

Circuit Court of Hampshire County

SONJA K. EMBREY, CLERK

Post Office Box 343

50 South High Street, Suite 157

Romney, West Virginia 26757



304-822-5022

304-822-8257-FAX

Email: sonja.embrey@courtswv.gov

Website: www.hampshirecircuitclerkwv.com

IMPORTANT NOTICE to ProSe Filers

- **READ ALL INSTRUCTIONS CAREFULLY**
- **MUST** file a copy of Marriage Certificate/License when filing for Divorce
- Circuit Clerk's Office cannot help fill out the forms or give legal advice
- CASH, MONEY ORDER or CREDIT CARD are accepted
 - Cash **MUST** be exact change
 - No Personal Checks
 - Credit Card service Fee when paying via credit card
- You must have a complete address for the Respondent
 - NO PO Boxes for services via Sheriff
- All forms must be completed before filing; including Notarization(s)
 - Please note that there isn't a Notary in Hampshire County Circuit Clerk's Office.
- The Hampshire County Circuit Clerk has transitioned to WV e-File as of January 2016. As a result of electronic filing it is not necessary to make additional copies of the paperwork you are filing. You will receive all of your original documents in return after filing.

Thank you,

Sonja K. Embrey
Circuit Clerk

Filing Fees

Divorce Cases	\$135	Modification	\$85
Child Support and/or Custody	\$200	Expedited Modification	\$35
Other Domestic Cases	\$200	Contempt - service fees only	N/A

Service and Other Fees

Service via Certified Mail	\$20	Parenting Class Fee	\$25
Service via WV Sheriff	\$30		

**PETITION FOR SUPPORT
&
ALLOCATION OF CUSTODIAL RESPONSIBILITY**

*** IMPORTANT INFORMATION ***

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP OF AN ATTORNEY.

You may file a Petition for Support and Allocation of Custodial Responsibility without the assistance of an attorney, and represent yourself in Family Court, **BUT** your rights may be better protected with the help of an attorney.

The staffs of the Circuit Clerk's Office and the Family Court are prohibited by law from providing legal advice.

Please notify the Circuit Clerk's Office in advance if you require any special arrangements to fully participate in court proceedings; for example, a language interpreter, hearing or visual aids, or accommodations for physical access.

INSTRUCTIONS

The Petition for Support and Allocation of Custodial Responsibility Packet contains these Instructions, a Petition form, a Bureau for Child Support Enforcement Application, Financial Statement Form, and Income Withholding Form, a Civil Case Information Statement form, and a Certificate of Service form. You can use these forms to petition the Family Court to grant you custodial responsibility for a child, and / or to require another person to help support a child.

Read these instructions carefully, and **write clearly** when you fill out the forms. If the instructions are not followed, or if the forms are not properly completed, your case may be harmed, or delayed. It's best to read all of the instructions before you start filling out the forms. You may want to make a couple of copies of the blank forms before you start filling them out. You can use these spare copies to practice on, or if you make an error.

The forms require you to provide your name, address, and telephone number. **If you believe your safety, liberty, or health, or the safety, liberty, or health of your children would be put a risk by the disclosure of this information, you may file an affidavit to have the information withheld from all persons except court employees who require the information to carry out their duties.** The affidavit you need to file is the Affidavit for Withholding Identifying Information. This affidavit form is not included in this Packet. You can obtain the affidavit at the Circuit Clerk's Office. You can complete and file the affidavit in the Circuit Clerk's Office at any time, or you can ask the Family Court Judge to enter an order allowing you to withhold the information. If your identifying information is withheld, the other parties' court papers will be served through the Family Court, and not directly on you.

STEP 1. FILL OUT THE FORMS.

Fill out the Petition first. Begin at the top of page 1. Leave the “Civil Action No.” blank. Fill in the Petitioner and Respondent(s) names and addresses. There is space for listing two Respondents. If you, the Petitioner, are not the parent of the children who are the subject of the petition, the case will have two Respondents, the children’s parents. Provide your current address and phone number unless you are filing the Affidavit for Withholding Identifying Information which is discussed in the introduction to these instructions. Provide a current address and phone number for the Respondent(s) if you can.

After filling in the Petitioner and Respondent information at the top of the page, you can begin filling out the Petition, which involves filling in blanks and checking items that apply to your case. Make certain you read all items carefully, and fully understand what you’re doing when you check an item or fill in a blank. After you have filled out the Petition, you will need to fill out a BCSE Application and Income Withholding Form, a Financial Statement Form, and a Civil Case Information Sheet form.

After you have completed filling out your forms, you will take them to the Circuit Clerk’s Office to file them, and arrange for the Petition to be served on the respondent. You will need copies of the completed originals. The Circuit Clerk’s Office will make copies for you, but they are required by law to charge fifty cents a page, so you may want to have your copies made elsewhere. You will need three copies of your Petition; one to be served on the respondent, one for the Bureau of Child Support Enforcement, and one for your records. The original of your Petition will be filed with the Circuit Clerk. You will need two copies of the completed Case Information Statement; you will file the original and both copies with the Circuit Clerk. You will need two copies of the BCSE form and Financial Statement Form; you will file the original and a copy with the Circuit Clerk, and you’ll keep a copy.

