

HELPFUL HINTS AND GENERAL INSTRUCTIONS

FILING FOR CUSTODY PRO SE

Filing pro se means you are filing without an attorney. If you have an attorney, please contact your attorney regarding your filing. **For more information on filing without an attorney, read the document titled “*Introduction to Pro Se*”.**

NOTE: The Court cannot and will not conduct any investigation into your case. The Court’s role in any proceeding is solely to hear the case as it is presented by the parties and to render a decision under the applicable law. It is filing party’s responsibility to provide all necessary information to the Court. See “*Intro to Pro Se*” for more information.

Filing fees are due at the time of filing. Filing fees can be found at www.mcjcoho.org.

Form Header: Court rules require that each form have a header containing the following information:

- **JC#** (Juvenile Court case number)
- **SETS** (Child Support Case Number)
- **Judge**
- **Magistrate.**
 - If there was a prior case with our Court involving the child(ren) you are filing for, this information can be found on the paperwork from the previous case or obtained through the Citizen Services office located on the lower level of the Juvenile Justice Center, 380 W. Second St., Dayton, OH 45422.
 - If there has never been a case with this Court involving the child(ren), leave these sections blank.
- **Party names** - Always include the LEGAL FIRST AND LAST NAME for all parties, no nicknames.
- **Party Addresses** – If is ALWAYS the responsibility of the filing party to provide addresses for service of process. If a form asks for an address, include the FULL MAILING ADDRESS including city, state, and zip code. See “*Intro to Pro Se*” for more information about addresses.
- **Relationship to the case** – It is important to correctly identify each party’s role in the proceeding. This can be confusing because the terminology isn’t always consistent from form to form. Below is a general rule of thumb to use when identifying each party’s role in the case.

In Re: / In the Matter of: = CHILD’S NAME

Filing Party / Plaintiff / Petitioner = YOU

Respondent / Defendant = THE OTHER PARTY / PARTIES TO THE CASE

Case Caption – This is the title of the document. Ex. “Motion for Custody”, “Affidavit of Income and Expenses”, etc.

WHO IS A PARTY?

All parties must be named in the motion or complaint and must be served in order for the case to move forward. A “party” is anyone having any legally established right to the child. It is ALWAYS the filing party’s responsibility to identify any and all required parties and to provide valid addresses for service of process. Failure to do so may result in additional fees, delays, or even dismissal of your case. If it is not possible to obtain a party’s name or contact information through reasonable diligence and effort on your part, ask Citizen Services what other options, if any, may be available to you.

A “party” includes any or all of the following:

1. PARENTS

- **Biological Mother:** the biological mother is ALWAYS a required party unless the child has been adopted. Even if the Mother has no custodial or visitation rights, she still retains the right to be served in any legal matter involving her child.
- **Legal Father:** The legal father is ALWAYS a required party. The legal father is the father named on the child’s birth certificate. The Legal Father is a required party even if he is not the biological father, has no custodial or visitation rights, or has no contact with the child. Additionally, if a father is ordered to pay child support for the child, he is the legal father and a required party, regardless of whether or not the child support is actually being paid.
- **Biological Father with legally established rights:** In some instances a child may have both a legal father and a biological father. A biological father is only a required party if a court has established that he has parental rights. In other words, a biological father who is not a “legal father” is not a required party unless a court has previously ordered otherwise.
- **Adoptive Parent(s):** if a child has been adopted, the adoptive parent(s) replace(s) the child’s biological parent(s) and hold(s) the same legal rights and responsibilities to the child as the biological parent(s). “Legal Custody” or “Guardianship” are NOT the same as adoption. Adoptions go through Probate Court and result in the child’s parent(s) being changed on the child’s birth certificate.
- **Non-Biological Parent(s):** in the case of same sex parents, a non-biological parent may have a legally established parental relationship to the child. Any parent who is on the birth certificate and / or has a legally established parental relationship to the child is a required party.

2. TEMPORARY OR LEGAL CUSTODIAN

- Anyone who currently has court ordered custody of the child, whether full or temporary, is a required party. Note: “temporary custody” generally refers to custody that is granted in the interim, while a custody case is pending, and is typically awarded in cases where there is Children Services involvement.

3. PERSON(S) WITH COURT ORDERED VISITATION

- Anyone with court ordered companionship time or parenting time (visitation) is a required party, regardless of their relationship to the child.

