

GETTING CUSTODY FOR FATHERS IN ILLINOIS

Use these forms if all of the following are true for you:

- 1. You are a father who wants joint or sole custody of your child(ren)
 - *Joint custody* means that you and the other parent cooperate in raising the child(ren) and consult one another on major life decisions regarding the child(ren)'s education, religion and health care. Typically, a court will order one of the parents to be the "residential parent" – this is the parent with whom the children live most of the time. The nonresidential parent will be ordered to pay child support and be allowed visitation.
 - *Sole custody* means that one of the parents is chosen as the primary custodial parent. This means that the child(ren) will live with that parent and that parent can make decisions about the child(ren)'s education, health care and religion without consulting the other parent. Sole custody does NOT mean that the other parent is not involved with the child(ren). Unless the other parent poses a danger to the child(ren), the court will order visitation between the child(ren) and the other parent. The other parent also has a right to access the child(ren)'s school and medical records and to participate in his/her activities. The noncustodial parent will be ordered to pay child support.
- 2. You and the child(ren)'s mother were never married
- 3. Your paternity of the child(ren) has been established by one of the following two documents:
 - You and the mother signed a VAP (Voluntary Acknowledgement of Paternity) for each child for whom you want custody OR...
 - You and the mother signed an Illinois birth certificate for each child for whom you want custody (if the children have different mothers, then you must petition separately for custody of each child)
- 4. There has never been a paternity case filed by or against you relating to the child(ren)
- 5. You have not been ordered to pay child support by a court or an administrative agency
 - If you are already paying child support by order of a court, then paternity and custody have been established and you cannot use these materials. You should use another set of forms called "Petition to Modify Custody."
- 6. Your child's or children's "home state" is Illinois
 - For children over 6 months old, Illinois is their home state if they have lived in Illinois for the last 6 months.
 - For children under 6 months old, Illinois is their home state if they have lived in Illinois since birth.

If you meet **all six** of the above qualifications, then you can use the following forms to petition for child custody, child support and visitation.

Now, follow the **Instructions** on the next page.

INSTRUCTIONS FOR PETITION TO ESTABLISH CUSTODY
Fathers with a Voluntary Acknowledgement of Paternity (VAP)

1. Fill out the **Petition to Establish Custody**. You are the Petitioner; the mother is the Respondent. Make 2 copies. Attach a copy of the **Voluntary Acknowledgement of Paternity (VAP)** or the **official Illinois Birth Certificate** for each child listed on the petition.
2. Get the appropriate **Summons** (the type of Summons may vary depending on the county) from the Circuit Clerk and complete it. Again, fill in your name as the Petitioner, and the mother's name as the Respondent.
3. File **Petition** and a **Summons** with the Circuit Clerk. The Circuit Clerk will file stamp your papers and keep the originals. Bring 1 copy of Petition and the Summons to the Sheriff's Office to be served on the Respondent-Mother. Keep 1 copy of the Petition for your records.

NOTE: Whenever you file papers with the Clerk, you are required to pay filing fees. If you wish to waive the filing fees, then go to the following link [How to File Court Papers for Free](#) or enter "fee waiver" into the search box on the Illinois Legal Aid website and complete the automated form, known as a "pauper's petition."

4. Wait 30 days after the Summons went to the Sheriff. You can call the Circuit Clerk or Sheriff to find out when it was served on the Respondent-Mother. If you have problems serving the mother, then read the information at the following link [How Do I Serve a Summons](#).
5. After 30 days have passed, from when the Respondent-Mother was served, contact Circuit Clerk to schedule a court date for a hearing on your petition.
6. Using the information the Clerk gives you about the court date, fill out **Notice of Hearing**. Make 2 copies. File the original with Clerk. Mail 1 copy to the mother, by regular mail. Keep 1 copy for your records. Make sure that you mail the notice of hearing and the petition at least 21 days before the date of the hearing.
7. After mailing **Notice of Hearing**, fill out the **Proof of Mailing– Notice of Hearing**. Make 1 copy. File the original with the Clerk. Keep the copy for your records. (You do not need to send a copy of the Proof of Mailing to the mother.)
8. Before the hearing, prepare the **Order for Custody** by filling in the parents' names and the children's names on the first page of the Order. The Judge will complete the rest of the Order at the hearing. Make 2 copies of the Order.
9. Go to the hearing. Try to arrive at the courtroom 10 minutes before your scheduled hearing time. Check in with the judge's clerk then sit down and wait for the judge to call your case. When the judge calls your case, step up to the bench and hand the judge the order.
10. If the mother shows up in court, the judge will ask her some questions. If the mother opposes your Petition, you will have a contested custody trial. A contested custody trial can get complicated; consider consulting a family-law attorney if this occurs.

