

**INSTRUCTIONS FOR SUMMONS AND PETITION IN PATERNITY
ACKNOWLEDGMENT ACTION UNDER §767.805 WIS. STATUTES.**

This form is intended for use by a parent who wishes to start a court action concerning custody, placement or support where both parents have jointly signed and filed with the State a statement acknowledging paternity. IT IS NOT TO BE USED to start an action to determine paternity in cases where there has not been an acknowledgment of paternity. It is not to be used if the paternity acknowledgment was signed before April 1, 1998. Please note that in addition to the Summons and Petition, you should also request a hearing by using the second form labeled "Notice of Motion & Motion for Hearing in a Paternity Acknowledgment Action."

STEP 1: FILL OUT THE FORM

You should read and fill out the form as completely as possible. Type or print neatly. Please carefully review the following instructions.

SUMMONS

Page One

In the caption at the top of the page, print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".

In the middle of the page, print your name on the first blank line. Print your address on the second and third lines.

Page Three

Date and sign the document at the bottom of page three. Print your address on the last line.

PETITION FOR CUSTODY, PLACEMENT AND CHILD SUPPORT

In the caption at the top of the page, print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".

1st Paragraph:

In the first sentence, fill in your name after "I". In the blank at the end of the sentence fill in the date on which the paternity acknowledgment form was filed with the State.

Print the child's name on the line under the label "NAME" and the child's date of birth on the line under the label "DOB".

In the last paragraph which starts out "The petitioner requests the following relief cross off the items that you do not want the court to order.

Sign the form on the line labeled "Petitioner". Fill in the date below your signature.

UNIFORM CHILD CUSTODY JURISDICTION ACT AFFIDAVIT (GF-150)

This form is listed separately from this packet online on the Clerk of Court's Family Court Forms page: <http://www.co.dane.wi.us/clrkcourt/prepare/formFamily.aspx>. You will need to print it in addition to this packet if you have found these forms online, or you can obtain a copy of this form from the Legal Resource Center, Room L10007 of the Dane County Courthouse,

for a small fee. Complete the form by following the instructions that are listed in the left margin.

CONFIDENTIAL PETITION ADDENDUM (GF-179)

This form is listed separately from this packet online on the Clerk of Court's Family Court Forms page: <http://www.co.dane.wi.us/clrkcourt/prepare/formFamily.aspx>. You will need to print it in addition to this packet if you have found these forms online, or you can obtain a copy of this form from the Legal Resource Center, Room L10007 of the Dane County Courthouse, for a small fee. Complete the form by following the instructions that are listed in the left margin.

MAKE THREE ADDITIONAL COPIES OF YOUR DOCUMENTS AFTER YOUR SIGNATURE ON THE UNIFORM CHILD CUSTODY AFFIDAVIT IS NOTARIZED.

Follow the additional steps listed below after you have filled in the forms labeled Notice of Motion for Hearing in Paternity Acknowledgment Action and the Affidavit in Support of Motion for Hearing. (See those forms and instructions).

Step 2: FILE CASE AND PAY FEE

1. Take the original and three copies of the forms to the Clerk of Courts, Room 1000, Dane County Courthouse, 215 S Hamilton St., Madison, WI 53703 in order to file the case. You will have to pay a filing fee of \$185.

If you believe that you are entitled to a waiver of the fee because of poverty, fill out a Petition for Waiver of Filing and Service Fees available in the Court Commissioners Center, Room 2000. **The Court Commissioner will determine if the fee can be waived. If you ask for a waiver, do so before paying any fees, not after.**

2. After filing the case in Room 1000, go to the Court Commissioners Center, Room 2000, to obtain a date for the hearing on your motion.

3. Obtain two Income and Expense Statement forms from the Dane County Legal Resource Center, Room L1007 of the Dane County Courthouse, or online on the Dane County Clerk of Courts Family Court Forms webpage: <http://www.co.dane.wi.us/clrkcourt/prepare/formFamily.aspx>. Attach one blank form to the papers being served on the other party. Keep one form yourself; you must complete one and bring it to the hearing.

Step 3: SERVE THE SUMMONS AND PETITION, NOTICE OF MOTION FOR HEARING, AND A BLANK INCOME AND EXPENSE STATEMENT ON THE OTHER PARTY.

You must serve the other party. Service must be made within 90 days of the date the case is filed and can be made in one of the following three ways:

Service by Sheriff

If the other party lives in Dane County, you may serve the other party by contacting the Civil Process Division of the Dane County Sheriff's Department, Rm. 2002, Public Safety Building, 115 W. Doty Street, Madison, 53703. The Sheriff will need two copies of the forms you filed. There is a \$40 charge for every service or attempted service, plus 55.5¢ per mile, round trip that

the deputy travels. There will be no fee if you qualify for a fee waiver. Once the Sheriff has served the forms, you will be sent a Proof of Service form. When Proof of Service is returned, mail or take the original to the Court Commissioners Center in Room 2000 **after you make a copy** of the Proof of Service for yourself.

