



## 2019 Caregiver Custody Training Manual

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## Custody Case Overview

### Case Initiation

**File Application to Proceed *In Forma Pauperis* (IFP)** directly with the Judge-in-Chambers (with complaint attached) **or pay \$80 filing fee.**

**File Custody Complaint** (must be signed under penalty of perjury).

**File Consent Answer(s) and Waiver of Service** (signed by birth parent(s) if you have them) (file with complaint or whenever consents are secured).

The case will be assigned to a Domestic Relations (DR) judge by the clerk at the time of filing.



At the time of filing, the Central Intake Clerk will set an initial hearing date.



### Service of Complaint - SCR-Dom. Rel 4(c)

Each defendant must be served with a **summons** (given to you by clerk at filing) and **complaint**. **The plaintiff is responsible for effecting service** (personal, substitute, or by registered mail/return receipt, or alternate means with leave of court) **within 60 days** (upon request may be extended once without leave of court prior to the expiration of the 60 days).

**Proof of service (affidavit of service) must be filed with the Court.**



At the initial hearing, the court will schedule the parties to attend the Program for Agreement and Cooperation in Custody cases and Mediation.



### What Happens After the Defendant Has Been Served?

Defendant(s) has 20 days from the date of service to file an answer (must be signed under penalty of perjury).

**If no answer is filed**, plaintiff files for the entry of a default (SCR- Dom. Rel. 55); then a final default custody hearing will be held (brief evidentiary hearing).



### What if the Defendant Cannot Be Found and Served?

Plaintiff files a motion for constructive service (posting or publication) supported by an affidavit of diligent efforts to locate the defendants.

Once motion for constructive service is granted and notice is posted or published for the required time period and no responsive pleading is filed, plaintiff may file for default. (SCR-Dom.Rel.55).



### Settlement or Trial

- Court must accept a settlement and enter a consent order for custody (unless not in child's best interest by clear and convincing evidence) (DC Code §§ 16-831.06(d)(1), 16-914(h)).
- Discovery (SCR-Dom. Rel. 26-37), home studies and forensic evaluations, pre-trial statements, trial (SCR-Dom. Rel. 38-53)
- Final order (in writing) (SCR-Dom. Rel. 52).
- Modification: "substantial and material change in circumstances" and "in the best interest of the child." (DC Code §§ 16-831.11(a), 16-914(f)(1)).

## Initial Client and Party Interview Tip Sheet

### Interviewing the Child(ren)

- Gather background information as to specific needs prior to first interview
- Meet with the child as soon as possible after appointment. The first interview is to establish a relationship. Conduct several meetings rather than one long one. Interviews should occur in:
  - The child's home (with primary caregiver)
  - The other caregiver's home, and
  - A neutral setting, if possible
- Frequently ask if they have any questions
- Give child business card with phone number circled (if appropriate)

### Possible topics for discussion:

- Explain the court process and your role in a developmentally appropriate manner
- Pets
- Themselves
- School/daycare/friends/activities/interests
- Siblings
- Caregivers
- Daily routines in each home
- What makes them happy/sad
- Who are the relevant adults in their life
- Life now—how do they feel, how is the schedule working, do they understand what is happening
- Who cares for them when they are sick
- What they would change if they could
- Special issues—what they know and how they feel about it
- What have they heard or seen when parties/caregivers fight
- Is there anything I haven't asked that I should know?

### Interviewing the Parties/Caregivers

- Obtain consent from each party's attorney to interview his/her client. Clarify whether attorney needs to be present and whether you can contact parties on matters impacting the children's welfare, scheduling, etc.
- If a party is not represented, contact the party directly

- ❑ Set up initial interview to obtain background information and get overview of case issues from each party's perspective
- ❑ Obtain personal and professional references including:
  - Name, address, telephone, relation to parties
  - Particular area or incident known of which they have knowledge
  - Signed releases for each reference as appropriate
- ❑ Obtain signed medical release information to obtain the child's medical or mental health information and signed educational release to obtain the child's school records
- ❑ Offer general information about effects of custody conflict on children and how to help

