

Establishing Custody and Parenting Time for Unmarried Parents Who Have Filed a Recognition of Parentage

IMPORTANT NOTICES

Use the Forms to Establish Custody and Parenting Time only if:

1. You are the child's parent, **and**
2. At the time of the child's birth you and the other parent were not married to each other, **and**
3. You have signed and filed a Recognition of Parentage with the Minnesota Department of Health, **and**
4. There is no court order deciding custody and / or parenting time rights.

NOTE: If all of the above statements are true AND you and the other parent **agree on all issues regarding custody, parenting time, and child support**, then you can use the *Joint Petition* forms, which are available online at <http://mncourts.gov/GetForms.aspx?c=4&p=121>.

- Use these instructions for completing the following forms, which are required to be filed with the court when requesting an order establishing custody and parenting time:
 - *Summons to Establish Custody and Parenting Time*, CHC102;
 - *Petition to Establish Custody and Parenting Time*, CHC103;
 - *Affidavit in Support of Establishing Custody and Parenting Time*, CHC105.
- The Recognition of Parentage (“ROP”) must be signed by both parents; you must have a certified copy of the Recognition of Parentage.
- **Where to Get a Certified Copy of the Recognition of Parentage (“ROP”)**
Certified Copies of the Minnesota Recognition of Parentage and Non-Paternity Statement can be obtained by completing and notarizing the required form provided by the Minnesota Department of Health. You can get the form from the Minnesota Department of Health website at <https://www.health.state.mn.us/people/vitalrecords/childsupport/formrequest.html>, or you can call 651-201-5970 to request a copy of the form. There is a fee for a certified copy. The completed form and fee should be mailed to:

**Minnesota Department of Health
Recognition of Parentage Program
Office of the State Registrar
P.O. Box 64499
St. Paul, MN 55164-0499**

Signing a “ROP” Now

If you do not have an “ROP” but you and the other parent are willing to sign one now, you can get a form “ROP” from your local Child Support Enforcement Office. The form must be signed, notarized, and filed with the Minnesota Department of Health. Signing a “ROP” has serious legal consequences and you should understand those consequences before signing the “ROP.”

If you do not have an “ROP” and you or the other parent are unwilling to sign one now, you or the other party can apply for paternity establishment services with your local county child support enforcement office.

- If you have a **Declaration of Parentage or a Birth Certificate** naming the father but you do not have a “ROP,” you cannot use this packet. You can ask the other parent to sign a Recognition of Parentage now. If that is not possible, you must file an action to establish paternity. You may want to seek legal advice from a private attorney or other legal services provider for more information.
- **If the Child is in Danger**
In extremely rare cases, a judge will change custody on a temporary basis before a full hearing with live testimony has been held. Those rare cases involve situations in which the child is in immediate, significant danger if the existing custody arrangement continues. If your child is in immediate danger, you may seek legal advice from a private attorney or other legal services provider; contact social services; seek an Order for Protection; or request an emergency expedited hearing.

Please Note: An Order for Protection (OFP) might be available in extreme situations, but an Order for Protection will not permanently decide custody. You can get help with Orders for Protection from the court administrator’s office or local domestic abuse advocacy programs.

If you choose to request an emergency expedited hearing, you will need to draft your own court forms or seek help from a private attorney or other legal service provider, as there are **no court forms available** from court administration or on the public website.

- If your child is the subject of a child in need of protection or services (CHIPS) proceeding or certain delinquency proceedings, the court may not be able to immediately decide your request to establish custody.
- Court personnel and the county attorney’s office **CANNOT** help you fill out any court forms.
- You should see an attorney if you do not know how to answer the questions on the forms or if you think the other party will hire an attorney.
- The court expects every person who appears in court without a lawyer to know and follow the law.
- Type your answers or print neatly using dark ink.
- If you need more space to answer a question, use an additional full sheet of paper.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

INSTRUCTIONS

Step 1 **Fill out the *Summons to Establish Custody and Parenting Time Form*** **(CHC102)**

A *Summons* tells the other party that you have filed a lawsuit against him or her asking the court to establish an order for custody and parenting time.

