Superior Court of the District of Columbia
Family Court

HANDBOOK FOR PEOPLE WHO REPRESENT THEMSELVES IN DIVORCE, CUSTODY, AND CHILD SUPPORT CASES

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TABLE OF CONTENTS

PAGE

TABLE OF CONTENTS (CONT'D)

PAGE

TABLE OF CONTENTS (CONT'D)

PAGE

I. GENERAL INFORMATION

WHY SHOULD I READ THIS HANDBOOK?

This handbook provides basic information about divorce, custody, and child support cases in the Domestic Relations Branch of the Family Court of the District of Columbia. It explains some of your basic rights and responsibilities if you represent yourself in such a case. However, this handbook does not and cannot answer all the questions you may have.

HOW CAN I GET MORE INFORMATION ABOUT FAMILY COURT CASES IN D.C. SUPERIOR COURT?

You can visit the Family Court Self-Help Center, a free walk-in service that provides people who do not have attorneys with general legal information in custody and divorce matters and other family law matters. The Family Court Self-Help Center can inform you about your legal rights and options, explain the court process, help you with forms for court filings, and refer you to programs that may be able to provide you with an attorney. The Family Court Self-Help Center is located in Room JM-570 in the Moultrie Courthouse at 500 Indiana Avenue, N.W., and it is open every weekday from 8:00 a.m. to 5:30 p.m. No new intakes accepted after 5:00 p.m.

The D.C. Bar Pro Bono Program holds clinics once per month to assist people representing themselves in divorce or custody cases. Staff at the clinics provide information on divorce and custody laws in D.C. and can help you fill out court forms. You can find additional information about these clinics at: http://www.dcbar.org/pro-bono/volunteer/pro-se-divorce-clinic.cfm and http://www.dcbar.org/for-the-public/help-for-individuals/custody.cfm.

The law for divorce, custody, and child support cases is available in the D.C. Code and the Family Court Rules. Public libraries have some information about the law. They can also provide access to the Internet, where you can review the D.C. Code and Family Court rules at: http://www.lexisnexis.com/hottopics/dccode/ and http://www.dccourts.gov/internet/legal/dcscrules.jsf#familyrules. You can find additional information on the Family Court's website: http://www.dccourts.gov/internet/superior/org_family/main.jsf. You can also find legal information on a variety of family law issues at: www.lawhelp.org/dc.

HOW DO I GET INFORMATION ABOUT THE STATUS OF MY CASE?

You can obtain information about the status of your case from the Family Court's Clerks' office at Room JM 300 on the JM level of the courthouse. The staff can give you information about what documents and orders have been filed in your case. You also may request a copy of the "docket," which is a list of all the hearings, orders, and filings in the case.

DO I NEED A LAWYER TO REPRESENT ME?

You do not need a lawyer to represent you, but almost everyone is better off with a lawyer. A lawyer can advise you about what your rights are. A lawyer can help you understand the court's rules and procedures, which are often hard for someone who is not a lawyer to follow.

If you cannot afford to hire a lawyer, there are legal services organizations that may be able to assist at no cost. For more information on those organizations, visit www.lawhelp.org/dc, or a list of organizations is available at the Family Court Self-Help Center.

CAN THE COURT APPOINT A LAWYER TO REPRESENT ME?

No. The Court cannot appoint lawyers to represent you in divorce, custody, or child support cases. Although the Court can provide information about finding a lawyer, it is up to you to find a lawyer willing to represent you.

The Court can appoint an attorney, called a guardian *ad litem*, to represent the best interests of the child or children in a case involving custody.

WHAT ARE MY RESPONSIBILITIES IF I REPRESENT MYSELF?

Everyone who comes to court is expected to comply with the rules of court. In general, the same rules apply whether or not you have a lawyer. The rules are available here: http://www.dccourts.gov/internet/legal/dcscrules.jsf#familyrules. When you are in court, the judge may also provide basic information to both sides about how to follow the rules or may refer you to the Family Court's Self-Help Center.

CAN I CALL OR WRITE THE JUDGE IF I DON'T KNOW WHAT TO DO?

No. Court rules prohibit both lawyers and non-lawyers from calling or writing a judge or the judge's staff for assistance or guidance. Judges and their staff cannot discuss a case with only one side.