FILING

You will need the following forms to complete your filing:

- Juvenile Court Information Sheet
 - Motion or complaint for custody (see below)
 - Affidavit of Income and Expenses
 - Parenting Proceeding Affidavit
 - Application for IV-D Services
 - Instructions for Service
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- All forms must be fully completed and notarized where indicated prior to filing.
 - You may include up to three children per form **HOWEVER** we will need one signed original PER CHILD at the time of filing. If filing for more than one child, please print the correct number of packets or make the correct number of copies BEFORE signing the forms.
 - Our Court does not accept fax or online filings at this time; however, you may file by mail if in person filing is not practical.

WHICH PACKET SHOULD YOU COMPLETE?

- **Change of Custody** – This packet is used where this court has previously issued a custody order regarding the child(ren) and you are wanting to change or modify the existing order.
- **Parent Custody** – *Complete this packet if you are a “Parent” (as defined above) and this Court has not previously issued an order of Custody or Shared Parenting regarding the child(ren).*

NOTE:

- If you are the child’s biological mother and no court has ever issued an order of custody regarding the child, and if you were not married when the child was born, you automatically have custody under Ohio law. It is not necessary for you to file to establish custody.
 - If **THIS** Court ordered Custody or Shared Parenting regarding the child file “Change of Custody”.
 - If a court of another state or county has issued an order of custody or shared parenting to someone else, you would use the “Parent Custody” packet. Please note, there may be venue and / or jurisdiction issues.
 - If you believe you are the father but you are not the **LEGAL** father (see above) you cannot file as a parent. You must either establish paternity first or file as a non-parent.
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- **Non-Parent Custody** - *Complete this packet if you are **NOT** a “Parent” (as defined above) and this Court has not previously issued an order of Custody or Shared Parenting regarding the child(ren).*

HELPFUL HINTS

ALL FORMS MUST BE FULLY COMPLETED. EVEN IF YOU THINK THE REQUESTED INFORMATION IS NOT APPLICABLE TO YOUR CASE, YOU MUST COMPLETE ALL FORMS,

Juvenile Court Information Sheet:

- The filing party is always responsible for providing a mailing address for all parties
- You do not need to add other parties DOB or SSN's if you do not know that information
- Only PARTIES are required to be listed. Do not include non-parties like spouses or witnesses.

Motions / Complaints:

- All parties must be included on the Motion / Complaint. (See "Who is a Party" above).
- If there are not enough spaces provided for all parties, write the party's name and address in the blank space below the "Magistrate" line.

Affidavit of Income and Expenses:

- Complete this form with YOUR information.
- If you are a non-parent, circle "other" to indicate you are neither mother nor father.
- Where it asks for minor and / or dependent children, list ALL your minor and / or dependent children, regardless of whether they live with you or not.
- If a particular section does not apply, enter \$0 on the "Total" line to show you have read and completed the form.

Parenting Proceeding Affidavit:

- With the exception of #5, all questions on this form refer to the child(ren) you are filing for.
- Read each question carefully before responding. Most mistakes on this form occur because the filing party did not fully read the question.
- #5 – if anything in the paragraph applies, disclose it. If not, write "N/A"
- #6 – this question asks about persons who are NOT parties to the case.

Application for Child Support Services

- IF THIS FORM IS IN YOUR PACKET, IT IS REQUIRED even if you do not want child support and even if you receive Medicaid or other state benefits for the child.
 - APPLICANT = you
 - CHILD 1-3 = the child(ren) this case is about
 - ABSENT PARENT = the other parent if you are a parent filer or both parents (if applicable) if you are a non-parent filer regardless of who actually has custody

Instructions for Service

- Include each party on a separate line, including yourself.
- You may include multiple addresses for the same party. If you do, include each address on a separate line.
- You may attach multiple “Instructions for Service” forms if needed.
- You MUST indicate a service type for each party.
 - FILING PARTY (you) = regular mail
 - ALL OTHER PARTIES = must sign for service in order for it to be perfected. Most filers choose Certified Mail. Some choose Sheriff service.
 - If you choose sheriff, additional fees may apply. This fee is minimal in Montgomery County but may be higher in other counties or states.
 - ATTORNIES, GAL’s, AGENCIES, etc = notice only
- For child support related matters, include the Child Support Enforcement Agency
- Indicate your name and telephone number at the bottom of the form.

All Pro Se forms must be reviewed by Citizen Services and approved prior to filing.