

**ESTABLISHMENT OF CUSTODY, VISITATION, AND CHILD SUPPORT
INFORMATION AND INSTRUCTIONS**

CONFIDENTIALITY: If you have concerns about keeping information confidential such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the circuit court clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (844) 264-8080 (toll free) or (307) 755-0992. There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the *Petition to Establish Custody, Visitation and Child Support* or the *Counterclaim*.

This packet is to establish custody, visitation, and child support if you and the other parent were never married and both parents are listed on the birth certificate for each child. If paternity has not been acknowledged or established, please see your local child support agency for assistance. You must fill out all forms as completely as possible. If your forms are not complete, the Judge may reject your packet.

Instructions:

STEP 1. *Response or Response and Counterclaim.*

Two options exist – you may either file a *Response* to the *Petition to Establish Custody, Visitation, and Child Support* or file a *Response and Counterclaim*. Both options are explained below:

OPTION A. *Response to the Petition to Establish Custody, Visitation, and Support.*
If you have been served or have signed an *Acknowledgement and Acceptance of Service* form, you should file a *Response* to the *Petition to Establish Custody, Visitation, and Child Support* (“Petition”) with the Clerk of District Court where the *Petition* was filed. A **Response to the Petition** is a written document explaining to the court exactly which provisions you agree with and which provisions you deny. If you fail to respond, a default judgment may be entered against you and the Respondent may be entitled the relief he or she asked for in the *Petition*.

You must fill in the caption. DO NOT forget to include the case number. This is located in the caption of the *Summons* and/or *Petition*.

- i. **Admit or Deny.** To answer the papers, you should go through each and every paragraph of the *Petition* and either “admit” or “deny” each paragraph. If you do not have sufficient information to either admit or deny a particular allegation, you must state

that in your *Response*. If you disagree with something and you fail to “deny” it in your *Response*, the Judge can find that you admitted it.

ii. **Time limit to respond. You have only a limited amount of time to file a Response to the Petition.** Generally, if you were served within the State of Wyoming, you will have 20 days to file the *Response to the Petition*. If you do not file a *Response to the Petition* by your deadline, then the other party may obtain an *Order Establishing Custody, Visitation, and Child Support* giving him/her everything he/she requested in the *Petition*.

iii. **Computation of Time Limits.** In computing most time limits, unless otherwise stated, the day the pleading is served shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

NOTE: If you have any question or concerns as to when the deadline to file the *Response to the Petition* is, you should consult an attorney.

iv. **REQUIRED INFORMATION FOR CHILDREN:** Certain information is required to be given **under oath** for each child, unless you have a court order or are operating under another law allowing you to maintain confidentiality of addresses or other identifying information. If the information is not provided, the court, upon motion of a party or its own motion, may stop the case from going forward until the information is provided. The information necessary is included in the *Response* and the *Response and Counterclaim*.

v. **Notarizing Signatures.** You will need to sign the *Response to the Petition* and have it notarized. Notarial Officers may administer the oath and witness your signature, or in many cases, clerks of court will be willing to administer the necessary oath. Each clerk’s office has their own policy so check with them first before seeking notarization of your signature on the forms.

vi. **Certificate of Service:** Copies of all documents sent to or filed with the court must be sent to the Petitioner before the Judge will consider them. This is certificate is included at the end of each document that requires it.

vii. **Copies.** Make two (2) copies of the document. The original will be filed by the Clerk of District Court, one copy is for the Petitioner and the other copy is for you (the

Respondent). You will need to repeat this step for all documents you file with the Clerk's office;

OR

OPTION B. Response and Counterclaim. If you want the Judge to grant relief to you (for example, give you custody and order the other party to pay child support, etc.) you should file a **Response and Counterclaim.** A *Response and Counterclaim* responds to the *Petition* and gives you an opportunity to tell the court what you want to happen with the case. First, you will go through each and every paragraph of the *Petition* and either "admit" or "deny" each paragraph. Second, the *Counterclaim* portion of the document asks the Judge to give you what you want. You must fill out all of the information in the *Response and Counterclaim* completely.

- i. Follow **Step 1(ii)** through **Step 1(vii)** above.

NOTE: If you have any questions or concerns as to when the deadline to file the *Response and Counterclaim* is, you should consult an attorney.

