

**Completing an Agreed Petition for Custody – CAO 13-3
(Revised 7/2005)**

[REMOVE THESE INSTRUCTIONS BEFORE FILING]

If child support was established by the Department of Health & Welfare in the same county as the county where you will file your Petition for Custody, you should file your documents in that same case. Forms to join in that case as a party are available at the Court Assistance Office. If the State of Idaho Department of Health and Welfare has filed a case to establish a Child Support Order, you need to serve a copy of the Petition upon the Department of Health & Welfare.

Talk to an attorney, if possible.

WARNING: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, you may be able to find a lawyer to review your paperwork or give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles this type of case. Contact the Court Assistance Office for information about resources for low-income people.

You will be signing a sworn statement that you have read the Petition, know what it says, and believe it's true. To guarantee the truthfulness of that statement, be sure to read the entire completed form.

Instructions

Fill in the forms by typing or by printing neatly and legibly in **black ink**. Always keep a copy of the completed form for your records.

At the top left-hand corner of page 1, fill in your full legal name, mailing address and telephone number.

The Court Heading. Fill in the county and judicial district in capital letters (for example, "IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT, IN AND FOR THE COUNTY OF ELMORE").

The Caption. Fill in your full legal names (In re the Child/ren of: John Doe and Mary Doe, Petitioners").

The Name of the Document. Check the boxes to indicate the orders you want.

The Case No. If this is a new case, the case number will be assigned by court personnel when you file the Petition. If you are filing in an existing case, use that case number. You should write in the case number on all other documents.

The **Court Heading**, **Caption** and **Case Number** will be the same on all other documents you prepare for this case.

1. Minor Child/ren of the Petitioners. Fill in the name and date of birth for each minor child and the city and state where each child has lived for the last five years. **WARNING:** If any of your children have not resided in Idaho for at least six uninterrupted months before the filing of the Petition (or for their entire lives if they are less than six months of age), the Idaho court may lack authority (“jurisdiction”) to determine custody of that child. In that event you should talk to an attorney to determine if there may be other grounds for jurisdiction under Idaho’s laws.

2. Jurisdiction/Paternity.

- Check the first box if paternity has NOT been established. Do not check the box if there is an Order signed by a Judge stating the Father is the father of your child/ren. (The order may be called an Order of Filiation or a Paternity Order.) Do not check the box if there is a Voluntary Acknowledgment of Paternity, signed by both parents, which has been filed with the Bureau of Vital Statistics, stating you are the parents of the child/ren.
 - Write father’s full legal name in the blank **and**
 - Check all boxes that are true in your situation.

or

If there is an Order of Filiations or Paternity Order, check the box for that paragraph **and**

- Make a copy of the Order to attach (staple) to the Petition.

or

If there is a Voluntary Acknowledgment of Paternity, check the box for that paragraph **and**

- Make a copy of the Voluntary Acknowledgment of Paternity to attach (staple) to the Petition. A copy of the Voluntary Acknowledgment of Paternity should be filed with the Bureau of Vital Statistics in the state where the child was born, or the local office for Child Support Services may have a copy if the Department of Health & Welfare has filed a child support action.

3. Residence of Petitioners. Write in the residence of each parent (city, county and state).

4. You do not need to fill in anything.

5. UCCJEA Jurisdiction. This is your statement that each child has resided in Idaho for at least the past 6 uninterrupted months. Additionally, you are required to inform the court if there have been any other cases involving your child/ren in any other court, or if there are any other people claiming custody or visitation rights with the child/ren.

In paragraphs 5a, b, c and d, provide all requested information or write “none”

6. Legal Custody. “*Joint legal custody*” means the parents are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. The court will award joint legal custody unless you can prove it would not be in the best interest of the minor child/ren for the other parent to share the decision-making rights.

- Check the first box if both parents are fit persons to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**
- Check the second box if one parent should have sole legal custody of the child/ren, **and**
 - Fill in the blank to indicate which parent will be given sole legal custody.

7. Physical Custody. *"Joint physical custody"* means each parent has frequent and continuing contact with the child/ren. With joint physical custody each parent has significant periods of time in which a child resides with or is under his/her care and supervision. The parenting time is not necessarily 50/50, and the child/ren does not necessarily alternate back and forth between the parents. The court will award joint physical custody unless you can prove it would not be in the best interest of the minor child/ren to spend time with each parent on a regular basis.

- Check the first box if both parents are to be awarded physical custody of the child/ren **and**
 - Attach (staple) a copy of the same Parenting Plan you attached to your Petition, marked **Exhibit A.**

IMPORTANT: The Parenting Plan must be attached to make it a part of the Order for Custody. or
- Check the second box if physical custody of the child/ren will be awarded to only one parent, **and**
 - Write the name of the parent in the blank who will have sole physical custody.
 - Check the box if the other parent will have time with the child/ren
 - Write in the parent's name **and**
 - Write in the terms and conditions of the other parent's time with the child/ren.