If the mother does not come to court, the judge will ask you some questions and will complete an order. After court, mail the mother a copy of the Order by regular mail.

11. File the form titled "Proof of Mailing – Order for Custody" with the Circuit Clerk.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
 _____ COUNTY, ILLINOIS

IN RE: _____)
)
 Petitioner, _____)
)
 and _____) No. _____)
)
 Respondent. _____)
)

PETITION TO ESTABLISH CUSTODY, CHILD SUPPORT AND A VISITATION SCHEDULE

_____, the Petitioner, without the assistance of an attorney, asks this Court to enter an Order giving me custody of the minor child(ren) listed in this Petition. In support of this Petition, I state as follows:

1. Petitioner's information:

Name	Address	Date of Birth	Employer	Occupation

2. Respondent's information:

Name	Address	Date of Birth	Employer	Occupation

3. Residency (*Check all that apply*):

- A. I have lived in Illinois since _____ DATE _____.
- B. Respondent has lived in Illinois since _____ DATE _____.

4. Children

A. I am the father, and Respondent is the mother, of the following child(ren):

Child's Name	Date of Birth (Month / Date / Year)	Currently Living With
1.		
2.		
3.		
4.		
5.		

(Attach additional pages as needed)

B. **Check (a) or (b):**

- (a) My paternity of the child(ren) has been established by a **Voluntary Acknowledgement of Paternity** (VAP) signed by both Petitioner and Respondent. One copy of each VAP is attached to this petition.
- (b) My paternity of the child(ren) has been established by an **official Illinois birth certificate** signed by both Petitioner and Respondent. One copy of each birth certificate is attached to this petition.

C. The minor child(ren) has/have lived at the following addresses for the last 5 years, starting with the most recent address (if there is more than one child and the children have lived apart at any time during the last 5 years, then attach additional pages):

Child(ren)'s Name(s) ⇄			
From (date) ↓	To (date) ↓ current	Address ↓	Lived with whom? ↓

(Attach additional pages as needed)

D. The minor child(ren) now live(s) with: **Petitioner** **Respondent** **Both of us**

Or Other [describe the child(ren)'s current living situation]: _____

E. **Check all that apply:**

- (a) The minor child(ren) **over** the age of 6 months have lived in Illinois for at least the last 6 months.
- (b) The minor child(ren) **under** the age of 6 months have lived in Illinois since birth.

F. Other than the Petitioner and Respondent in this case, no other person claims to have rights of custody and / or visitation with the minor child(ren), except:

G. I understand that I have a continuing duty to inform the court of any legal proceeding in Illinois, or any other state, that could affect child custody or visitation.

H. **Check (a) or (b):**

- (a) I know of **no other court cases** or orders in Illinois, or any other state, concerning the parties or child(ren) (such as orders of protection, paternity, divorce, custody, visitation, child or spousal support, juvenile court cases, cases involving DCFS, etc.).
- (b) I know of the following court cases, pending or closed, concerning the parties or child(ren) (such as orders of protection, paternity, divorce, custody, visitation, child or spousal support, juvenile court cases, cases involving DCFS, etc.):

Attach any written agreement(s), or state the details of the agreement(s) here:

(Attach additional pages as needed)

Relief Requested:

Therefore, I ask that a Judgment be entered which provides as follows (**Check all that apply**):

A. That **sole custody** of the minor child(ren) be awarded to me.

OR

B. That **joint legal custody** of the minor child(ren) be awarded, with me to be the residential parent.

OR

That **joint legal custody** of the minor child(ren) be awarded, with Respondent as the residential parent.

C. That Respondent's visitation with the minor child(ren) be: Allowed Restricted
 Barred Reserved

OR

That liberal visitation with the minor child(ren) be awarded to me.

D. That Respondent pay child support. (*Check this box only if you are asking the Court for sole custody or to be the residential parent with joint custody.*)

OR

That I pay child support. (*Check this box only if you are asking to be the non-residential parent with joint custody.*)

E. That any other appropriate relief be granted.

CERTIFICATION

Under the penalties for perjury provided by Section 1-109 of the Illinois Code of Civil Procedure, I certify that my statements in this document are true and correct.