- ii. **Petitioner's Reply to Your Counterclaim.** The Petitioner must reply to the *Counterclaim*. If you file a *Counterclaim*, the Petitioner will have 20 days to "reply" by filing a *Reply to Counterclaim*. The Petitioner will either admit or deny the separate allegations in your *Counterclaim*. If the Petitioner fails to reply to the *Counterclaim*, you may be entitled to file *Default* paperwork seeking the relief you request in your *Counterclaim*.

STEP 2. Initial Disclosures. The law requires certain information be made available to the other party within thirty (30) days after the Respondent's *Response* is required to be served on the Petitioner (use the table in 2.A. below to determine date), which information includes a summary of the facts believed to support the claim of superior entitlement to custody where child custody is at issue.

Please note that "A party must make its disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures."

A. **WHEN TO PROVIDE:** Initial Disclosures must be provided to the Petitioner (or his/her attorney) **WITHIN 30 DAYS AFTER YOUR *RESPONSE* IS REQUIRED TO BE SERVED ON THE PETITIONER** (use table below). **Be sure to keep a copy of your Initial Disclosures form for your records.** Use the following to determine the date when you and the Petitioner are required to provide initial disclosures to one another.

1. Begin with the date you were served with the Petition: _____

2. Next, determine when you are required to file a *Response*:
 - a. If you were served in Wyoming, add 20 days to the date in #1:

 - OR
 - b. If you signed an Acknowledgement and Acceptance of Service, add 20 days to the date in #1: _____
 - OR
 - c. If you were served out-of-state, add 30 days to the date in #1:

3. Add 30 days to the date in #2(a), (b), or (c): _____

The date set forth in #3 is the date by which you and the Petitioner must provide your completed Initial Disclosures forms to one another.

B. DO NOT FILE THE INITIAL DISCLOSURES WITH THE COURT. This form is only given to the Petitioner (or his/her attorney).

STEP 3. Fill out a *Confidential Financial Affidavit*.

- A. **Fill out a *Confidential Financial Affidavit* and attach all required documents.**
- Both parties are required to file a *Confidential Financial Affidavit* with the court with all the necessary supporting documentation.
 - **Required Attachments.** The *Confidential Financial Affidavit* must be supported with documentation of both current and past earnings. Proper documentation of current earnings includes, but is not limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. Include copies of income tax returns for the previous two years and your most recent pay stub(s) to show how much you have made so far this year.
 - The *Confidential Financial Affidavit* may be filed with the Clerk's office at the same time you file your *Response* or *Response and Counterclaim*.

STEP 4. If you and the Petitioner agree on all of the terms for custody, visitation and child support, then the *Order* will need to be filled out completely, signed by you and the Petitioner and both of your signatures need to be notarized. **In addition to signing the *Order*, you should also initial each page of the *Order* to verify that each page contains the terms you agreed upon.**

Here are some important laws and helpful hints in completing the *Order*:

- **Custody and Visitation.** You and the Petitioner need to determine which custody and visitation plan will apply in your circumstances. It is unusual for the Court not to award any visitation or supervised visitation for the non-custodial parent.
 - *If there is a concern that your child(ren) may be harmed by the other parent physically and/or emotionally, you should seek advice from someone familiar with parenting and child development issues. There may be an organization in your community that can help facilitate visitation between the children and you or the other parent. You can also contact the facilitators of any parenting classes in your community for ideas or additional resources.*

- **Factors to be considered for awarding custody and visitation.** The *Order* contains several options for custody and visitation arrangements. Ideally, both parents will work together to select the proper custody and visitation plan depending upon the family circumstances. In awarding custody and setting forth a visitation plan, Wyoming law requires that the Court consider the following factors:
 1. The geographic location of each parent;
 2. Each parent's willingness and ability to perform the child care duties associated with the child(ren), relative to the child(ren)'s stage of development such as feeding, changing, bathing, preparing the child(ren) for school, taking responsibility for the child(ren)'s homework, etc.;
 3. Each parent's ability to care for the child(ren)'s needs (consider not only historical involvement but a parent's willingness and ability to learn the necessary skills, as well);
 4. The lack of hostility between the parents;
 5. The ability of both parents' work schedules and the child(ren)'s schedule to accommodate extended access;
 6. The child(ren)'s age(s) and strength of attachment to each parent;
 7. The child(ren)'s relationship with his/her friends.