STEP 2. AT THE CIRCUIT CLERK’S OFFICE.

At the Circuit Clerk’s Office, you will file your papers and arrange for your Petition to be served on the respondent.

You can serve your Petition on the local Bureau for Child Support Office by mailing them a copy by first class mail. This will save you money. To do this, you will need to fill out the Certificate of Service form included in this packet. This form verifies that you mailed your Petition to the BCSE. You will file the original of the completed Certificate of Service in the Clerk’s Office, and keep a copy for your records. The next three paragraphs describe the methods that can be used to serve your Petition on the respondent.

Personal Service By The Sheriff’s Department.

The papers are delivered to the respondent by the Sheriff’s Department. The Circuit Clerk’s Office arranges this type of service after you pay a \$30 fee. If you cannot afford to pay this fee, read the last paragraph in this section.

Personal Service By Private Process Server.

The law permits persons other than members of the Sheriff’s Department to deliver legal papers, **but**, service **cannot** be made by a party to the case, **and** the person serving the papers must be 18 years of age or older. For this type of service to be valid, the person who serves the papers must complete an affidavit which states the papers were served, **and** this affidavit must be filed in the Circuit Clerk’s Office without delay.

Personal Service By Certified Mail .

This type of service is arranged through the Circuit Clerk's Office. The Circuit Clerk's Office mails the petition and financial statement to the Respondent by certified mail, restricted delivery, return receipt requested. You pay the fee of \$20.00 and provide the mailing address of the Respondent. If the mailing is accepted, the Clerk's Office will receive the return receipt postcard with the signature of the person who accepted the mailing. If a person other than the Respondent accepts the mailing and signs the receipt, you don't have good service, and your case will not go forward. The Respondent has 20 days from the date the documents were delivered to serve you with an Answer.

While you're at the Circuit Clerk's Office, you may want to arrange for witness subpoenas if you think you will need to require a witnesses to come to the hearing on your Petition. The following paragraph explains how to do this. After you're finished in the Circuit Clerk's Office, the next thing you need to do is prepare for your hearing. How to do this is explained in Step 3.

WITNESS SUBPOENAS

If you know you will need a witness to testify at a hearing, and you're not certain the witness will voluntarily show up, you will need to subpoena that witness. Witness subpoenas are handled through the Circuit Clerk's Office. To obtain a witness subpoena, you need to provide the Deputy Circuit Clerk with the name and address of the witness, and pay a Clerk's fee of 50¢ per subpoena, and a service fee of \$30 per subpoena, unless your fees have been waived. If you do not request witness subpoenas at the time you file your Petition, you should make certain you do so **at least 10 days before the hearing**. If you cannot afford to pay the subpoena fees, read the next paragraph.

WHAT TO DO IF YOU CANNOT AFFORD TO PAY FEES.

If you cannot afford to pay fees, you should ask a Deputy Circuit Clerk for an affidavit to waive fees and costs. You can fill out the affidavit in the clerk's office. The affidavit requires you to list some basic information about your financial situation. A Deputy Clerk can review your completed affidavit while you wait, and tell you if you meet the legal requirements to have your fees and costs waived. If you don't meet these requirements, you must pay fees and costs, but you can ask the Court to review your affidavit later. The Court will review your request for waiver of fees at a later hearing and will determine your eligibility even if the clerk has approved your waiver. Criminal charges can be filed against you if you provide false information on this affidavit.

STEP 3. PREPARING FOR THE HEARING.

After the opposing party has been served with your Petition, you will receive an Order from the Family Court. This Order will state the place, date, and time of your hearing. Make sure you allow plenty of time to prepare for the hearing. These are some of the things you will need to do to prepare.

Make sure you have requested all necessary witness subpoenas. You need to request these subpoenas **at least 10 days before the hearing**. Return to Step 3 for information on witness subpoenas.

Make sure you have filed the Financial Statement Form with all the supporting documentation and the Proposed Parenting Plan Form (the Parenting Plan Packet is available at the Circuit Clerk's Office.)

You MUST also file the following information with your Financial Statement:

1. A copy of your 3 most recent wage or salary stub showing gross pay, deductions for taxes and other items, and net pay for a normal pay period, and for the year-to-date;
2. Copies of your and your spouse's complete income tax returns for the two years immediately preceding the date the petition was filed, together with copies of the federal Form W-2 for those years; and a copy of the Form W-2 for the most recent year for which that form is available, even if a tax return has not yet been filed for that year;
3. For self-employed persons and business owners, a copy of a current financial statement showing gross income, expenses, and net income;
4. Copies of any invoices or receipts showing the cost of any extraordinary medical expenses for the party or the children, of any child care expenses, and of any expenses necessitated by the special needs of the children.

AND

You MUST also complete a Parent Education Class. Deadlines: You must pay the Parent Education fee when you file your Petition, unless your fees have been waived. You should complete Parent Education before your first hearing. If you do not, your case may be delayed.

Make a plan for how you will present your case at the hearing. How you will present your case, and what you will need to prove will depend on the claims you have made in your Petition and the relief you have requested from the court. These are some examples of the types of things you might need to prove. If you are asking for support, you will need to show your income and expenses, and you will need to show the respondent has the financial ability to pay the support you are requesting. To make a case relating to the allocation of custodial responsibility, you will need to show why it is in the child's best interest for the court to grant you custodial responsibility, and why the respondent should not have custodial responsibility.