**Topics to discuss:**

- ❑ Caregiver's background information (date of birth, place of birth, etc.)
- ❑ History of parenting responsibilities
- ❑ Questions raised by investigation
- ❑ Child's strengths and challenges
- ❑ Caregiver's strengths and challenges
- ❑ Employment history
- ❑ Other party's strengths and weaknesses as a caregiver
- ❑ Details surrounding circumstances relating to present custody conflict
- ❑ Favorite activities with and without the child
- ❑ Current relationships and involvement with the child
- ❑ Concerns about child's exposure to conflict/violence; what the child has seen or heard
- ❑ Concerns about areas of child's functioning; school, emotional, social
- ❑ View of what doctors, therapists, and teachers say about the child
- ❑ Any plans to relocate
- ❑ People they would like you to interview

<b>Possible Other Sources to Interview</b>
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- ❑ Review child's and family's records in the following areas, as appropriate (obtain releases where needed)
  - School
  - Psychiatric/psychological/social service
  - Drug/alcohol
  - Medical
  - Law enforcement (criminal, civil, and domestic violence background checks)
- ❑ Review court files of other related cases (abuse and neglect, delinquency, guardianship, civil protection orders). Check Maryland and other jurisdictions if appropriate
- ❑ Obtain any additional releases needed

- Interview persons who have particular knowledge (as appropriate and with sensitivity to confidentiality needs)
  - Teachers
  - School psychologist or social worker
  - Therapist
  - Physician, if child has particular medical problem or injury
  - Babysitter
- Determine the need for a mental health expert
- Explore special issues or allegations such as
  - Domestic violence
  - Physical/sexual abuse of the child
  - Substance abuse
  - Mental health
  - Developmental, medical, or educational needs of the child
  - General evaluation on contested custody or visitation questions

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
FAMILY COURT**

**PRAECIPE**

Domestic Relations Office  
Paternity and Support Office  
Juvenile and Neglect Office  
Mental Health and Habilitation Office  
Counsel for Child Abuse and Neglect

Jacket No.: [XXXX]-DRB-[XXX]

Date: [DATE]

[NAME of PLAINTIFF/PETITIONER]

*(Plaintiff or Petitioner)*

vs.

[NAME OF DEFENDANT] [and NAME OF DEFENDANT if additional, or ET AL.] [if adoption, no defendant]

*(Defendant or Respondent)*

<p><b>The Clerk of the Court will please note the following:</b> Please enter the appearance of [ATTORNEY NAME] of [FIRM NAME] as counsel for [CLIENT NAME, CLIENT ROLE IN CASE].</p>			
Attorney's Name: (Please Print) <input type="checkbox"/> Plaintiff or Petitioner <input type="checkbox"/> Government		Attorney's Name: (Please Print) <input type="checkbox"/> Defendant <input type="checkbox"/> Respondent	
Mailing Address:			
E-Mail Address:		E-Mail Address	
Attorney's Signature:		Attorney's Signature:	
Registration No. (Bar No.)	Telephone No. Fax:	Registration No.	Telephone No. Fax:

**Certificate of Service**

I hereby certify that true and correct copies of the foregoing Praecipe of Appearance were [e-served via Case FileXpress / mailed by first-class mail, postage pre-paid], upon the following individuals on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_:

**Commented [DW1]:** If a party is unrepresented, service must be made pursuant to Domestic Relations Rule 5, which is typically by first-class mail although other methods of service may be permissible.

[BIO MOTHER **OR** BIO MOTHER'S ATTY, IF REPRESENTED]

[FIRM]

[ADDRESS]

[CITY, STATE ZIP]

*Birth Mother [or Counsel for Birth Mother]*

[BIO FATHER **OR** BIO FATHER'S ATTY, IF REPRESENTED]

[FIRM]

[ADDRESS]

[CITY, STATE ZIP]

*Birth Father [or Counsel for Birth Father]*

[OTHER PARTY NAME OR COUNSEL NAME]

[FIRM]

[ADDRESS]

[CITY, STATE ZIP]

*Counsel for [OTHER PARTY]*

\_\_\_\_\_  
[ATTORNEY NAME]