How to Fill out the *Summons*:

- On the line after “In Re the Custody of,” print the name and birth date of each child involved in this action.
- Fill in your name on the line for “Petitioner.” From now on, you will be called the Petitioner.
- Fill in the other parent’s name on the line for “Respondent.” From now on, the other parent will be called the Respondent.
- If you are asking the court to establish child support, check the box in Paragraph #1.
- Fill in the date, your address information, and sign the form.

Step 2 **Fill out the *Petition to Establish Custody and Parenting Time Form*** **(CHC103)**

The *Petition* is divided into two parts. The first part gives the court information about you, the other parent, your children, other court orders, and your request for custody, parenting time, and child support. The second part summarizes for the court and the other parent what you are asking from the court.

How to Fill Out the *Petition*:

- Fill in the top of the form the same as the *Summons*
- Complete the first set of Paragraphs #1 – #11 by filling in the blanks or checking the appropriate boxes.
- Check the appropriate box for the second set of Paragraphs #1 - #5.

The following instructions will help in completing the form. For example, for help in answering Paragraph #1 on the *Petition*, read instruction #1.

Paragraphs #1 - #11 - First Part

1. The person who starts the case is the Petitioner. Provide your complete name and address where you live or where you agree to receive papers about this case.
2. The other parent is the Respondent. Provide the name and address of the other parent. If the current address of the other parent is unknown or unavailable to you, write “unknown” or “unavailable.”
3. Provide the full name and birth date of the child or children involved in this action.
4. If the children currently live with you, check the box “Me.”

If the children live with the other parent, check the box “Other parent.” If the children live with someone else, check the box for “Other person.” Then give the full name of the parent or other person the children live with. Also give the address, city, county, state, and zip code of the children. Fill in the date of how long the children have lived at that address. If the children have lived at the current address less than six months, provide the dates and locations of where the children have been living.

5. If you are including a certified copy of the Recognition of Parentage, check the first box. If you have requested a certified copy, check the second box. **NOTE:** If you and the other parent have not signed and filed a Recognition of Parentage with the Minnesota Department of Health, then these are not the right forms for your situation, and you may need legal advice.
6. Check YES if there is a court appointed guardian or conservator for the children and fill in all information. Check NO if no appointment has been made.
7. Read what *legal custody* and *physical custody* means and check the appropriate boxes.
8. Check YES if there is a juvenile court case or child protection case for the children and fill in all information.
9. Check YES if there is an existing Order for Protection between you and the other parent and fill in all information. Include a copy of the order with this *Petition*. Check NO if there is no order or existing court case.
10. Parenting time is the time a parent spends with the children, regardless of who has custody of the child.
 - a. If you think your children would not be safe alone with the other parent, you can ask the court to make parenting time “supervised.” You must explain why supervision is needed in the *Affidavit in Support of Establishing Custody and Parenting Time*.
 - b. If you check “unsupervised,” the parent can visit the children without anyone else watching.
 - c. If you check “deny parenting time,” you are asking that the court to give the other parent NO parenting time. You must explain why no parenting time should be ordered in the *Affidavit in Support of Establishing Custody and Parenting Time*.
11. Check the first box if you want the court to establish a child support order. Check the second box if you are not asking the court to establish child support. Check the third box if there is an existing child support order for the children and fill in all information.

Paragraphs #1-#5- Second Part

1. Check the same box as you checked in Paragraph #7a.
 2. Check the same box as you checked in Paragraph #7b.
 3. Check the same box as you checked in Paragraph #10.
 4. Only check this box if you checked the first box in Paragraph #11.
- Fill in the date, your address, telephone number and signature.

Step 3
Fill out the *Affidavit in Support of Establishing Custody and Parenting Time*
Form (CHC105)

The *Affidavit in Support of Establishing Custody and Parenting Time* form tells the court and the other parent what you are asking for and WHY you are asking for it.

- Fill in the top of the form the same as you did on the *Summons* in Step 1.
- Write your name on the blank line above paragraph #1.