Court rules also prohibit court employees from giving advice to anyone – lawyers or non-lawyers. Court employees may be able to provide basic information about procedures.

HOW SHOULD I BEHAVE IN COURT?

In order to make a good impression on the Court, follow these simple rules:

- Arrive on time
- Check in with the court clerk
- After you check in with the clerk, sit quietly in the courtroom to wait for your case to be called
- Turn off your cell phone
- Do not wear a hat in the courtroom
- Do not eat, drink, or chew gum in the courtroom
- Do not read newspapers in the courtroom
- When your case is called, go up to the table you are assigned
- Act respectfully to the judge and the other party

- Wait your turn to speak
- Speak to the judge, not to another party
- Do not argue with the other party in front of the judge
- Do not interrupt the judge or another party when they are speaking – you will get your chance to talk
- Listen to the judge's questions and do your best to answer them

WHAT SHOULD I WEAR TO COURT?

Wear clothes that you would wear to an important occasion – like a job interview.

CAN I BRING MY CHILDREN TO COURT?

Children are allowed at the courthouse but generally you should not bring your children into the courtroom. The Court's child care center is on the C level in Room C-185 for children aged 2 to 12. It is open from 8:30 a.m. to 5:00 p.m. Children must be potty-trained and wearing underwear (no Pull-ups or Pampers). You get can forms for registering your child and more information online at: http://www.dccourts.gov/internet/jurors/childcare/main.jsf.

II. THE RULES AND LAW

DIVORCE CASES

DO I HAVE TO LIVE IN D.C. TO FILE A DIVORCE CASE?

You can file for divorce in D.C. if either you or your spouse have lived in D.C. for six months in a row. Additionally, if you and your spouse are the same gender but do not currently live in D.C., you can file for divorce in D.C. if you were married in D.C. and neither of you currently lives in a state that permits same-gender divorce.

WHAT DO I HAVE TO SHOW THE COURT TO GET A DIVORCE IN D.C.?

There are two possible ways to get a divorce under D.C. law (D.C. Code §16-904(a)). First, you can get a divorce if you and your spouse agreed to live separately, and if you have lived apart for six months. Second, you can get a divorce even if you and your spouse did not both agree to live separately but you and your spouse have lived apart and not as a couple for one year. Spouses can live apart even if they live in the same house or apartment, but only if they do not have sexual relations and live separate lives like roommates.

CAN I GET DIVORCED BECAUSE MY SPOUSE TREATED ME BADLY?

No. D.C. is a "no fault" jurisdiction. To get a divorce, you must show you have lived apart from your spouse as explained above.

HOW DO I GET MY SHARE OF OUR PROPERTY AFTER THE DIVORCE?

At the time of your divorce, the judge has the power to decide which spouse gets what property and which is responsible for what debt. If you reach agreement on these issues, you can ask the judge to incorporate the agreement in a court order.

WHAT FACTORS DOES THE JUDGE CONSIDER IN DIVIDING UP PROPERTY OR DEBT?

D.C. law (D.C. Code §16-910(b)) requires the judge to consider all relevant factors. The statute lists several factors, including:

1. how long the parties were married;

2. the age, health, occupation, amount and sources of income, employability, assets, debts, and needs of each of the parties;

3. provisions for the custody of minor children;

4. whether the distribution is instead of or in addition to alimony;

5. each party's contribution to the family unit both financial and otherwise; and

6. the circumstances which contributed to the estrangement of the parties.

WHAT IS ALIMONY?

Alimony is a payment by one spouse to help support the other spouse. A spouse may get alimony in addition to child support, which is a payment to meet the needs of their child or children.

CAN I GET ALIMONY?

Yes, the judge can order payment of alimony if it is fair. Alimony can be permanent or may last only for a specific period of time. You may be able to get alimony on a temporary basis before trial. D.C. law (D.C. Code §16-913(d)) requires the judge to consider all relevant factors, including:

1. the ability of the party seeking alimony to be self-supporting, and the ability of the other party to meet both parties' needs;

2. the financial needs and resources of each party;

3. the parties' standard of living during and after the marriage;

4. how long the parties were married;

5. the parties' age and physical and mental condition; and

6. the circumstances which contributed to the estrangement of the parties.