When you begin preparing for your hearing, review your Petition, think about the facts you have alleged, and the things you are asking the court to do, and decide what you need to prove and how you can prove it. Generally speaking, you can prove things by your testimony, by the testimony of other witnesses, and by documents or records. Make a plan for how you will present your case. It's best to write things down. List the things you want to prove, and for each thing you want to prove, list how you will prove it, by witness testimony, or a document, for example.

Step 4 explains what happens after the hearing.

STEP 4. WHAT HAPPENS AFTER THE HEARING?

The Family Court Judge will consider the evidence presented at the hearing, and make a decision. That decision will be written down in an Order, and copies will be sent to the parties.

End

PLACES WHERE YOU CAN GET HELP

West Virginia State Bar

The **Lawyer Referral Service** at the State Bar will refer you to a lawyer who will discuss your situation with you for up to one-half hour for only \$25!

1-304-558-7991 or www.lawyerreferral.org

Free Online Legal Help

Free legal assistance online for civil matters for low-income West Virginians at <https://wv.freelegalanswers.org/>

Tuesday Legal Connect – Free Live Legal Help

Tuesdays between 6:00pm and 8:00pm 1-800-642-3617

Volunteer lawyers will provide *general* legal information.

Attorneys cannot provide direct legal advice!

West Virginia Judiciary

Main Number: 1-304-558-0145

Home web page: www.courtswv.gov

The Judiciary website offers a variety of resources for self-help including links to the various courts in West Virginia and a variety of downloadable court forms at: <https://www.courtswv.gov/public-resources/court-forms>

Additional assistance can be found by contacting Claudia Townsend at the Clerk's Office at: 1-304-558-2601 (main telephone) 1-304-558-4219 (TTY for hearing impaired)

Family Court Mediation Services

An approved list of mediators can be obtained through Family Court Services at the Supreme Court of Appeals or on the website. 1-304-558-0145 <https://www.courtswv.gov/sites/default/pubfiles/mnt/2024-01/MediatorByCounty1-24.pdf>

The Court's **State Law Library** located at the State Capitol in Charleston has books for research, computers to use, and law librarians that can help you. <https://www.courtswv.gov/public-resources/law-library> or call 1-304-558-2607

The West Virginia Library Commission

Public libraries throughout West Virginia may have computers, forms, books, and other information that can help you. 1-800-642-9021

WVU College of Law Clinical Program

Free legal assistance by law students under the supervision of attorneys in a variety of areas, including family law, immigration, veterans assistance, domestic violence, and others. Their contact information is: <https://www.law.wvu.edu/clinical-law> or call 1-304-293-7249 or email cliniclaw@mail.wvu.edu

The **WV Coalition Against Domestic Violence** is a statewide network of community-based domestic violence programs working to end violence in the lives of women, children and men. www.wvcadv.org or call 1-800-799-7233 (National Domestic Violence Hotline)

Legal Aid of West Virginia provides legal services in certain kinds of cases if your income meets certain guidelines. www.LegalAidWV.org or 1-866-255-4370

Mountain State Justice is a non-profit public interest law office dedicated to pursuing impact and significant litigation on behalf of low-income West Virginians. They provide free legal services in certain areas of practice to qualifying individuals. www.msjlw.org or 800-319-7132

Senior Legal Aid Services provides free legal assistance to seniors, 60 and older. www.seniorlegalaid.com or 1-800-229-5068

WV Attorney General's Office - Consumer Hotline

Offering consumer protection assistance including downloadable consumer complaint forms and a Consumer Protection Hotline at 1-800-368-8808 <https://ago.wv.gov/about/Divisions/Pages/Consumer-Protection-and-Anti-Trust-Division-.aspx>

IN THE FAMILY COURTS OF HAMPSHIRE, MINERAL AND MORGAN COUNTIES

Administrative Order: 24-ADM- _____

AMENDED ADMINISTRATIVE ORDER
RE: CERTIFICATES OF SERVICE REQUIRED ON ALL FILINGS AND SIGNATURE
REQUIREMENTS

WHEREAS, pursuant to Rule 5(a) of the West Virginia Rules of Civil Procedure, "every pleading subsequent to the original complaint ...every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties."

WHEREAS, pursuant to Rule 5(d)(1) of the West Virginia Rules of Civil Procedure, "all papers after the complaint required to be served upon a party together with a certificate of service shall be filed with the court within a reasonable time after service."

WHEREAS, private letters and correspondence to the Court are not proper, and any document intended to be filed must be disclosed to all parties and/or counsel of record and include a certificate of service.

WHEREAS, pursuant to Rule 11(a) of the West Virginia Rules of Civil Procedure, "Every pleading, motion and other paper shall be signed by at least one attorney of record in the attorney's individual name, or if the party is not represented by an attorney shall be signed by the party. **Each paper shall state the signer's address and phone number**, if any, and the West Virginia Bar identification number, if any." "An unsigned paper shall be stricken unless the omission of the signature is corrected promptly after being called to the attention of the attorney or party."


It is, therefore, **ORDERED**, that all documents presented to the Circuit Clerk for filing subsequent to the original complaint shall be accompanied by a properly completed and signed Certificate of Service, a form for which is available through the Clerk's Office and shall be properly signed with required identification information.