DATE: _____

SIGNED: _____
PETITIONER

PRINT PETITIONER'S NAME _____

PETITIONER'S ADDRESS _____

CITY / STATE / ZIP _____

TELEPHONE _____

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

IN RE:

Petitioner,

and

Respondent.

)
)
)
)
)
)
)
)
)

No. _____

PROOF OF MAILING - Notice of Hearing

Under the penalties for perjury provided by Section 1-109 of the Illinois Code of Civil Procedure, I certify that on _____, 20____, I mailed by 1st Class U.S. Mail a copy of the **NOTICE OF HEARING** addressed to:

PRINT RESPONDENT'S NAME

RESPONDENT'S ADDRESS

CITY / STATE / ZIP

DATED: _____, 20____

SIGNED: _____
PETITIONER

PRINT PETITIONER'S NAME

PETITIONER'S ADDRESS

CITY / STATE / ZIP

TELEPHONE

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

IN RE: _____)
)
Petitioner, _____)
)
and _____) No. _____)
)
Respondent. _____)
)

ORDER FOR CUSTODY, CHILD SUPPORT AND VISITATION

A hearing on the Petition to Establish Custody, Child Support and Visitation was held in this case on _____.

Proper notice of that hearing was given, and Petitioner Respondent appeared.

The Court **FINDS AS FOLLOWS:**

1. The Court has personal jurisdiction over the parties, and subject matter jurisdiction over this case.
2. Petitioner and Respondent was/were an Illinois resident(s) when the Petition for Custody, Child Support and Visitation was filed, and maintained an Illinois residence for 90 days prior either to that filing date, or to the date of this Order.

3. Children

A. The following child(ren) were born to or adopted by the parties:

Name	Date of Birth (Month / Date / Year)
1.	
2.	
3.	
4.	

(Attach additional pages if needed)

B. Respondent is not now pregnant.

4. Custody

It is in the best interests of the child(ren) that :

A. **Sole custody** of _____
NAME OF CHILD(REN)

be awarded to Petitioner.

B. **Joint custody** of _____
NAME OF CHILD(REN)

be awarded to the parties, with Petitioner or Respondent as the residential parent.

5. Visitation

It is in the best interests of the child(ren) that the Court order visitation as follows:

A. **Deny** **Restrict** visitation to Respondent because: _____

B. Grant reasonable visitation to Respondent.

C. Grant reasonable visitation to Petitioner.

6. Child Support

A. 1. **Respondent** is: employed unemployed.

2. **Respondent** is: able unable to contribute to the support of our minor child(ren)

B. 1. **Petitioner** is: employed unemployed.

2. **Petitioner** is: able unable to contribute to the support of our minor child(ren)

Therefore, IT IS HEREBY ORDERED: (to be completed by the judge)

A. Custody

That **sole custody** of the minor child(ren) be awarded to Petitioner.

That **joint legal custody** of the minor child(ren) be awarded, with Petitioner designated as the residential custodian.

That **joint legal custody** of the minor child(ren) be awarded, with Respondent designated as the residential custodian.

B. Visitation

That Respondent's / Petitioner's (*circle one*) visitation with the minor child(ren) be:

Barred Reserved

Restricted, as follows:

Allowed, upon the following terms:

Reasonable visitation to be determined by agreement of the parties.

Reasonable visitation, as follows:

C. Child Support

That the issue of child support be reserved.

That Respondent / Petitioner (*circle one*) pay child support as follows:

D. Other

Additional relief as follows:

DATED: _____, 20__

ENTER: _____
JUDGE

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

IN RE:

Petitioner,

v.

Respondent.

)
)
)
)
)
)
)
)
)

No. _____

PROOF OF MAILING - Order for Custody, Child Support and Visitation

Under the penalties for perjury provided by Section 1-109 of the Illinois Code of Civil Procedure,

I certify that on _____, 20____, I mailed by 1st Class U.S. Mail a copy of the **ORDER FOR CUSTODY** addressed to:

PRINT RESPONDENT'S NAME

RESPONDENT'S ADDRESS

CITY / STATE / ZIP

DATED: _____, 20____

SIGNED: _____
PETITIONER

PRINT PETITIONER'S NAME

PETITIONER'S ADDRESS

CITY / STATE / ZIP

TELEPHONE