If circumstances change after the judge awards alimony, a party can file a motion asking the judge to increase or decrease the amount of alimony.

CAN I GO BACK TO MY ORIGINAL NAME AFTER THE DIVORCE?

Yes. If you changed your name when you got married, you can change it back. You should request a name change in the divorce complaint or answer.

CUSTODY CASES

WHAT IS CUSTODY?

Custody is the legal word for caring for and making decisions about your child until the child turns 18. There are two types of custody – legal custody and physical custody. Legal custody means making major decisions for the child about things like where the child goes to school, where the child gets medical care, and the child's religion. Physical custody means where the child lives each day of the week and who gets to spend time with the child.

CAN I FILE MY CUSTODY CASE IN D.C.?

Determining if D.C. is the right place to file your custody case is straightforward if both parents and the child have lived in D.C. for at least six months. Otherwise, it can get complicated, and you can get assistance from the Family Court Self-Help Center in Room JM-570 in the Moultrie Courthouse.

Generally, you can file in D.C. if it is the "home state" of the child or children in your case. "Home state" means that the child or children lived in D.C. with a parent for at least six months in a row immediately before filing the case. If the child is less than six months old, D.C. is the home state if the child lived here since birth. D.C. is also the home state if the child now lives in a different state, but (a) the child has lived there for less than six months, (b) the child lived in D.C. for six months in a row before the child moved away, and (c) a parent still lives in D.C.

If D.C. is not the child's home state, you may still be able to file for custody in D.C. but you should check with the Family Court Self-Help Center for assistance.

WILL THE COURT STILL BE ABLE TO DECIDE MY CASE IF ANYONE IN THE CASE MOVES?

It depends. The rules about this are complicated. If you have questions about this issue, you can go to the Family Court Self-Help Center for help.

WILL I BE REQUIRED TO ATTEND PARENTING CLASSES (KNOWN AS THE PAC PROGRAM)?

At the beginning of a custody case, the parties will be referred to participate in the PAC program – the Program for Agreement and Cooperation in Contested Custody Cases. The class explains the court process and encourages the parties to work out custody arrangements by agreement rather than have a judge decide custody issues for them after a trial. The classes are in the Jurors Lounge at the Moultrie Courthouse every other Saturday from 9:30 a.m. to 1:30 p.m. There is a session for children aged 7-14 while the parents or caregivers attend the PAC program.

WHAT DOES THE LAW SAY ABOUT CUSTODY?

D.C. law (D.C. Code § 16-914(a)(2)) states that both parents generally should share parenting responsibilities for their children (this is often referred to as a "presumption of joint custody"), except in a few circumstances.

If the judge decides that one parent has committed a crime against a family or household member or abused or neglected a child, then that parent cannot get custody or visitation unless he or she proves it is safe and in the best interests of the child.

HOW DOES THE JUDGE DECIDE WHO GETS CUSTODY?

The law requires that the most important consideration in any custody decision is the best interest of the child. D.C. Code §16-914(a)(3). In deciding what custody arrangement is best for the child, the judge must consider all relevant factors, including the 17 factors listed in the law:

1. the relationship of the child with his or her parents, siblings, and any other person who may affect the child's best interest;

2. the child's adjustment to his or her home, school, and community;

3. the age and number of children;

4. the mental and physical health of all individuals involved;

5. the demands of parental employment;

6. how the distance between the parents' homes affects whether and when the child should spend time in each home;

7. the prior involvement of each parent in the child's life;

8. the potential disruption of the child's social and school life;

9. the parent's ability to financially support a joint custody arrangement;

10. the impact on Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities;

11. the benefit to the parents;

12. evidence of an intrafamily offense as defined in D.C. Code § 16-1001(8);

13. the wishes of the child about who should have custody, where practicable;

14. the wishes of the child's parent or parents about the child's custody;

15. the sincerity of each parent's request;

16. the willingness of the parents to share custody; and

17. the ability of the parents to communicate and reach shared decisions affecting the child's welfare.

CAN I SPEND TIME WITH MY CHILD IF THE COURT GRANTED CUSTODY TO SOMEONE ELSE?

Yes. When the judge decides that visitation is in the child's best interests, the judge usually will order a specific schedule for time that you will spend with your child. Certain days of the week, holidays, overnight visits, and/or school breaks may be ordered depending upon the parents' schedules and the child's activities.