8. Child Support.

If there is already an order signed by a judge, for example in a case filed by the Department of Health & Welfare, that sets the correct amount of child support, and there has been no change in circumstances that would require the child support amount to be changed, check the first box.

- Make a copy of that Order, mark it as **Exhibit B** and attach (staple) it to this Complaint.
WARNING: You should be aware that jurisdiction as to child support is a complicated issue and you should seek the advice of an attorney with respect to continuing jurisdiction and venue if there is another child support order.

If there is already a Child Support Order and a change in circumstances will cause the child support amount to be changed, also check the box to select the next paragraph **and**

- Check each box that is true in your situation and/or describe the change on the blank line.

If there is NOT a child support order, check the second box.

You will first need to complete an Affidavit Verifying Income and a Child Support Worksheet. A Court Assistance Officer will be able to help you generate these documents if you provide the required information. The Child Support Worksheet will be used to complete this section.

- Write in the name of the parent who will pay child support and the total monthly amount (the base amount of support plus or minus any adjustments). Adjustments may include a pro rata sharing of work-related childcare, medical, dental, and/or optical insurance premiums, and/or tax benefits. **Note:** Section 8 of the Idaho Child Support Guidelines addresses these adjustments.
 - Fill in the Base Amount of child support.
 - Check the appropriate boxes and fill in the amount of any adjustments.

- If you have more than one minor child, check the box. You will need to have a separate calculation to reflect the changed amount of support as each child is no longer eligible for support under Idaho law. Fill in the total amount of child support, as calculated according to the Idaho Child Support Guidelines.
- Attach (staple) your Affidavit Verifying Income and Support Worksheet(s) to the Complaint, marking each as **Exhibit B**.

Extended Visits. If the child/ren lives in the home of one parent at least 75% of the time, you can adopt either or both of the next two paragraphs of the form. If the child/ren spends more than 25% of the overnights in a year with each parent (shared physical custody), put N/A in the boxes. **Note:** Section 10(e) of the Idaho Child Support Guidelines, Rule 6(c)(6) of the Idaho Rules of Civil Procedure, describes “Shared Physical Custody” and computation of child support with that parenting arrangement. You can get a copy of the Child Support Guidelines from a Court Assistance Office or the Internet at <http://www2.state.id.us/judicial/rules/ircp6c6.rul>.

- If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filling in your own percentage.
- If you have more than one child, check the box to select the next paragraph.

WARNING: If you are the parent paying child support (the “obligor”) you should be aware the Order will provide for collection of child support from your wages and from your real estate or personal property. The Order will also provide that if you move to another state, the child support can be enforced directly by courts in other states. Additionally, you should be aware that, according to Idaho law, if unpaid child support equals or exceeds the total support owing for ninety (90) days or the sum of \$2,000, whichever is less, you are subject to suspension of any license to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing. Further, the State Tax Commission will withhold and set-off any state tax refund to collect any unpaid child support, or unpaid spousal support, and the Idaho State Lottery will likewise withhold and set-off a prize of a lottery prize-winner.

9. Medical Insurance. Check the first, second or third box to indicate how health insurance coverage for the child/ren is now being provided. If you selected the first paragraph, write in the name of the parent(s) currently providing health insurance.

In the fourth paragraph write in the percentage to be paid by each parent, based on each of your Guidelines income percentages. (These percentages are determined when calculating the child support. Refer to the Child Support Worksheet).

WARNING: The Order will provide: Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

10. Health Care Costs Not Paid by Insurance. Write in the percentage to be paid by each parent, based on their Guidelines income.

11. Work-Related Child Care Costs. Check the box. If you did not figure these expenses in your child support calculation:

- Fill in the percentages each parent will pay.
- Check the box if both parents will pay the care provider directly.

12. Income Tax Exemption. Write in the blank the parent who will claim each child as a dependent on their income tax return(s). *Note: The child support calculation must reflect the same designation.*

13. Name Change. If you want to have the last name of your child/ren changed and/or want to have your child/ren's birth certificate(s) changed, the Bureau of Vital Statistics in the state where your child/ren was born will require a court order.

- If you want a court order to change the last name of your child/ren, check the box **and**
- Write in the last name. (Accurate spelling is very important.)
- If you want the court to order that your child/ren's last name be changed on the child/ren's birth certificate, check the box.

14. Amend Birth Certificate. If your child/ren's birth certificate(s) do/es not include the name of the father the Bureau of Vital Statistics in the state where your child/ren was/were born will require a court order to add the father's name to the birth certificate(s).

- Write in father's full legal name as it should appear on the child/ren's birth certificate.

15. Joinder, Waiver, Competency, and Military Status. If either parent is currently on active duty in the military, check the box in the second paragraph and fill in the name of the parent.

