

AGREED PETITION FOR CUSTODY
AND PATERNITY
CAO Instruction # 2A

Summary of Steps

- Step 1: Talk to an Attorney, if Possible
- Step 2: Obtain and Complete the Required Forms
- Step 3: Make Copies and File With the Clerk
- Step 4: Obtain Service On the State of Idaho, if applicable
- Step 5: Follow Any Court Orders (Attend the Parenting Workshop)
- Step 6: Obtain a Court Date to Finalize Your Custody Action
- Step 7: Finalize Your Custody Proceeding

Step 1: Talk to An Attorney, If Possible

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.

Step 2: Obtain and Complete the Required Forms. You can either type your information, or neatly print it in black ink

To begin your custody action you will need the following forms:

- Family Law Case Information Sheet
- Agreed Petition for Custody And Paternity, CAO 13-3
- Agreed Order for Custody And Paternity, CAO 13-4
- Parenting Plan, CAO 6-3 (Make 2 copies of the completed Parenting Plan so you can use one as your proposed plan attached to your petition, and one as your final plan attached to the order.)

If child support has not been previously ordered by the court, or if you are asking for a different amount of child support to be ordered, you will also need:

- Child Support Affidavit, CAO 1-11
- Child Support Worksheet. You will use either the Standard Child Support Worksheet, CAO 1-13 **or** the Shared, Split or Mixed Custody Worksheet, CAO 1-12
- Child Support Transmittal form, CAO 1-14

Note: Sometimes there is a third party in a custody proceeding. For example, if child support for the child/ren has already been ordered by the court, and if the State of Idaho brought that action in the court, you usually file your custody action as part of the same case. The State of Idaho is still a party with an interest in that case. **If the State of Idaho is a party of the case**, you will have to "serve" the state (give it notice of what you are filing by

delivering a copy). Contact the Court Assistance Office for more information and necessary forms.

Complete the forms you need by typing or printing neatly in black ink. At the top left-hand corner of page 1 of each court form, fill in each of your names, addresses, and telephone numbers. Fill in the county and judicial district in capital letters the heading (for example, "IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT IN AND FOR THE COUNTY OF NEZ PERCE"). Fill in your names in the caption (In re the Child/ren of John Doe and Mary Doe, Petitioners") Fill out the remainder of each individual form, providing the information requested. If specific instructions are provided for a particular form, follow those instructions.

If you are setting or modifying (changing) child support, you may use the public access computer at the Court Assistance Office to generate the Child Support Affidavit and Worksheet. To use this tool, contact your local Court Assistance Office for hours and availability. You will need to bring information with you about your family income, work-related child care expenses, and health insurance premiums.

Both the Agreed Petition and the Parenting Plan have a place for both parents to sign the documents in the presence of a notary public. *It is best to have both parents' signatures on each document, but it is only required on the Petition.*

Step 3: Make Copies and File with the Clerk

You will need to bring your original and at least two photocopies of the forms that begin your custody action (Agreed Petition with attachments and Family Law Case Information Sheet). Place the copies behind each original. (Bring a third copy if the State of Idaho, Department of Health and Welfare is a party in the existing case).

To begin your custody action, go to the window in the Clerk's Office. Give the Clerk the following:

1. Filing fee (\$82.00 as of July 1, 2005) **or** a *Motion and Affidavit for Fee Waiver*, CAO 1-10A, and a proposed *Order for Fee Waiver*, CAO 1-10B.
2. The completed originals of your documents including all attachments (Parenting Plan and/or Child Support documents), and your photocopies.
3. Motion for Joinder/Intervention and Order for Joinder/Intervention, if applicable (necessary only if you are filing a new action in a case in which the State of Idaho is a party and one of you was not named in the case).

When you file your documents, the Clerk will give both parents an Order to Attend a parenting program, which may be called "Divorce Orientation", "Mediation Orientation" or "Parenting Workshop", depending on the district you are in. If only one parent is present, you may need to provide a stamped, addressed envelope for the clerk to mail the Order to Attend to the other parent.

The Clerk will "conform" your copies by stamping and dating them. This will save you paying \$1.00 per page for copies of these documents from the court file later on, and will provide proof of the filing of the documents in case they become misplaced from the court file. Your original documents will remain in the court file. One copy should be given to both parents for their records.

Step 4 Obtain Service On the State of Idaho, if applicable

If the state of Idaho is a party of the case, contact the Court Assistance Office for instructions about obtaining service on the Department of Health & Welfare.

Step 5 Attend the Parenting Workshop or Divorce Orientation.

Follow the instructions from the judge in your Order to Attend and keep proof of attendance.

Step 6 File Finalization Documents And/Or Obtain a Court Date to Finalize Your Custody Action

Depending upon the county's procedures, you may need a court date and a hearing to finalize your custody action. Many judges require a hearing attended by at least one parent in cases involving the custody and support of children. To be sure, ask a Deputy Clerk or Court Assistance Officer in your county if the judge will require a hearing.

To finalize your custody action, bring an original and copies of the following documents to the Clerk. (Bring **three** copies if a child support amount will be ordered, bring **four** copies if the State of Idaho is a party.)

- ❑ Proof that you attended the Parenting Class or Divorce Orientation.
- ❑ Agreed Custody Order, CAO 6-4 (if you have not already filed it)
- ❑ Child Support Transmittal form, CAO 1-14
- ❑ An envelope which the Clerk will use to mail the final Custody Order to each party who will not be attending a hearing. The envelopes must be addressed (each parent, the State of Idaho). In addition, the envelopes must have the right amount of postage on them. The clerk will be mailing the custody order, with any attachments including the parenting plan, after the hearing so you should provide a large manila envelope with at least \$1.06 in postage.
- ❑ If you have dependent children, and are obtaining/changing Child Support, bring a third large envelope with postage. The envelope must be addressed to:
Child Support Receipting
PO Box 70008
Boise, ID 83731

If a hearing is required, obtain a court date from the clerk to finalize your custody action. Usually, only one parent must attend the hearing.

Step 7: Finalize Your Custody Action

On the day of the hearing, make sure you go to the correct courtroom. Bring your copy of all the documents you filed with the court. Dress appropriately and address the judge as "Your Honor." The judge will call the name and the number of your case. Go to the clerk's table by the judge's bench. Then the clerk will swear you in and you will take a seat at the witness stand and give your testimony, which is an outline of the things you asked for in the Petition. The judge may ask you questions. If the judge has no questions, you are finished. The judge will tell you if he will sign your Agreed Custody Order.

If for some reason you cannot make your court date or if you will be late, call the court clerk and the judge's secretary to ask for an extension of time and a new court date.

The Clerk will "conform" the extra copies of the Order you provide after the hearing. The judge will not sign these copies, but the Clerk will stamp the judge's name on them. The final Orders will be mailed to the parties in the envelopes provided.

If you need additional copies, you can purchase regular or certified copies of your final documents any time after your final hearing from the Clerk's Office. However, there is a charge of \$1.00 per page for such additional copies. That is why it is important for you to supply at least two copies to be conformed by the clerk after the hearing.