lawhelp.org/files/7C92C43F-9283-A7E0-5931-E57134E903FB/attachments/959918D5-DB2B-4F1B-A70A160C074BBD8B/service_of_process_motion_to_serve_by_publication_or_postingsept2011.pdf>

To demonstrate to the court that a serious effort has been made to find the party, the movant must conduct a diligent search to locate the party**. Be sure to keep a detailed list of all efforts that includes the date, the search performed, and the name(s) and contact information of any person(s) contacted or spoken to in the course of the investigation**.

* *NOTE: It is often a good idea for someone other than the lawyer on the case to perform the searches or attempts to serve. In the event the search yields the individual, service must be performed by a person over the age of 18 who is not a party to the action.*

**The following is a checklist for a person performing a diligent search in a custody case:**

1. Call the last known phone number.
2. Visit the last known address.
3. Complete a Google search on the individual and his/her last known address.
4. Contact the last known employment.
5. Contact any known family members.
6. Check yellowpages.com, whitepages.com, yellowbook.com, switchboard.com, 411.com and other directory services.
7. Check social networking sites like Twitter and Facebook.
8. Conduct a criminal and civil records check in D.C., Maryland, and Virginia.

* Search D.C. court records here: <http://www.dccourts.gov/internet/CCO.jsf>
  + Search Maryland court records on Maryland Judiciary website: <http://casesearch.courts.state.md.us/inquiry/inquiry-index.jsp>.
  + Search court records of nearby Virginia Districts on Virginia’s Judicial System website <http://courts.state.va.us/>. The search should include “all” (current and archived) data for neighboring counties such as Alexandria, Arlington, Fairfax City, Fairfax County, Falls Church Combined, Loudoun and Prince William. The website for information on a case in Circuit Court is <http://wasdmz2.courts.state.va.us/CJISWeb/circuit.jsp>.

1. Send a copy of the complaint via certified mail-return receipt requested to all last known addresses.
2. Check inmate locator(s) both at a local and at a federal level. Local jurisdictions, generally speaking, have an online site through their department of corrections. Persons incarcerated long-term through the DC court system are incarcerated in the federal system. The Federal Bureau of Prisons has an inmate locator service available here: <http://www.bop.gov>.
3. Call hospitals. Below is a non-exhaustive list of local D.C. hospitals:
   * Georgetown University Hospital: 202-444-2000
   * GW University Hospital: 202-715-4000
   * Howard University Hospital: 202-865-6100
   * National Rehabilitation Hospital: 202-877-1000
   * Providence Hospital: 202-269-7000
   * Sibley Memorial Hospital: 202-537-4000
   * Washington Hospital Center: 202-877-7000
   * Greater Southeast Community Hospital: 202-574-6000
   * Hadley Memorial Hospital: 202-574-5700
4. Call shelters. When calling, keep in mind that some shelters are only open during the evening as they only provide shelter on an overnight basis, thus you may need to call at varying times. Additionally, if the shelter will not disclose any information then you should make a note of that. The website Shelter Listings, http://www.shelterlistings.org/city/washington-dc.html, offers information on local area shelters. The following is a non-exhaustive list of local area shelters:

Shelters for Males and Females:

* Jobs Have Priority (JHP, Inc.): 202-393-7117
* Community for Creative Non-Violence (CCNV): 202-393-1909
* Gospel Rescue Ministries: 202-842-1731
* Jeremiah House: 202-543-4901
* Prince Georges House: 301-808-5317
* Stepping Stones Shelter: 301-251-0567
* Community Based Shelter: 301-770-2413
* Carpenter Shelter: 703-548-7500
* Mondloch House: 703-768-3400

Females only:

* Calvary Shelter: 202-678-2341
* Luther Place Night Shelter (N Street Village): 202-939-2060
* Isaiah House: 202-797-8806
* Rachael’s Women’s Center: 202-682-1005
* Doorways for Women and Families: 703-237-0881
* House of Ruth: 202-667-7001
* Open Door Shelter: 202-639-8093
* Harriet Tubman Shelter: 202-574-1924
* Nativity Shelter: 202-487-2012

Males only:

* 801 East Shelter: 202-561-4014
* Adams Place Shelter: 202-832-8317
* New York Avenue Shelter: 202-832-2359