CAN A PARENT BE LIMITED ONLY TO SUPERVISED VISITS?

Yes. If the judge believes that a parent or the child would not be safe in an unsupervised visit, the judge can order supervised visits at the Court's Supervised Visitation Center, which is located at 515 5th Street N.W. The Supervised Visitation Center can also be available for supervised drop-offs and pick-ups so that the two caregivers do not have any contact with each other. Supervised visits can also occur at other locations or be supervised by other people as ordered by the judge.

CAN I SPEND TIME WITH MY CHILD EVEN IF I DO NOT PAY CHILD SUPPORT?

Yes. Whether you have the right to spend time with the child does not depend on whether you are paying child support.

CAN ANYONE OTHER THAN PARENTS GET CUSTODY?

Yes. D.C. law (D.C. Code §16-831.01 *et seq.*) allows people other than parents ("third parties") like grandparents, aunts and uncles, and even friends to file for custody in certain circumstances. Third parties can file for custody only if:

1. they have the agreement of the parent who has taken care of the child during the past 3 years;

2. they have lived with the child and taken care of the child like a parent for at least 4 of the 6 months before the custody case was filed; or

3. they are now living with and caring for the child and the child would be harmed if the third party does not have custody.

Even if a third party can file for custody, a parent still has the right to parent his or her child unless (1) the parent agrees to give the third party custody, or (2) the third party can show that the parent is unwilling or unable to take care of the child and custody with the third party is in the child's best interests.

CAN I GET A CUSTODY ORDER CHANGED AFTER THE JUDGE HAS MADE A DECISION?

Yes. Any party can file a motion to modify an order for custody. You must serve the motion on the other parties. If a motion to modify custody is filed, a judge may change, modify or end a custody arrangement if (1) there has been a substantial and material change in circumstances and (2) it is in the best interest of the child. The party that wants the modification has to prove that the original order should be changed.

CAN I GET A STAY-AWAY ORDER IN MY CASE IF I AM A VICTIM OF DOMESTIC VIOLENCE?

If you are a victim of domestic violence, you can get a civil protection order ("CPO") that requires someone to stay away from you or stop harassing you. If you need a CPO against someone, visit one of the court's two Domestic Violence Intake Centers to file a petition. The Domestic Violence Intake Centers are located at the Moultrie Courthouse on the 4th floor in Room 4550 and at the United Medical Center, 1328 Southern Avenue, S.E., Medical Pavilion Suite 311. More information is available at: http://www.dccourts.gov/internet/public/aud_dvu/main.jsf.

If there are both a custody or divorce case and a domestic violence case involving the same adults, they may be consolidated and handled together. You may ask the judge to handle both cases together.

CHILD SUPPORT CASES

CAN I FILE FOR CHILD SUPPORT?

Anyone who lives with and cares for a minor child may file for child support. You do not need to be the child's parent or have court-ordered custody or guardianship of the child.

CAN I FILE MY CHILD SUPPORT CASE IN D.C.?

You can file a child support case in D.C. whether or not you live here. However, the individual against whom the case is filed must either live in D.C. or meet one of the following criteria in D.C. Code § 46-302.01:

1. The individual is personally served with notice within D.C.;
2. The individual consents to the jurisdiction of D.C.;
3. The individual resided with the child in D.C.;
4. The individual resided in D.C. and provided financial support before or after the birth of the child;
5. The child resides in D.C. because of something the individual did or said;
6. The individual engaged in sexual intercourse in D.C. and the child may have been conceived by that act of intercourse; or
7. D.C. law otherwise permits the individual to be sued in D.C. courts.

HOW CAN I START A CHILD SUPPORT CASE?

If you want child support and there is no child support order, you can file a Petition to Establish Paternity and/or for Child Support with the Central Intake Center in the Moultrie Courthouse (Room JM-540). You may also request child support as part of a complaint for custody or divorce.

You can also request help from the Child Support Services Division of the D.C. Attorney General's office, which is located at 441 4th Street, N.W. (two blocks from the courthouse near one exit from the Judiciary Square metro station). If you receive TANF or Medicaid, the D.C. Attorney General's office may file a case either at your request or at any time on its own. If you do not receive Medicaid or TANF benefits, you can request the help of the D.C. Attorney General by submitting an application form and paying a $5 fee. When the D.C. Attorney General's office files a case for child support, it represents the D.C. Government in the case, not either of the parents.