It is further **ORDERED** that no document presented for filing subsequent to the original complaint shall be accepted for filing that does not have a properly completed and signed Certificate of Service and signature requirements.

It is further **ORDERED** that neither the Circuit Clerk's staff nor the Family Court staff shall be responsible for arranging and completing service for such subsequent filings.

The Circuit Clerks shall post and distribute copies of this Order to the Administrative Office of the WVSCA and all attorneys and parties at their discretion.

ENTERED this 3rd day of July 2024.


DEANNA ROCK
FAMILY COURT JUDGE
23rd CIRCUIT FAMILY COURT


MEREDITH HAINES
FAMILY COURT JUDGE
23rd CIRCUIT FAMILY COURT

MEMORANDUM

Filed
Date 5/26/11
Clerk

14
243

TO: Pro Se Litigants
FROM: Glen R. Stotler, Family Court Judge 
DATE: May 25, 2011
RE: Telephonic Appearances and Motions for Continuance

Effective immediately, the following procedures shall be followed for requests to appear by telephone at hearings or to request a continuance of a hearing:

1. Any party requesting to appear by telephone at a hearing or to continue an upcoming hearing shall file his/her request in writing with the Circuit Clerk and shall include specific reasons why the Court should consider the request. Copies of said request shall be served upon all other interested litigants, counsel, and agencies by the party requesting the telephonic appearance or continuance, and the request should contain a certificate of service verifying that the requesting party has completed said service; said service shall be the responsibility of the person requesting the telephonic appearance or continuance.

2. All requests to appear telephonically shall include the appropriate phone number where the requesting party is to be reached at the commencement of his/her hearing. Any litigant appearing by phone shall be responsible for ensuring his/her availability to appear by phone at the scheduled time of his/her hearing, just the same as if he/she were appearing in person before the Court.

3. The Court shall respond to all written motions to appear telephonically or to continue by an Order, which will be served on all interested parties.

4. Excepting unforeseeable emergency circumstances, all motions to continue or to appear by telephone shall be filed with the Circuit Clerk and served upon all other parties no later than seven (7) days prior to the date of the hearing in question to ensure timely and proper notice on all other interested parties.

5. Failure to comply with the above procedures may result in a denial of the request.

FAMILY COURT JUDGE
TWENTY-THIRD FAMILY COURT CIRCUIT

GLEN R. STOTLER
Family Court Judge
NATALIE D. DENEEN
Secretary/Clerk
JOY R. CAMPBELL
Family Case Coordinator



filed
Date 5/11/11
She

Clerk
Morgan County
Morgan County Court House
77 Fairfax Street, Suite 201
Berkeley Springs, WV 25411
Telephone: (304) 258-7487
Fax: (304) 258-7486

May 6, 2011

Sonja K. Embrey, Clerk
Circuit Court of Hampshire County
P.O. Box 343
Romney, WV 26757

RE: **THIRD PERSON CUSTODY AND GRANDPARENT VISITATION**

Dear Sonja:

Please be advised that I will be continuing the precedent adopted by Judge Parsons regarding third person custody and grandparent visitation filings by pro se parties, to wit: I request that Form SCA-FC-261 Petition for Support and/or Allocation of Custodial Responsibility not be utilized for grandparent visitation or third parties seeking custody of infant children.

This form can still be used by natural parents who are seeking custody, visitation or support but not those persons who are not the natural parents of the infant child or children.

It is my opinion that this form does not contain the necessary language for pleadings for grandparent visitation or third parties who may want to seek custody.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Glen R. Stotler".

Glen R. Stotler

GRS/ndd

READ THE ORDER BELOW BEFORE ENTERING THE COURTROOM

**IN THE FAMILY COURT OF
MORGAN, HAMPSHIRE AND MINERAL COUNTIES, WEST VIRGINIA**

RE: APPROPRIATE DRESS AND CONDUCT IN THE COURTROOM

ORDER

Effective immediately, no person, juror, attorney, plaintiff, defendant, petitioner, respondent, witness, juvenile or audience member shall appear in a hearing room or Courtroom wearing shorts, cut-offs, short-shorts, pajamas, tank tops, tube tops, halter tops, bathing suits, swimming trunks, Bermuda shorts, see-through or revealing clothing of any kind, or clothing with vulgar, obscene or sexually explicit language, pictures or scenes.

All persons appearing before the Court shall conduct themselves in a proper, civil and dignified manner showing proper deference to the Court, as well as respect for the process and all persons participating in these proceedings.

**PERSONS VIOLATING THIS ORDER MAY BE BARRED OR REMOVED FROM
THE COURTROOM OR HEARING ROOM AND/OR MAY BE SUBJECT TO FINES OR
OTHER SANCTIONS, INCLUDING, BUT NOT LIMITED TO, HAVING THEIR
HEARING POSTPONED.**

ENTERED on this 8th day February, 2017.