- **Child(ren)'s interests should control.** The use of a calendar for scheduling purposes is highly recommended. The parents' work schedules and the child(ren)'s school and extracurricular activities need to be considered when developing a visitation plan. This is especially true for those parents who do not enjoy a traditional work week. While visitation should be an enjoyable and enriching experience, it is an obligation and responsibility for each parent as well as a right and a privilege. Both parents must also have a good faith commitment to developing and carrying out a visitation plan. You need to focus on what type of schedule would be in the child(ren)'s best interest.

- **Parenting classes.** At any time, the Court may require parents to attend appropriate parenting classes, including, but not limited to, parenting classes to lessen the effects of custody battles on children. Both parents are generally required to attend classes when they are ordered. If the class is ordered, you **MUST** file a **Certificate of Completion** with the Clerk’s office. This certificate is provided by the class instructor.
- **Child Support Payments.** You will need to determine the amount of child support due based upon the *Confidential Financial Affidavits* you and the Petitioner completed. You may use the ***Child Support Computation Form*** as a guide to help you calculate the support due. Another option is to go online to:

<https://childdupport.wyoming.gov/calculator/index.html>

to calculate child support.

- **You CANNOT agree that no support will be paid.** The statutes allow for a reduced amount of support when you agree on joint physical custody and each parent keeps the child(ren) overnight for more than twenty-five percent (25%) of the year and both parents contribute substantially to the expenses of the children in addition to the payment of child support.
- If the difference between the noncustodial parent’s net income and the self-support reserve is less than the support obligation as calculated from the tables in 20-2-304(a), the support obligation shall be set using the difference between the noncustodial parent’s net income and the self-support reserve. “Self-support reserve” means the current poverty line for one (1) person as specified by the poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2). See W.S. § 20-2-304(f).
- There are **NO DEVIATIONS** from the presumed support allowed **UNLESS** the Court **CHOOSES** to deviate from the set amount because the amount was unjust or inappropriate in the particular case. The Court must include the specific reasons for deviation in the *Order Establishing Custody, Visitation, and Child Support*.
- **NO AGREEMENTS FOR LESS THAN THE PRESUMED SUPPORT CAN BE APPROVED IF GOVERNMENT OR STATE BENEFITS (SUCH AS MEDICAID (TITLE 19), FOOD STAMPS, POWER, ETC.) ARE BEING PROVIDED ON BEHALF OF ANY CHILD.** This means the Court cannot lower the amount of child support calculated by using the net income of you and the Petitioner even if you and the Petitioner agree to a lower amount of support.

- **Medical Support.** The law requires that medical support for the child(ren) be included as part of any child support order. The Court shall order either or both of the parents to provide medical support, if insurance can be obtained at a reasonable cost and the benefits under the insurance policy are accessible to the children. This may include dental, optical or other health care needs for the child(ren). In addition, the Court will order that any medical expenses not covered by insurance and any deductible amount on the required insurance coverage be paid by one or both parents. If both parents are ordered to pay for expenses not covered by insurance, the Court will specify the proportion for which each parent is responsible (for example, 50% to Petitioner and 50% to Respondent).
- **When will your order become final?** Your order will not be final until the Judge signs the *Order Establishing Custody, Visitation, and Child Support* and it is filed with the Clerk of Court. This process may take time if the Judge requires changes to the proposed *Order*. You must verify with the Clerk's office that the *Order* has been file-stamped before you can be sure your *Order* is final. The time limit to appeal an *Order* begins to run from the day the *Order* is filed with the Clerk's office.

STEP 5. If you and the Petitioner do NOT agree on all issues of your case, you will need to have a trial:

A. **Trial.** If you and the Petitioner cannot agree on all issues, your case will have to be heard and decided by a Judge at a trial.

- **Caution:** It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. You proceed at your own risk and will be expected to know the laws.

B. **Request a trial date.** If the Petitioner has **NOT** done so, you will need to request a hearing by completing a *Request for Setting*. Write in "trial" where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one (1) to three (3) hours). You also need to decide whether or not you want a court reporter to record the proceeding. SEE BELOW FOR DETAILS ON GETTING A COURT REPORTER. If a hearing is not recorded by an official court reporter, a transcript of the hearing will not be available. It is very difficult to appeal the Judge's decision if you do not get a court reporter to take down everything that is said at the trial.