HOW WILL THE COURT DETERMINE HOW MUCH CHILD SUPPORT MUST BE PAID?

D.C. law (D.C. Code § 16-916.01) includes a guideline to assist judges in setting child support. Some of the factors included in the guideline are the parents' incomes, how many children they have together and the amount of time the children spend with each parent. The guideline also takes into account money spent for childcare, medical insurance or large medical expenses. A child support guideline calculator is available on the Attorney General's website: http://cssd.dc.gov/service/calculate-child-support-payments.

Judges usually order the amount of child support provided by the guideline. However, judges can decide not to use the guideline amount if it would be unfair. D.C. Code § 16-916.01(p). If the judge decides to order a different amount of child support than what is recommended by the guideline calculator, the judge must explain in writing why the different amount was ordered.

HOW WILL COURT-ORDERED CHILD SUPPORT BE PAID?

In almost all cases when the parent is employed, the court will order that child support be taken directly from the pay check of the parent with a duty to pay. This is called "wage withholding." The Office of the Attorney General Child Support Services Division is responsible for submitting the required paper work to employers to start wage withholding.

Before wage withholding is in place or when wage withholding is not possible, the parent with a duty to pay is still responsible for making the payments. In this case, payments may be made through the Child Support Clearinghouse. Information about making payments through the Child Support Clearinghouse can be found at the Office of the Attorney General Child Support Services Division website: http://cssd.dc.gov/page/paying-support.

III. YOUR CASE

STARTING A CASE

HOW DO I START A CASE?

To start a case, you have to complete a document called a complaint, sign it, and file it with the Court. In general, the person who files the case is called the "plaintiff," and the person who gets sued is called the "defendant" – although in child support cases the terms "petitioner" and "respondent" are used. In the complaint, you explain why the case belongs in D.C. and why you think the judge should rule in your favor.

The Family Court Self-Help Center has forms for complaints in custody, divorce, and other types of cases and can help you complete these forms. The forms are also available on-line at http://www.dcbar.org/for-the-public/legal-resources/Family.cfm.

WHAT HAPPENS IF I NEED TO FIX SOMETHING IN MY COMPLAINT?

If you need to correct or add information to your complaint, you have the right to change it once, without getting permission from the judge, as long as you do it before the defendant files a response or before the first hearing. Otherwise, you need to file a motion asking the judge to allow you to makes changes to your complaint. Domestic Relations Rule 15.

WHAT IS A SUMMONS?

When you file a complaint for custody or divorce, you must complete a summons for each defendant in the case, which gives formal notice of your case to each defendant. The summons tells the defendant to respond to the complaint. The Central Intake Center for the Family Court on the JM level of the courthouse can provide a summons form for you to fill out.

WHAT IS A NOTICE OF HEARING AND ORDER TO APPEAR?

When you file a petition for child support or to establish paternity, the Family Court's Central Intake Center will provide a form called a Notice of Hearing and Order Directing Appearance (NHODA). In addition to telling the defendant to come to court on the date of the first hearing, the NHODA directs all parties to bring financial documents including pay stubs and tax returns for the past two years. The NHODA also states that a bench warrant may be issued if the defendant does not appear for the hearing date.

WHAT IS THE CASE NUMBER?

When you file a complaint, the Central Intake Center assigns a number to the new case and writes that number on the complaint and the summons. You need to have the case number for future filings in the case and anytime you want to get information about the case.

WHO WILL DECIDE MY CASE?

A judge will decide your case. New cases are randomly assigned to one of the judges who handle domestic relations cases. The assigned judge generally handles the case from beginning to end, but sometimes a different judge will take over responsibility for your case.

HOW DO I FILE DOCUMENTS?

"Filing" means that you officially submit the document to a clerk at the Family Court's Central Intake Center on the JM level of the Moultrie Courthouse. The clerk will stamp the document with a date and time. It is a good idea to keep a copy of any documents that you file for your records.

You also can file electronically at www.casefilexpress.com.