**JUDGE DEANNA ROCK
23RD FAMILY COURT DISTRICT**

IN RE:
The Marriage / Children Of:

Case No. _____

Judge: _____

_____, and _____
Petitioner (First/Middle/Last) Respondent (First/Middle/Last)

**PETITIONER'S CIVIL CASE INFORMATION STATEMENT
DOMESTIC RELATIONS CASES**

PETITIONER'S IDENTIFYING INFORMATION	IMPORTANT NOTICE
Street Address _____ City / State / Zip Code _____ () - _____ <input type="checkbox"/> Male / <input type="checkbox"/> Female Phone Number _____ / _____ / _____ Social Security Number _____ Date of Birth _____ Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Unknown <input type="checkbox"/> White	<input type="checkbox"/> Check this box if you wish to keep the information in this box CONFIDENTIAL because you fear for your safety and/or the safety of your children. If the box above is checked, this page is sealed in the file and NOT TRANSMITTED with the Petition and Summons. You must complete the form, Affidavit To Withhold Identifying Information, and file it at the Circuit Clerk's Office.

List all minor children affected by this action:

Name	Date of Birth	Social Security Number
	/ /	- -
	/ /	- -
	/ /	- -
	/ /	- -

YES NO Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- IF YES, SPECIFY:
- Wheelchair accessible hearing room and other facilities;
 - Interpreter or other auxiliary aid for the hearing impaired;
 - Reader or other auxiliary aid for the visually impaired;
 - Spokesperson or other auxiliary aid for the speech impaired;
 - Other: _____

Original and _____ copies of petition enclosed/attached.

PETITIONER: _____

Case No. _____

RESPONDENT: _____

Days To Answer: _____ Type of Service: _____

1. RESPONDENT'S IDENTIFYING INFORMATION	
Street Address _____	
City / State / Zip Code _____	
() - _____	<input type="checkbox"/> Male / <input type="checkbox"/> Female
Phone Number _____	/ / _____
Social Security Number _____	Date of Birth _____
Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic	
<input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Black	
<input type="checkbox"/> Unknown <input type="checkbox"/> White	

2. TYPE OF CASE RELIEF
(Check All That Apply)

- Divorce Without Children
- Divorce With Children
- Grandparent Visitation
- Annulment
- Separate Maintenance
- Child Support Only
- Child Custody Without Divorce
- Paternity
- Modification
- Contempt
- Infant Guardianship
- Other (specify): _____

3. YES NO Is either party seeking child support or alimony?
4. YES NO Is a Domestic Violence Protective Order in effect now?
5. YES NO Is there an active Child Protective Services (CPS) investigation of the children or was an investigation conducted in the last year prior to filing this action?
6. I am proceeding without an attorney.
OR
 I have an attorney. (Complete attorney information below.)
- Attorney Name: _____
- Firm: _____
- Address: _____
- Telephone: () - _____
- Dated: _____
- Signature _____

IMPORTANT NOTICE FOR PERSONS WITH PROTECTIVE ORDERS

You may be able to EXTEND THE TIME PERIOD OF YOUR PROTECTIVE ORDER beyond 180 days if:

1. YOU CURRENTLY HAVE A PROTECTIVE ORDER IN EFFECT, and then,
2. YOU FILE OR REOPEN AN ACTION IN FAMILY COURT for divorce, annulment, separate maintenance, custodial responsibility, paternity, child support or a similar action brought under Chapter 48 of the West Virginia Code, and
3. YOU AND THE RESPONDENT SUBJECT TO THE PROTECTIVE ORDER ARE THE PARTIES TO THE FAMILY COURT CASE.

If you meet all three requirements listed above, your Protective Order will be in effect until the Family Court enters a non-procedural Temporary Order or a Final Order in your Family Court case, whichever is first.

TO PROVIDE NOTICE TO LAW ENFORCEMENT AGENCIES and the RESPONDENT regarding the extended time period of your Protection Order, you must notify the circuit clerk that you meet all three requirements above. The Circuit Clerk shall complete the form *FDVXNOT*, and serve said form on law enforcement and the Respondent as provided in Rule 11 of the Rules of Practice and Procedure for Domestic Violence Civil Proceedings. The Circuit Clerk shall immediately, upon completion of form *FDVXNOT*, forward said form to the Magistrate Court for inclusion in the National Domestic Violence Registry and the WV Domestic Violence State Database.

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

Civil Action No. _____

Respondent

Address

Daytime phone

Petitioner

Address

and

*

Respondent

Address

Daytime phone

Daytime phone

PETITION FOR SUPPORT

and / or

ALLOCATION OF CUSTODIAL RESPONSIBILITY

1.

a. The Petitioner is: _____.

(Print your name.)

b. The Petitioner currently resides in _____ County, West Virginia.

c. List the full names, dates of birth, and social security numbers for the children for whom support and / or custodial responsibility is being requested. In the rest of the Petition, “the children” will always mean the children whose names you have listed here.