## **EFILING IN D.C. FAMILY COURT**

**EFiling in D.C. Superior Court is a system for electronic filing and service of pleadings and orders. It is not an online case file like the federal PACER system. [D.C. Superior Court Administrative Order 12-10](#) outlines eFiling requirements and procedures for D.C. Family Court.**

### ***Who eFiles?***

- Attorneys, unless employed by a tax-exempt non-profit organization or government agency, are required to eFile *except* for case-initiating pleadings such as a complaint and a pre-complaint application to proceed in forma pauperis (IFP). Case-initiating pleadings must be filed in person at the Family Court Central Intake Center. Efiling is not available in adoption cases.
- Pro se litigants are not required to eFile.
- Register on [CaseFileXpress](#) (CFX) (also called File & ServeXpress). Registration is free.
  - [CaseFileXpress training materials are available.](#)
  - CFX staff are on call 24 hours. CFX can be reached at 877-433-4533 and at [support@fileandserveexpress.com](mailto:support@fileandserveexpress.com) and also has a Live Chat feature on its website.

### ***Filing fees?***

- Any applicable court filing fee must still be paid, plus a \$16 CFX processing fee, subject to the following exceptions:
  - In neglect cases, there are no filing fees; caregiver attorneys will have to pay the \$16 CFX processing fee.
  - In custody cases, the standard GAL appointment order provides that GALs are not required to pay filing or processing fees; enter the promo code *dccourapprovedGAL*.
  - In custody cases, if you represent a party who has been granted IFP status, enter the promo code *dccourapprovedifp*.

### ***Service of pleadings and orders?***

- You eserve other eFilers. CFX will automatically serve anyone on the CFX service list for the case, which you will be able to create or view and edit.
- You must serve non-eFilers by one of the methods allowed by the applicable court rules.
- If you are an eFiler, court orders will usually be eserved; otherwise, orders will be mailed.



### ***When is the pleading actually filed?***

- When you submit a pleading through CFX, you will receive a confirmation e-mail that acknowledges your submission. You will also receive a “proof of service” email indicating who was served.
- After you submit your pleading, a Family Court Central Intake Center clerk (CIC) will review the pleading and accept or reject it.
- If the clerk accepts your pleading, you will receive an e-mail confirming acceptance. Note that the filing date for your pleading is the date you submitted the pleading to CFX and not the date that the clerk accepted it.
- If the clerk rejects your pleading, you will receive an email to that effect which may include information about why CIC rejected your pleading. If you have questions about why it was rejected, you can contact CIC.
- If you are filing a response to another party’s pleading, you cannot file your response until the clerk has accepted the other party’s pleading. For example, you may receive another party’s pleading and plan to file a response, but if CIC rejects that party’s pleading, then you must wait until the pleading is accepted before filing your response.

### ***eFiling tips***

- When registering, most pro bono attorneys will use the law firm code associated with their law firm or organization. If you do not have access to a firm code, you may use CLC’s code: *clcprobonoprogr*.
- There is a required format for entering case numbers in CFX – for example, *2018 DRB 001234*. Spaces must be included. The three-letter code must be capitalized. The second number must have six characters, so you may need to add leading zeros.
- Pro bono attorneys who are not D.C.-barred and are practicing under D.C. Court of Appeals Rule 49 should use 999999 in place of the required bar number.
- You are required to enter something in the *Client matter* field. This is a field that can be used for billing purposes. If you do not need to assign a client matter identifier, you can enter anything you want – e.g., *N/A* or *1* or the client’s name.
- Be sure to include the judge on the service list. If you need to add or change the judge, put “judge” or “magistrate judge” in the *First name* box in the search field.
- When filing a motion, you can select “motion” if none of the more specific options matches your pleading.
- For sibling neglect cases:
  - You must eFile separate motions in each child’s case if the motion applies to all of the children. We suggest you list one child and one case number on each motion you file. The clerk’s office will accept a motion with more than one child in the caption, but this may lead to confusion.
  - If you are filing a guardianship motion, which requires a summons, separate summonses must be prepared for each parent and other person to be served, and a separate summons for each parent must be filed in each child’s case.