WHEN CAN I FILE DOCUMENTS?

You can file documents in the Central Intake Center on Monday through Friday from 8:30 a.m. to 5:00 p.m., or electronically at any time. In addition, you can file at any time in the deposit box for filings on the first floor in the lobby of the Moultrie Courthouse (make sure you use the Family Court box). It is a good idea to check that your documents have arrived in the Central Intake Center the following business day.

HOW MUCH DOES IT COST TO FILE A NEW CASE?

It costs $80.00 to file a complaint, unless you get permission not to pay the fee because you cannot afford it. You have to pay this $80.00 filing fee before the Clerk gives you the copy of the complaint and summons to serve on each defendant.

All filing fees must be paid by cash, money order, cashier's check, or credit card (Mastercard or VISA only). Only lawyers may pay filing fees by personal check. Money orders or cashier's checks should be made payable to: "The Clerk, D.C. Superior Court."

WHAT CAN I DO IF I CANNOT AFFORD THE FEES TO FILE DOCUMENTS?

The Court will allow you to file complaints, motions, and other documents without paying fees if you show that you cannot pay the fees without hardship to you or your family. To show that you deserve a fee waiver, you must submit an affidavit or declaration to the Court, called an *in forma pauperis* form or "IFP". The Family Court Self-Help Center can assist you in completing the form. The form is also available on the DC Bar's website at http://www.dcbar.org/for-the-public/legal-resources/Family.cfm.

You may be allowed to file without paying fees even if you have a job. If you show that you receive Temporary Assistance for Needy Families (TANF) or other public benefits, you can get a waiver without providing additional information. Otherwise, you may have to provide information about your income, assets, and expenses. To get this waiver from filing fees, you need to get permission from the Judge in Chambers in Room 4220 at the Moultrie Courthouse.

SERVING THE COMPLAINT

HOW DO I SERVE THE COMPLAINT ON THE DEFENDANT?

Serving the complaint and summons means that you provide a copy of these documents to each defendant.

You can serve a defendant in several different ways. The first way to serve a defendant is using a process server. A process server is a person who is 18 years of age or older and who is not a party to the case, for example a friend or co-worker. Domestic Relations Rule 4(c)(1). You do not have to hire a company to serve the papers, but if you do, you pay the fees charged by the company. The process server must give the complaint directly to the defendant or to a person over the age of 18 living at the defendant's home or residence. Domestic Relations Rule 4(d)(2).

You may also serve a defendant by mailing a copy of the complaint and summons by certified or registered mail, return receipt requested. Domestic Relations Rule 4(c)(2). If the post office delivers the complaint and summons to the defendant, you have to file the

proof of delivery or “green card” with the defendant’s signature or the signature of a person you can prove lives with the defendant.

The Self-Help Center can provide information and options if you are having trouble serving a party.

DO THE SAME RULES FOR SERVICE APPLY IN CHILD SUPPORT CASES?

In child support cases, the defendant is called the “respondent,” and the initial document filed in the case is called a “petition.” In a child support case, the respondent needs to be served the petition and a document called a Notice of Hearing and Order Directing Appearance.

In child support cases, you may serve the respondent in any of the ways listed in the previous section. However, you may also have a process server give the complaint to the respondent or to a person over the age of 18 at respondent’s place of employment.

Additionally, in child support cases, you may serve the respondent by mailing a copy of the petition and Notice of Hearing and Order Directing Appearance by certified mail, return receipt requested, and by separate first class mail. In support cases, service will generally be considered valid without a signed “green card” for the certified mail, as long as the first-class letter is not returned. However, in a paternity suit where the respondent does not appear in court or file anything in the case, the court will not be able to enter a judgment if the “green card” is not signed and filed. D.C. Code § 46-206(b)(2).

HOW LONG DO I HAVE TO SERVE THE COMPLAINT?

You have 60 days from the date of filing to serve the complaint, unless you get an extension.

WHAT DO I DO IF I NEED MORE TIME TO SERVE THE COMPLAINT?

You can request one 60-day extension from the Family Court’ s Central Intake Center. If you still cannot serve the defendant within this 60-day extension, you need to file a motion for an additional extension of time for service. You must ask for these extensions before the deadline expires.

WHAT SHOULD I DO AFTER I SERVE THE DEFENDANT?