Signatures: Leave the spaces for the State and County blank. Go to an office where there's a Notary. Have the notary fill in the spaces. Sign the Joint Petition in front of the Notary and have your signatures notarized.

Exhibits: Before attaching the Exhibits to the Petition make an extra copy of the ones you will use with the Order for Custody.

Attach (staple) Exhibits to the Motion with a staple. Make additional copies of the Petition with Exhibits attached (stapled) so there is a copy for each party. Take the original and copies to the clerk of the court for filing and conforming.

REMOVE THESE INSTRUCTIONS BEFORE FILING

Full Name of Father

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone Number

Full Name of Mother

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone Number

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

In Re the Child/ren of:

Father,
and

Mother,
Petitioners.

Case No. _____

JOINT PETITION FOR [] PATERNITY
[] CUSTODY, VISITATION
[] CHILD SUPPORT

Fee Category: _____
Filing Fee: \$ _____

The Petitioners come before this Court and petition and stipulate as follows:

1. Minor Child/ren of the Petitioners. The following child/ren, who is under the age of eighteen (18) years, or nineteen (19) years and still pursuing a high school education, was born to the Petitioners:

<u>Name</u>	<u>Date of Birth</u>	<u>Addresses for last 5 years</u> (city & state) (Beginning with most recent place)
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Name

Date of Birth

Addresses for last 5 years

2. Jurisdiction/Paternity. Pursuant to Idaho Code Section 7-1102, the Idaho court has jurisdiction to establish paternity, order support and determine custody in this matter.

The court should enter an order that (name of father)

_____ is the natural father of the child/ren named in paragraph 1 of this Petition. This court has jurisdiction to establish paternity because (check all boxes that apply):

The father resides in Idaho.

The father resided with the parties' child/ren in Idaho.

The parties' child/ren resides in Idaho as a result of the acts or directives of the father.

Although the father resides outside of the State of Idaho, the parties' child/ren was/were conceived in Idaho. **or**

Paternity has been established by an Order of Filiation, a copy of which is attached to this Petition. **or**

A verified Voluntary Acknowledgement of Paternity for the child/ren, signed by both parents, was filed with the Vital Statistics Unit of the Department of Health and Welfare more than 60 days ago and has not been rescinded. A copy of the Voluntary Acknowledgment of Paternity for each child is attached to this Petition and made a part hereof.

3. Residence of the Petitioners. Father resides at (city, county, state) _____
_____. Mother resides at (city, county, state) _____
_____.

4. Marital Status. The Petitioners are not now and have not been married to each other.

5. UCCJEA Jurisdiction. This court has jurisdiction to determine custody of our child/ren pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, Idaho Code § 32-11-101, et seq., because each child has resided in Idaho for at least six consecutive months before the filing of this Petition or for the child's entire life if s/he is less than six months

of age.

a. Neither parent has participated as a party or witness, in any other case involving our child/ren. **or**

I/we have participated as a party or witness in the following case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): _____
_____.

b. Neither parent knows of any other case that could affect our child/ren. **or**

I/we know of the following court case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): _____
_____.

c. Other than the two of us, no one claims custody or visitation rights with our child/ren. **or**

In addition to the parents, the following person/s claim custody or visitation for our child/ren (list names and addresses): _____
_____.

d. Our child/ren live(s) only with both parents. **or**

If our child/ren lives(s) with someone other than a parent, the name(s) and present address(es) of the person(s) with whom our child/ren live(s) is/are: _____
_____.

6. Legal Custody.

Both Petitioners are fit to act as parents. It is in the best interest of our child/ren that we be awarded joint legal custody.

or

It is in the best interest of our child/ren that _____ be awarded sole legal custody because _____

_____.

7. Physical Custody.

It is in the best interest of our child/ren that we be awarded joint physical custody of our child/ren according to the Parenting Plan, which is attached as **Exhibit A**. **or**

_____ should be awarded sole physical custody of our child/ren because _____

_____ should spend time with our child/ren as follows:

or

in accordance with the Parenting Plan which is attached as **Exhibit A**.

8. Child Support.

Child support has already been set, as shown by the attached Order, **Exhibit B**.

Because there has been a substantial and material change in circumstances since the date of that order, the amount of child support should be changed. The following changes have occurred (check all boxes that apply):

- The custodial arrangement.
- The gross annual income of one or both parents.
- A parent is providing medical insurance.
- The parent claiming the tax dependency exemption should be changed.
- (other reason) _____ **and/or**

Child support should be paid by _____ in the total amount of \$ _____ per month based on the Idaho Child Support Guidelines, according to the Affidavit Verifying Income and child support worksheet(s) attached as **Exhibit B**. The total amount includes: Base child support in the amount of:

\$ _____

- Work-related childcare expenses \$ _____
- Medical, dental, and/or optical insurance premiums allocated in the amount of: \$ _____
- Tax benefits allocated in the amount of: \$ _____

Child support payments should begin on the twentieth (20th) day of the month after the Order for Custody is signed and continue to be paid on the 20th day of each following month until the child/ren for whom support is being paid reach/es the age of eighteen. If a child for

whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to **Idaho Child Support Receiving, P.O. Box 70008, Boise, ID 83707-0108.**

[] We have more than one minor child. If this Child Support Order has not been modified, when one child is no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when two children are no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when three children are no longer entitled to support, child support for the remaining child should continue in the total amount of \$_____ per month.