- You must file the *Request for Setting* and the *Order Setting Trial and Requesting Pretrial Statements* with the Clerk's office, and the Court will fill in the hearing date and time and mail a copy to you and the other party. You will need to provide an addressed, stamped envelope for you and the Petitioner to the Clerk.

Once a trial date has been set, do the following:

C. **Pretrial Disclosures.** - Both parties must provide to the other party AND PROMPTLY FILE WITH THE COURT the *Pretrial Disclosures* regarding the evidence that it may present at trial. If you have questions, you should contact an attorney.

- When are the *Pretrial Disclosures* due? Unless otherwise directed by the Court, these disclosures must be made at least **30 days before trial.**
- Take the original and two (2) copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Petitioner (or his/her attorney).

- **Settlement before trial.** In the event that your case settles before the trial, you must present the Court with the completed and signed *Order Establishing Custody, Visitation, and Child Support* in writing before the Court will take the trial off of the schedule. There will be no continuances or canceling of the trial date based on telephone calls. If you need a continuance, you should contact an attorney for assistance in seeking one.

- **Court Reporter.** If you wish to have a court reporter, you shall provide notice to the appropriate official court reporter as soon as possible, but no later than **three (3) working days** before the matter is set for hearing. You can provide notice to the court reporter by phone or by submitting a written request. Please note that if providing notice through the mail, the request must be received by the court reporter no later than three working days prior to the hearing. The clerk will be able to inform you which court reporter to contact. The three-day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials.

- **Evidence and witnesses.** At the hearing, you will need to present your evidence and witnesses. If the *Order Setting Trial and Requesting Pretrial Statements* is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually 3 to 5 days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.

- **Final Decision (*Order Establishing Custody, Visitation, and Support*).** Following the trial, the Judge will make a decision or may take the matter under advisement, meaning he or she will need to think further before making a determination. If the Judge instructs you, you must take that decision and type it into the *Order Establishing Custody, Visitation, and Child Support* incorporating the Judge's decision.

- **You are again reminded that, if you choose to continue without an attorney, you are expected to know what to do and how to do it. The Judge will not guide you through the trial/hearing, tell you how to proceed or advise you on the law.**

- **When will your order become final?** Your order will not be final until the Judge signs the *Order Establishing Custody, Visitation, and Child Support* and it is filed with the Clerk of Court. This process may take time if the Judge requires changes to the proposed *Order*. You must verify with the Clerk's office that the *Order Establishing Custody, Visitation, and Child Support* has been file-stamped before you can be sure your order is final. The time limit to appeal the *Order* begins to run from the day the *Order Establishing Custody, Visitation, and Child Support* is filed with the Clerk's office.

RECAP for Respondent's Documents:

1. File a *Response* or *Response and Counterclaim* within 20 days from the date you were served (or 30 days if served out of state)
 - Mail a copy to the Petitioner and keep a copy for your records
2. File a *Confidential Financial Affidavit* and the required attachments
 - Mail a copy to the Petitioner and keep a copy for your records
3. Assist the Petitioner in filling out the *Order Establishing Custody, Visitation, and Child Support* if you both agree on all the terms.

Sign the *Order Establishing Custody, Visitation, and Child Support* in front of a notarial officer.
4. If you and the Petitioner do NOT agree on all of the terms, and a trial is needed, follow these steps:
 - a. File a *Request for Setting and Order Setting Trial and Requiring Pretrial Statements* **ONLY** if the Petitioner has **NOT** done so.
 - b. Take an original and two (2) copies of the *Order Setting Trial and Requiring Pretrial Statements* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Petitioner with enough postage to cover the cost of mailing the *Order Setting Trial and Requiring Pretrial Statements* to you and the Petitioner).
 - c. File your *Pretrial Disclosures* **30 days** before the trial date.
 - Mail a copy to the Petitioner and keep a copy for your records (do not file with the Court)
 - d. No later than 3 working days before the trial, request a court reporter, if desired (and if the Petitioner has not already done so)
 - e. Attend the Trial
 - f. Complete and file any additional documents required by your Court.

Your case is final when the *Order Establishing Custody, Visitation, and Child Support* has been signed by the Judge and filed by the Clerk.