If the person to be served lives outside of Dane County, call the sheriff in that county for instructions on service of the papers.

Service by Private Process Server

You may use a private process server to serve the documents. Look in the yellow pages under "process servers". Once the documents have been served, you will be sent a Proof of Service. When Proof of Service is returned, mail or take the original to the Court Commissioners Center in Room 2000 **after you make a copy** of the Proof of Service for yourself.

Admission of Service

If you believe the respondent will be willing to admit that he or she received the documents, you can have the respondent admit receiving the documents on an Admission of Service form available at the Dane County Legal Resource Center, Room L1007, Dane County Courthouse. If an Admission of Service form is signed by the respondent, you do not need to have the respondent served by the sheriff or a private process server. If the respondent signs an Admission of Service, mail or take the original to the Court Commissioners Center in Room 2000 **after you make a copy** of the document for yourself.

Last Updated: 2/19/09

SUMMONS

_____,
Petitioner,

**PATERNITY ACKNOWLEDGMENT
ACTION UNDER § 767.805 Wis. Stats.**

Petitioner's address and date of birth
VS.

Paternity Acknowledgment # 40503

_____,
Respondent.

Case # _____

Respondent's address and date of birth

TO THE PERSON NAMED ABOVE AS A RESPONDENT:

You are notified that the petitioner named above has filed a legal action against you. The petition, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the petition. The court may reject or disregard any answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is:

DANE COUNTY COURT COMMISSIONER CENTER
DANE COUNTY COURTHOUSE, ROOM 2000
215 S HAMILTON STREET, MADISON WI 53703

and to: _____, the petitioner, whose address is:

You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the petition, and you may lose your right to object to anything that is or may be incorrect in the petition. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

As required by WI Stat. §767.215(2m)(a)(2), accompanying this Summons will be a document setting forth the percentage standard for child support established by the Department of Workforce

Development under § 49.22(9), Stats, and listing the factors that a court may consider for modification of that standard under § 767.511(1m), Stats.

You are hereby notified that if you and the petitioner have any minor children, violation of the following criminal statute is punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both (Class F felony); or by a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both (Class I felony):

§ 948.31 Interference with custody by parent or others.

(1) (a) In this subsection, "legal custodian of a child" means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
2. The department of health and family services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody or supervision of the child has been transferred under ch. 48 or 938 to that department, person or agency.

(b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court–approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

(2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child’s parents or, in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.803, from the child’s mother or, if he has been granted legal custody, the child’s father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class I felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.

(3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class F felony:

(a) Intentionally conceals a child from the child’s other parent.

(b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(14).

(c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court–approved period of physical placement or visitation period.

(4) (a) It is an affirmative defense to prosecution for violation of this section if the action:

1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
 2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;
 3. Is consented to by the other parent or any other person or agency having legal custody of the child;
- or
4. Is otherwise authorized by law.

(b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(5) The venue of an action under this section is prescribed in s. 971.19 (8).

(6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s. 973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

You are also notified that, under WI Stat. §767.105(2), you may request, and may have to pay for, the following written information from the Court Commissioner:

1. The procedure for obtaining a judgment or order in this action.
2. The major issues usually addressed in such an action.
3. Community resources and family court counseling services available to assist the parties.
4. The procedure for setting, modifying, and enforcing child support awards or modifying and enforcing legal custody or physical placement judgments or orders.
5. A copy of the statutory provisions in Chapter 767 generally pertinent to this action for inspection or purchase.

You are further notified of the availability, upon request of the Court Commissioner and with or without charge, of written information on the procedures in this action and any community resources and counseling services available to assist the parties.

Attached to this document is an affidavit concerning custody which is given in compliance with Wis. Stats. § 822.29.

If you require services because of a disability, please call 608-266-4311 (TDD 608-266-9138) and ask for the court ADA Coordinator.

Dated this _____ day of _____, 20____.

By: _____
(signature of petitioner)

Full Name--Typed or Handwritten

Address

_____,
Petitioner,

**PETITION FOR CUSTODY,
PLACEMENT AND CHILD SUPPORT**

**PATERNITY ACKNOWLEDGMENT
ACTION UNDER § 767.805 Wis. Stats.**

Petitioner's address and date of birth
VS.

_____,
Respondent.

Paternity Acknowledgment # 40503

Case # _____

Respondent's address and date of birth

I _____ am the parent of the following child based on a signed acknowledgment filed with the State on _____.

CHILD'S NAME

DOB

Upon information and belief, no other action for custody, placement and support of the child has been commenced by either of the parents or is pending in any other court or before any judge in this state or elsewhere.

Upon information and belief, the parents have not entered into any written agreement as to custody, placement and support for the child.