[] **Extended Visits:** Our child/ren live/s in the home of one parent at least 75% of the time.

[] When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of base child support should be reduced for that period of time; however, visitation of two overnights or less with the other parent should not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody should be [] 50% **or** [] _____% of the base child support obligation. The reduction should be subtracted from the child support payment due the next month.

[] If the parent paying child support has physical custody of some but not all of the children for a period of 14 overnights in a row, before a reduction is made, the base child support obligation should first be divided by the number of children under 18 years of age. The reduction for the paying parent should only apply to the base child support thus allocated to the children in that parent's custody.

(Example: Parent has 3 of 4 children for 14 overnights. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

NOTICES

According to Chapter 12, Title 32, Idaho Code, this Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent. A statewide lien on all real and personal

property of the paying parent will arise automatically if child support is past due in an amount equal to the smaller of \$2,000 or 90 days of support, according to Idaho Code §§7-1206 and 45-1901, et.seq.

The Support Order can also be enforced by license suspension.

9. Medical Insurance.

[] Medical Insurance has already been set, as shown by the attached Order,

Exhibit B. or

[] _____ is/are currently providing health insurance for our child/ren and should continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment should do so. **or**

[] Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment should do so. **or**

[] The child/ren participate in the Children's Health Insurance Program. The parent first reasonably able to obtain group health insurance through employment should do so.

[] The total child support amount does not include any actual cost paid by either parent for health insurance premiums for the child/ren. That cost, whether being paid now or incurred in the future, should be prorated between the parents in proportion to their Guidelines income. Father should pay _____ % and Mother should pay _____ %. The payment should be in addition to the base child support award and promptly paid directly between the parents.

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care and process insurance claims for the child/ren. Insurance proceeds should be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents should be ordered to sign any needed document that provides continuing health care for the child/ren.

Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring

your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

10. Health Care Costs. [] Health care costs sharing has already been set, as shown by the attached Order, **Exhibit B.** **or**

[] The actual cost paid by either parent for health care expenses for the child/ren not covered or paid in full by insurance, including, but not limited to, orthodontic, optical and dental, should be prorated between the parents. Father should pay _____ % and Mother should pay _____ %. These payments should be in addition to the base child support award and be promptly paid directly between the parents.

Any health care for the child/ren (whether denominated as psychiatric, psychological, special education, addiction treatment, or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, must be approved in advance, in writing, by both parents or by prior court order. (**Note:** *The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines Income.*)

11. Work-Related Child Care Costs.

[] Work-related child care costs sharing has already been set, as shown by the attached Order, **Exhibit B.** **or**

[] The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care should be paid _____% by Father and _____% by Mother.

[] Payment should be made directly to the child care provider by both parents according to arrangements made with the care provider. If one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

12. Income Tax Exemption.

[] The Income Tax Exemption has already been set, as shown by the attached Order, **Exhibit B.** **or**

[] The state and federal dependency tax exemption(s) for the Petitioners' minor child/ren should be assigned as follows:

The parent not receiving the exemption(s) should sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

13. [] Name Change. For legal purposes the minor child/ren's last name should be _____, and the child/ren's birth certificate(s) should be amended to reflect that name.

14. [] Amend Birth Certificate. The Bureau of Vital Statistics should amend the birth certificate(s) of our child/ren to reflect that _____ is the natural father of our child/ren.

VERIFICATION: We swear to having read this Petition and state that all facts included are true.

WHEREFORE, We ask the Court to enter the orders requested above.

Date: _____, 20____.

Father's Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public for Idaho

Residing at: _____

Commission Expires: _____

Date: _____, 20____.

Mother's Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____,
20____.

Notary Public for Idaho
Residing at: _____
Commission Expires: _____

REMOVE THIS PAGE AND ATTACH

**A COPY OF THE ORDER OF FILIATION, IF ANY
OR
A COPY OF THE ACKNOWLEDGMENT OF PATERNITY, IF ANY.**

“EXHIBIT A” the PARENTING PLAN

**“EXHIBIT B” the
CHILD SUPPORT ORDER FROM OTHER CASE, if any**

**or
AFFIDAVIT VERIFYING INCOME
and
CHILD SUPPORT WORKSHEET(s)**