Signing the Affidavit under penalty of perjury means you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

NOTE: The following instructions are numbered the same as the paragraphs on the *Affidavit in Support of Establishing Custody and Parenting Time*.

1. Check the box ONLY if you are requesting the court to establish child support.
2. Check off who should have **legal** custody of the children the same as you did on your *Petition*.
3. Check off who should have **physical** custody of the children the same as you did in your *Petition*.
4. **Best Interest Factors.** Write in why your request is best for the children. Include as many details and facts as possible for each factor listed so the court can make a decision. The court must consider the factors listed, and your answers to these questions will help the court make its decision regarding custody.
 - a) Describe the children's physical, emotional, cultural, spiritual, and other needs and the effect of the proposed arrangements on the children's needs and development;
 - b) Describe the children's special medical, mental health, or educational needs that may require special parenting arrangements or access to recommended services;
 - c) Explain the custody arrangement the children want;
 - d) Check the appropriate box and provide all information that asks about domestic abuse in both your household and in the other parent's household;
 - e) Describe the physical, mental, or chemical health issues either parent may have that affects the children's safety or developmental needs (chemical health issues may mean issues with drugs, alcohol, or other illegal substances);
 - f) Describe how each parent has participated in providing care for the children by writing down what you and the other parent have done in the past as well as each and every day to take care of the children;
 - g) Write down how you and the other parent will maintain consistency in providing care and meeting the ongoing developmental, emotional, spiritual, and cultural needs of the children;
 - h) Describe how changes to home, school, and community will affect the children's well-being and development;

- i) Describe the effect of the proposed arrangements on the ongoing relationships between the children and each parent, siblings, and other significant persons in the children’s life;
 - j) Write down what you see as the benefits of the children to maximize parenting time with each parent and the detriment to the children in limiting parenting time with either parent;
 - k) Write down what you do to encourage and permit frequent and continuing contact by the other parent with the children and what the other parent does to encourage and permit frequent and continuing contact by the children with you;
 - l) Write down how you and the other parent are willing and able to cooperate in raising the children; how you and the other parent will maximize the sharing of information and minimize the exposure of the children to conflict; and what methods you and the other parent plan to use for resolving disputes regarding any major decisions concerning the life of the children.
5. **Parenting Time.** Check the appropriate box for parenting time as you did in Paragraph #10 on your *Petition*. Fill out the parenting time schedule that you think is in the best interests of the children. Clearly explain when each parent will have the children. State the time when the children will transfer from one parent to the other. If you want the order to say who will pick up and drop off the children, or where the transfer of the children should take place, include that in the section titled “Other.”
6. **Overnights.** Based on the parenting time schedule you described in paragraph # 5, list the number of overnights the children will have with each parent each year.
- a. The number should add up to 365. If parenting time is equal, use 182.5 overnights for each parent.
 - b. If one parent’s parenting time is reserved, that parent has 0 overnights.
 - c. “Overnight Equivalents” may count towards annual overnights. They may be used if a parent has significant time periods on separate days where the children are with the parent yet do not stay overnight.

If you need help calculating the number of overnights:

- Look at the FAQs (frequently asked questions) of our “Child Support” Help Topic online at <http://mncourts.gov/Help-Topics/Child-Support.aspx#tab02Faq5>, and
- Look at the handout called “Calculating the Number of Overnights,” which is found online at [http://mncourts.gov/mncourtsgov/media/scao_library/SelfHelpCenters/documents/Handout-Calculating-the-Number-of-Overnights-\(002\).pdf](http://mncourts.gov/mncourtsgov/media/scao_library/SelfHelpCenters/documents/Handout-Calculating-the-Number-of-Overnights-(002).pdf) You can also find help on the Minnesota Department of Human Services’ website: <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-support/>.

7. Check the appropriate box that tells the court and the other parent what type of parenting time you want and how that is in the best interest of the children. The court will grant parenting time that enables the children and the parents to maintain a parent-child relationship that will be in the best interest of the children. If you are requesting supervised parenting time or other limits, write in the things that have happened and are likely to happen that will put the children’s emotional and physical health in danger, or will impair the children’s emotional development if the parenting time is unsupervised. Write in the name of the person or agency that you would like to supervise the parenting time.