The petitioner requests the following relief:
(Cross off whichever provisions you do not think apply)

1. An order determining custody and placement.
2. An order for child support.
3. An order for health care expenses and insurance.
4. An order for birth expenses of the child and mother.
5. The costs of this action.
6. Any other relief that is appropriate.

Petitioner

Dated this _____ day of _____, 20__

**INSTRUCTIONS FOR NOTICE OF MOTION, MOTION FOR HEARING IN PATERNITY
ACKNOWLEDGMENT CASE**

This form is intended for use by one of the parties to a paternity acknowledgment action who wishes to have a family court commissioner hold a hearing and determine issues concerning custody, placement, child support, health insurance for the child, payment of uninsured health care expenses, payment of expenses relating to the birth of the child and award of the dependency exemption for the child. These documents will usually be filed at the same time as the summons and petition commencing the paternity acknowledgment case. If the documents are filed together, the respondent can be served with the summons, petition and documents concerning the hearing at the same time.

Step 1: FILL OUT THE FORM

Read and fill out the form. Type or print neatly. Please review carefully the following instructions.

**NOTICE OF MOTION AND MOTION FOR HEARING IN PATERNITY
ACKNOWLEDGMENT CASE**

Caption:

Fill in the names of the parties at the top of the form. Print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent" .

Under the first sentence which reads "PLEASE TAKE NOTICE THAT the petitioner moves the court to order" are listed a number of issues which you may request the court commissioner to decide. They are numbered 1-4. Cross off the issues that you do not want the commissioner to address. (Please note that even if you do not want certain issues addressed, the other parent may request at the hearing that an order be entered concerning those issues).

Leave blank the lines which state the date, time and place of the hearing and the name of the commissioner who will hold the hearing. The Court Commissioners Center will give you this information later.

Sign your name and fill in the date at the bottom of the page.

AFFIDAVIT IN SUPPORT OF MOTION FOR HEARING

Caption:

Print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".

Print your name in the first line after "I".

Sign your name and fill in the date IN FRONT OF a notary public who will witness your signature.

MAKE THREE ADDITIONAL COPIES OF YOUR DOCUMENTS AFTER YOUR SIGNATURE ON THE AFFIDAVIT IN SUPPORT OF MOTION FOR HEARING IS NOTARIZED.

Step 2: **OBTAIN A COURT DATE**

Follow the instructions outlined in Step 2 of the form labeled INSTRUCTIONS FOR SUMMONS AND PETITION IN PATERNITY ACKNOWLEDGMENT ACTION UNDER §767.805 WI STATS.

Step 3: **SERVING THE DOCUMENTS**

Follow the instructions outlined in Step 3 of the form labeled INSTRUCTIONS FOR SUMMONS AND PETITION IN PATERNITY ACKNOWLEDGMENT ACTION UNDER §767.805 WI STATS.

_____,
Petitioner,

**NOTICE OF MOTION &
MOTION FOR HEARING**

**PATERNITY ACKNOWLEDGMENT
ACTION UNDER § 767.805 Wis. Stats.**

Petitioner's address and date of birth
VS.

_____,
Respondent.

Paternity Acknowledgment # 40503

Case # _____

Respondent's address and date of birth

PLEASE TAKE NOTICE THAT the petitioner moves the court to order:
(Cross off the provisions that do not apply)

- 1. That the court determine issues of custody and placement.
- 2. That the court address the issue of child support.
- 3. That the court address the issue of health insurance for the minor child and payment of uninsured health care expenses.
- 4. That the court address the issue of birth expenses for the child and mother.

Such other and further relief as may be just, equitable and necessary.

This motion will be heard:

DATE: _____

TIME: _____

ROOM: _____

PRESIDING OFFICIAL: _____

ADDRESS: DANE COUNTY COURT COMMISSIONER CENTER
ROOM 2000 DANE COUNTY COURTHOUSE
215 S HAMILTON STREET
MADISON WI 53703

If you have a disability and need help in court, please call 608-266-4311 (TDD 608-266-9138) and ask for the court ADA Coordinator.

If you fail to appear the court may proceed without you and an order may be entered.

Petitioner _____ Dated: _____

_____,
Petitioner,

**AFFIDAVIT IN SUPPORT OF
MOTION FOR HEARING**

Petitioner's address and date of birth
VS.

**PATERNITY ACKNOWLEDGMENT
ACTION UNDER § 767.805 Wis. Stats.**

_____,
Respondent.

Paternity Acknowledgment # 40503

Respondent's address and date of birth

Case # _____

I, _____, being first duly sworn
state the following:

1. I am a parent of the child named in the summons and petition in this case. A paternity acknowledgment has been signed and filed with the State of Wisconsin.
2. The issues of custody, placement, support, health insurance and payment of birth expenses have not been resolved.
3. I request that a hearing be held to address these issues.

Dated this _____ day of _____, 20_____.

BY: _____
Name of Petitioner

Subscribed and sworn to before me
this _____ day of _____ 20_____.

Notary Public

State of Wisconsin
My commission expires: _____