Name
Number

Date of Birth

Social Security

d. What is the Petitioner's relationship to the children? _____.

e. What is the Petitioner's relationship to the Respondent(s) listed above?

f. What is the Children's relationship to the Respondent(s) listed above?

g. The first Respondent listed above currently resides:
___ at an address unknown to the Petitioner.
___ in _____ County, West Virginia.
___ outside the state of West Virginia, where the last known address was _____
_____.

h. The second Respondent listed above currently resides:
___ at an address unknown to the Petitioner.
___ in _____ County, West Virginia.
___ outside the state of West Virginia, where the last known address was _____
_____.

i. The parents of the children last cohabited together in _____ County,
in the state of _____, on the date of _____.
___ Do not know.

j. Are the parents of the children currently expecting another child? ___ Do not know.
___ No ___ Yes If "yes," what is the due date? _____

k. The children currently reside with: ___ Mother, at this address: _____
_____. ___ Father, at this address: _____

_____. The Petitioner, at this address: _____ . Someone else, whose name, _____ relationship to the children, and address are: _____

1. During the last five years, if any of the children have lived at addresses other than the address you just listed, list those other addresses below, and list the name and relationship to the children of all adults other than the parents who lived at these addresses with the children. *If there is not enough room in the following space, use an additional sheet of paper.* I have attached _____ additional sheet(s).

2. *Check all of the following items that apply.*

- a. Has the Petitioner been a party or witness in any other proceeding, in any state, concerning the allocation of custodial responsibility for the children? Yes No
- b. Is the Petitioner aware of any other proceeding, past or present, in any state, concerning allocation of custodial responsibility for the children? Yes No
- c. Is the Petitioner aware of any other person, other than the parties to this case, who has physical custody of, or claims any custodial right concerning the children?
 Yes No

3. *Check all of the following items that apply.*

- a. The children have resided in West Virginia for at least 6 months preceding the filing of this case, or from birth, if less than six months old.
- b. The Petitioner believes it is in the best interest of the children for a West Virginia court to assume jurisdiction of this case, because one or both of the parents have a significant

connection to West Virginia, and West Virginia is the location of a substantial number of witnesses and / or other sources of evidence relating to the children's current or future care and personal relationships.

- c. The children are now present in West Virginia, and have been abandoned here.
- d. The children are now present in West Virginia, and the Petitioner believes it is necessary for a West Virginia court to assume jurisdiction of this case on an emergency basis to protect the children, because the children have been subjected to or threatened with mistreatment or abuse, or have otherwise been neglected, or are depending on persons other than their parents.
- e. The Petitioner believes no other state has jurisdiction over this case, and it would be in the children's best interest for a West Virginia court to assume jurisdiction.
- f. Another state has declined to assume jurisdiction over this case on the ground West Virginia is the more appropriate place to decide matters relating to the allocation of custodial responsibility, and for this reason, the Petitioner believes it would be in the children's best interest for a West Virginia court to assume jurisdiction.

4. *Check all of the following items that apply.*

- a. The county in which this case has been filed is the county in which the children currently reside.
- b. The county in which this case has been filed is the county in which: the first Respondent currently resides; the second Respondent currently resides.
- c. The county in which this case has been filed is the county in which the Petitioner currently resides, and: the first Respondent is currently a nonresident of West Virginia; the second Respondent is currently a nonresident of West Virginia.

5. *Check all of the following items that apply.*

- a. The Petitioner is 18 or older. The first Respondent is 18 or older. The second Respondent is 18 or older.
- b. The Petitioner has not been declared legally incompetent. The first Respondent has not been declared legally incompetent. The second Respondent has not been declared legally incompetent.
- c. The Petitioner is not incarcerated. The first Respondent is not incarcerated. The second Respondent is not incarcerated.
- d. The Petitioner is in need of support for the care and upbringing of the children.

6.

Answer item a. ONLY if you are a parent of the children .

- a. Prior to the parents' separation, both parents performed a reasonable share of the caretaking and parenting functions for the children. For this reason, the Petitioner believes it is appropriate for the parents to continue to share the authority for making significant decisions relating to the children's care and upbringing. The Petitioner also believes custodial responsibility for the children should be allocated in proportion to the time each parent spent in caretaking and parenting functions before the separation.

Answer item b. ONLY if you are NOT a parent of the children .

- b. The Petitioner performs the caretaking and parenting functions for the children. For this reason, the Petitioner believes it is appropriate for the Petitioner to have the authority for making significant decisions relating to the children's care and upbringing. The Petitioner also believes custodial responsibility for the children should be allocated to the Petitioner alone.

Answer item c. ONLY if you are a parent of the children .

- c. The other parent has: abused, neglected, or abandoned one or more of the children; sexually assaulted or abused one or more of the children; engaged in acts of domestic violence; repeatedly interfered with Petitioner's access to, or contact with one or more of the children; repeatedly made false reports or accusations of domestic violence or child abuse; . For these reasons, the Petitioner believes: It is in the children's best interest that the authority for making significant decisions relating to the children's care and upbringing be allocated to the Petitioner alone. The court should impose limits on the other parent's custody of, and contact with the children. The other parent should not be allocated any custodial responsibility, or permitted any contact with the children unless the court specifically finds such custodial responsibility or contact will not endanger the children, or the Petitioner.

Answer item d. ONLY if you are NOT a parent of the children .

- d. The Mother has: abused, neglected, or abandoned one or more of the children; sexually assaulted or abused one or more of the children; engaged in acts of domestic violence; failed to support one or more of the children For these reasons, the Petitioner believes: It is in the children's best interest that the authority for making significant decisions relating to the children's care and upbringing be allocated to the Petitioner alone. The court should impose limits on the Mother's custody of, and contact with the children. The Mother should not be allocated any custodial responsibility or permitted any contact with the children unless the court specifically finds

such custodial responsibility or contact will not endanger the children, or the Petitioner.