8. Check whether you are requesting that the children be transferred at a parenting time exchange center and write in why this is in the best interest of the children. You and/or the other parent may be required to pay a fee for each supervised visit.
9. If you asked the court to establish child support in question # 1, then answer YES to the first question, and then answer questions 10-28.

If you did not ask for child support in question # 1, answer NO to the first question, and then skip questions 10-28.

NOTE: Only answer questions 10 through 28 if you are asking the court to establish child support. These questions will help the court to determine the appropriate amount of child support.

For # 28, write in any additional information you think might be helpful to the court when it considers your request to establish custody and parenting time.

Step 4 Fill out the Confidential Information Forms (CON111 and CON112)

NOTE! Most documents filed with the court are considered public documents and are available to the public. Certain information that is filed with the court may be considered confidential and not available to the public. To keep this information confidential and not available to the public, you must take certain steps that are described below.

The steps below are for filers who are filing paper documents. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.03 and 14.06.

Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called “restricted identifiers”) must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account numbers on statements) you must remove the number on the document before filing the document with the court.

Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You must identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Fill out the *Confidential Information Form (Form 11.1)* (CON111) and the *Cover Sheet for Non-Public Documents Form (Form 11.2)* (CON112) according to the *Instructions* (CON110). These forms are available online:

- CON110 – <http://mncourts.gov/mncourtsgov/media/CourtForms/CON110.pdf?ext=.pdf>
- CON111 – <http://mncourts.gov/GetForms.aspx?c=11&f=30>
- CON112 – <http://mncourts.gov/GetForms.aspx?c=11&f=31>

Step 5 Make Copies of Forms

1. Make **two (2)** copies of each of the following documents:
 - a. the *Summons*; the *Petition to Establish Custody and Parenting Time*;
 - b. the *Affidavit in Support Establishing Custody and Parenting Time* and all attachments.

NOTE: You will need a third copy for the public authority (County Support and Collections Services office) if you or the other party receives public assistance, or if you have applied for child support services from the county. See Step 6

2. Keep one copy of each form for yourself (make sure you bring your copies with you to the court date).
3. Step 6 tells you how to serve a copy of each form upon the other party. Step 8 tells you how to file the forms with the court.

Step 6

Serve Notice on the Other Parent / Public Assistance Notice

You must arrange for the other parent to receive complete copies of all documents you have prepared. This is called "service of process." **A party to an action is not allowed to serve the other party.** You must have someone else who is 18 years of age or older serve the other parent. Papers CANNOT be served on a legal holiday.

Personal service: The other party is personally served by someone else (friend or family member, sheriff, or process server) hand-delivering the forms and supporting documents to the other party personally or by leaving them at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence.

Do you or the other party receive public assistance or child support services from the State?

If either you or the other parent has applied for or is receiving public assistance benefits from the State of Minnesota, such as MFIP, Tribal TANF, General Assistance, Medical Assistance, MinnesotaCare, or Child Care Assistance, or is receiving child support services, you must notify the county child support office of your custody action.

- Fill out the form called *Notice to Public Authority* (DIV813).
- Make a copy of the *Notice*. Hand-deliver or mail the copy of the *Notice to Public Authority* to the County Support and Collection Services office for the county paying the assistance or providing child support services. You may deliver or mail the copy yourself, or ask someone else to do it for you.
- The person who delivered or mailed the copy must fill out the *Affidavit of Service to Public Authority* (DIV816) stating when the *Notice* was served on the county attorney's office. The *Affidavit* must be signed under penalty of perjury.
- You will file the *Notice to Public Authority* and *Affidavit of Service to Public Authority* with the court when you file the *Summons*, *Petition*, and *Affidavit in Support of Establishing Custody and Parenting Time*. You must also arrange for the county attorney's office to receive complete copies of all forms and supporting documents you have prepared.