Answer item e. ONLY if you, the Petitioner, are NOT a parent of the children .

e. The Father has: ___ abused, neglected, or abandoned one or more of the children; ___ sexually assaulted or abused one or more of the children; ___ engaged in acts of domestic violence; ___ failed to support one or more of the children . For these reasons, the Petitioner believes: ___ It is in the children’s best interest that the authority for making significant decisions relating to the children’s care and upbringing be allocated to the Petitioner alone. ___ The court should impose limits on the Father’s custody of, and contact with the children. ___ The Father should not be allocated any custodial responsibility, or permitted any contact with the children unless the court specifically finds such custodial responsibility or contact will not endanger the children, or the Petitioner.

7. THEREFORE, based on the facts set out in this petition, the Petitioner requests the Court to grant whatever relief the Court deems appropriate, and to grant the following particular relief:

- a. ___ Order _____ to pay a reasonable amount of money for the support of the children.
- b. ___ Prohibit _____ from threatening, harassing, annoying, or abusing the Petitioner or the children, or in any way interfering with the Petitioner’s or children’s personal safety.
- c. ___ Order _____ to maintain health insurance for the children, and to assist with the children’s health care expenses that are not covered by insurance or by a government medical card.

Petitioner’s Signature

Date

You must sign the Verification on the next page before a Notary Public.

VERIFICATION

I, _____, after making an oath or affirmation to tell the truth, say that the facts I have stated in this Petition are true of my personal knowledge; and if I have set forth matters upon information given to me by others, I believe that information to be true.

Signature

Date

This Verification was sworn to or affirmed before me on the ____ day of _____,
20____.

Notary Public / Other official

My commission expires:_____.

BUREAU FOR CHILD SUPPORT ENFORCEMENT
APPLICATION AND INCOME WITHHOLDING FORM

This Form MUST Be Completed In All Cases Involving Minor Children or Spousal Support!

Withholding services will begin immediately when the Bureau for Child Support Enforcement receives this completed application, which MUST be accompanied by a copy of the current Support Order IF one is now in effect.

Check this box if a Support Order in NOW in effect.

PETITIONER

Full Name: _____ Birth Date: ____ / ____ / ____ SSN: ____ - ____ - ____

Male / Female Relationship to children involved in this case: _____

Residence Address: _____
 (List complete physical address: county, city, street #, apt. #, zip code)

Mailing Address: _____
 (List mailing address ONLY if different from physical address)

Daytime Phone No: (____) ____ - ____ Driver's License No: _____

RESPONDENT

Full Name: _____ Birth Date: ____ / ____ / ____ SSN: ____ - ____ - ____

Male / Female Relationship to children involved in this case: _____

Residence Address: _____
 (List complete physical address: county, city, street #, apt. #, zip code)

Mailing Address: _____
 (List mailing address ONLY if different from physical address)

Daytime Phone No: (____) ____ - ____ Driver's License No: _____

Dependents: (List full name, sex, birth date, social security #, and custodian for each dependent)

Name	Sex	Date of Birth	Social Security No.	Custodian
		/ /	- -	
		/ /	- -	
		/ /	- -	
		/ /	- -	

Income Withholding (List complete address of the employer or other source of income to which an Income Withholding Notice should be sent.)

Pursuant to the Privacy Act [5 U.S.C. 522a], the Bureau for Child Support Enforcement (BCSE) is required to inform you of the following: (a) that the request for your social security number is a mandatory requirement pursuant to the Social Security Act [42 U.S.C. 466(a)(13)]; and (b) the BCSE will use this information only in connection with the State's child support enforcement program for purposes of establishing paternity and establishing, modifying, and enforcing support obligations.

CONTINUED ON NEXT PAGE

- Check this box if you or your children currently receive TANF benefits.
- Check this box if you currently receive, or have applied for DHHR's Child Support Services.

IF YOU CHECKED any of the two items immediately above, skip to the end of the form, SIGN on the line provided, and you are done.

IF YOU DID NOT CHECK any of the two items immediately above, YOU MUST CONTINUE!

- I understand that unless otherwise directed by the Court, any Court Ordered support MUST be collected by the BCSE through Income Withholding.

YOU MUST CHOOSE ONE OF THE THREE FOLLOWING OPTIONS!

OPTION #1:

- I am applying for FULL SERVICES from the BCSE. I understand that full services include, but are not limited to the following: *Collection and distribution of support payments. *Collection and Enforcement of support by income withholding. *Establishment and enforcement of Support Orders. *Establishment of paternity. *Enforcement of Support Orders through Federal and State Tax offsets, unemployment compensation intercepts, and workers' compensation intercepts. *Location of parent(s). *Interstate services.
- As an applicant for FULL SERVICES, I AGREE to comply with the following requirements: (1.) I understand I MUST assist the BCSE to establish and enforce paternity, child support, and medical support, and to collect child and spousal support. I understand this assistance may include providing information about the non-custodial parent and responding promptly and completely to requests from the BCSE. I understand I may be required to testify as a witness in court or in other proceedings. (2.) I understand that I am free to pursue legal actions through a private lawyer, but that I must inform the BCSE if I do this. (3.) I understand that I MUST repay all money received in error to which I am not entitled.