Step 7

The Person Who Served the Papers Fills Out the *Affidavit of Service* Form (SOP102)

After the papers are served on the other party, the person who served the papers must fill out the *Affidavit of Personal Service* form (SOP102), which is available online at <http://mncourts.gov/mncourtsgov/media/CourtForms/SOP102.pdf?ext=.pdf>. This form is evidence that the papers were served on the other parent.

1. Fill in the top part of the form the same as you did for the *Summons* and *Petition*

2. Fill in the name and birth date of the server.
3. Fill in the date the papers were handed to the other party.
4. Fill in the address where the documents were served.
5. Fill in the name of the other party.
6. The person who served the papers signs the Affidavit under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions. After it has been signed, make one copy of the *Affidavit of Personal Service* for your records. You will file the Affidavit with the court as part of Step 8.

Step 8

File the Forms with the Court

File the documents with the court. Make sure you have a copy of each document for your records.

You can file the forms with the court in the following ways:

- In person at the courthouse;
- By mail; or
- Electronically through the eFS System (NOTE: once a party files electronically, they are required to use the eFS System throughout the entire case; this means they cannot go back to paper filing in that case). For more information about electronic filing and the eFS System, see www.mncourts.gov/efile.

There is a court filing fee. Contact court administration to find out the amount of the filing fee, or look online at <https://www.mncourts.gov/Help-Topics/Court-Fees.aspx>.

- If you file in person, payment can be in the form of a credit/debit card, money order, cash, or check.
- If you file by mail, payment can be in the form of a money order or check.
- If you file electronically (eFile), you must use a credit card or debit card, even if you ask for a fee waiver.

If you are asking for child support, you must file copies of all supporting documents (such as pay stubs, employer statements, tax returns, verification of medical/dental insurance costs or expenses, child care expenses, disability payments) and complete and file with the court one Form 11.2 for supporting documents that contain confidential information (see Step 4). Check your documents to make sure all blanks are filled in. All papers served must be identical copies of the forms and supporting documents filed with the court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

If you cannot afford to pay the fees, a judge may waive it under certain circumstances. Ask the court clerk for an In Forma Pauperis (IFP) application, or find the IFP application online at <http://mncourts.gov/GetForms.aspx?c=19&p=69>. You need to fill out this application and file it with court administration. This application will be reviewed by a judge who will determine whether you must pay the fees. **If the judge does not sign the form to waive the fees, you must be prepared to pay the fees or court administration cannot accept your forms.**

Step 9 Appear in Court

After you file your papers with the court, you should receive a document from the court that contains the court file number for your case and other important information. There could be a court date already set, or you may need to call the court to ask about scheduling a court date.

You must **go to court** on the date set for the hearing.

- Plan to arrive at least 15 minutes before your court time.
- Bring with you to the hearing your copies of the papers you filed with the court.
- **Do not bring children to the first hearing**, unless the court administrator/deputy tells you to.

If the other party disagrees with your request, there will usually be two court hearings. At the first hearing, the judge will only consider the written affidavits you and the other party filed. The first hearing is short. Usually, the judge will not listen to live testimony at the first hearing. You will only have the opportunity to make a brief statement summarizing your position. However, if you have requested an emergency hearing and claim the children are in immediate danger, you may have to testify at the first hearing and have your witnesses. If you are not sure whether to bring witnesses to the first hearing, call the court administrator's office.

The hearing is very formal. You are expected to know and follow the court rules of procedure. You should be respectful to the other party and to everyone in the courtroom. Do not interrupt the judge or the other party. Try to stay calm, and avoid unnecessarily criticizing the other party. Answer any questions from the judge honestly. Direct all your comments to the judge, not to the other party.

After the hearing, the judge will issue an *Order*. The judge may issue the *Order* at the end of the hearing or may send a copy of the *Order* to you in the mail (or, if you have eFiled your forms, then you may receive a copy of the *Order* through the eFS System).

Custody Evaluations

On many occasions at the end of the first court date, the judge will ask for a custody evaluation in order to have someone gather facts to help the judge make a decision. A custody evaluation may take several days, and you must pay the cost of the evaluation. If a custody evaluation is ordered, the gap between the first short hearing and the second evidentiary hearing often will be at least several months.