OPTION #2:

- I am applying for Income Withholding Services ONLY.

OPTION #3:

- I DID NOT CHECK Option #1 or Option #2. I do not want services from the BCSE at this time.
- I understand that even though I have not requested services at this time, I can request services at any time by applying at the BCSE office in the county in which I live.

I CERTIFY that I have read and understand all statements on this application, and that all information I have provided is TRUE and ACCURATE to the best of my knowledge.

Signature

Date

- Check this box if YOU WOULD FEAR FOR YOUR SAFETY, or THE SAFETY OF YOUR CHILDREN if your address and telephone number are disclosed.**

AFFIDAVIT OF OUT-OF-STATE OR UNKNOWN RESIDENCY

STATE OF WEST VIRGINIA

COUNTY OF _____, to-wit:

I, _____, after being sworn, do say that I am the Petitioner in the foregoing Petition for Divorce now pending in the Family Court of _____ County, West Virginia; and further that:

The Respondent, _____,

(CHECK ALL THAT APPLY)

is not a resident of the State of West Virginia; and the last known address of the Respondent is _____,
_____ County;

OR

After giving my documents twice to the Sheriff in the County where the Respondent resides, the Sheriff has not been able to serve the Respondent;

OR

I have used due diligence to determine the address of the Respondent and have been unable to locate it. The address of the Respondent is unknown to me.

Petitioner, Pro Se

Taken, sworn to, and subscribed before me this _____ day of _____, 20_____.

Notary Public

My Commission expires _____.

**THE ONLY ONLINE CLASS
APPROVED BY THE SUPREME COURT
OF APPEALS OF WEST VIRGINIA**

THE CENTER FOR DIVORCE EDUCATION'S

**CHILDREN
IN BETWEEN®
ONLINE**

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Just 3-5 Hours to Complete*
Instant Certificate**

*Some jurisdictions have minimum time requirements

COMPATIBLE WITH:



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**CHILDREN IN BETWEEN®
ONLINE**

- Quickly learn skills to protect your children from emotional harm caused by the common conflicts experienced during divorce and separation.
- To access the program you will need:
 1. An internet ready device
 2. A current email address
 3. Google Chrome Web Browser
- To register for the course:
 1. **Pay the \$25 fee to the Circuit Clerk's Office or have a Fee Waiver on file**
 2. Go to: divorce-education.com/west-virginia
 3. Carefully fill out the form on the page
 4. **Enter the registration code provided by the court**
 5. Within 48 hours, we will send you an email with your login instructions
- Accounts are good for 30 days and are available 24 hours a day, 7 days a week.
- It is your responsibility to file the certificate of completion with the Clerk of Courts.

divorce-education.com/west-virginia

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The Center for Divorce Education
A 501(c)(3) nonprofit corporation founded in 1987

divorce-education.com

877-874-1365

staff@divorce-education.com

Family Court Parent Education

Online Registration Code:

Rule 37. Rules of Practice and Procedure for Family Court
WV Code §48-9-104

Paid

Waived

Name: _____ County: _____ Case No. _____

Mailing Address: _____ Phone No. _____

Course Content — The Administrative Office of The Supreme Court of Appeals of West Virginia has approved the online class, Children in Between–Online offered through The Center for Divorce Education, to satisfy the Parent Education requirement in the absence of in-person classes. The curriculum was designed to educate and instruct parents about the following topics:

- (1) how to prepare a parenting plan;
- (2) mediation and other non-judicial methods available to assist parents in achieving agreement on a parenting plan;
- (3) the negative effects on children of divorce and family dissolution, and the ways in which parents can lessen those negative effects;
- (4) the negative effects on children of domestic abuse;
- (5) resources available for dealing with domestic abuse.

Mandatory attendance — In proceedings involving minor children, the parents shall be required to complete parent education and shall file with the circuit clerk a certificate of completion. For good cause shown, parent education may be waived if the court places on the record a finding attendance is not necessary and states the specific reasons for the finding. In the absence of such a waiver, parent education shall be completed by both parents prior to any mediation or other non-judicial dispute resolution undertaken to achieve agreement on a parenting plan. If mediation or other non-judicial dispute resolution is not required, parent education shall be completed by both parents prior to the final hearing. If one or both parents have failed to timely complete parent education, the court may halt proceedings, and in such circumstances shall enter a scheduling order setting the next hearing for a date certain and requiring the parents to complete parent education prior to that hearing. For good cause shown the court may conduct proceedings despite the failure of one or both parents to timely complete parent education.

Cost — \$25 fee per class; paid to the Circuit Clerk in the county of your case. **Contact your local Circuit Clerk office to learn the acceptable methods of payment.** Retain a copy of the receipt. The cost of the class is waived if the participant files a Financial Affidavit & Application (fee waiver) and is approved.

Website - <https://www.divorce-education.com/west-virginia/>

Attend a Class — Children in Between is offered online to provide convenience and ease for all participants with an in-person class option available to those requesting accommodation. In-person, classes may not be held in your county and will only be offered periodically as needed.

If online attendance is not possible the Court Services Division of the Supreme Court of Appeals of West Virginia will assist you in registering for an in-person class. You may contact the office at 304-558-6831 or Parent.Education@courtswv.gov