You have to file proof of service. Proof of service consists of an affidavit or declaration (a form is available at the Family Court’s Central Intake Center) signed by the person who served the defendant that provides information about how service was made. Domestic Relations Rule 4(j) describes the information you must provide. You must file proof of service with the Court within 60 days after the filing of the complaint, unless you received an extension to serve the complaint.

WHAT HAPPENS IF I DO NOT SERVE THE DEFENDANT?

If you do not serve the defendant within the allowed time, or if you do not file proof that you served the defendant, your case will be dismissed. Domestic Relations Rule 4(l). If your case is dismissed, you may file a motion to reinstate the case. You generally must file the motion within 14 days after the dismissal. Domestic Relations Rule 41(b).

ANSWERING THE COMPLAINT

WHAT DOES THE DEFENDANT HAVE TO DO AFTER BEING SERVED?

The defendant usually has 20 days after being served with the complaint and summons to file an answer or a motion to dismiss the complaint. Domestic Relations Rule 12(a). The 20-day period begins on the day the defendant is served with the summons.

The defendant also may be able to file his or her own complaint (called a "counterclaim") if the defendant wants custody, visitation, or child support.

WHAT HAPPENS IF THE DEFENDANT DOES NOT RESPOND TO THE COMPLAINT?

If the defendant does not come to the initial hearing or otherwise respond to the complaint, the Court can enter a default against the defendant. To obtain a default, you generally must file a statement under oath that you have filed proof of service, that the time for the defendant to appear has passed, and that the defendant is not serving in the U.S. military. You do not have to serve this statement on the defendant. Domestic Relations Rule 55(a).

Before the judge can make a final ruling in your favor, the judge must hold a default hearing where you may be required to testify and present evidence. If the judge agrees with you at the default hearing, the judge will enter a default judgment. A default judgment gives you the same rights as a judgment entered in your favor after a trial.

If a default has been issued against a defendant, he or she may file a motion to vacate the default in certain circumstances. Domestic Relations Rule 55(c).

HOW DO I PROVE THAT THE DEFENDANT IS NOT IN THE MILITARY?

A federal law requires proof that the defendant who defaulted is not serving in the military before the judge can issue a final default ruling against the defendant. You may be able to get proof from a U.S. government database if you have the defendant's date of birth or Social Security number. If you have information that proves he or she is not in the military, you can submit an affidavit explaining how you know from your personal knowledge that the defendant is not in the military. The Family Court Self-Help Center can help you complete the form.

SETTLEMENT

WHY SHOULD I SETTLE MY CASE?

The court encourages parties to come to an agreement. However, you do not have to settle your case, and the court will hold a trial as soon as reasonably possible if the parties cannot settle. If you work things out and avoid a trial, you control what happens and when it happens, and you can save yourself aggravation and anxiety, time, and trips to the courthouse. The judge will get information to make the best decision possible, but you are in a better position to solve the problems because you know the other party, the child, and the situation better than the judge ever will. Also, resolving the dispute sooner rather than later is in the best interest of any child involved. At any point during your case, even during trial, you can decide to settle the case.

DOES THE COURT DO ANYTHING TO HELP PARTIES SETTLE CUSTODY CASES?

Yes. At the beginning of your case, you will be referred to a mediator to discuss possible settlement of your case.

WHAT IS MEDIATION?

Mediation is a free service available through the court to help you resolve disputes concerning divorce, custody, visitation, child support, property, spousal support, and other family issues. The mediator cannot and does not require anyone to agree to anything, but he or she can help the parties find a solution each of them can live with.

The first step is an intake session. Your case may not be accepted for mediation if there is concern about a party's safety during the process. If you are accepted for mediation at the intake, you sign an "Agreement to Mediate," which lays out the terms of the mediation and the role of the mediator. You agree to make a good faith effort to discuss all issues and to disclose any relevant information. The agreement states clearly that mediation is a voluntary process – this means that a party can stop mediating at any time. Mediation is confidential, which means that what you discuss in mediation cannot later be used at trial if you do not come to an agreement.

If you reach an agreement, the mediator writes up that agreement and you review it. Once the parties approve the final draft, the agreement is signed by the parties and submitted to the Court.

For more information, contact the Multi-Door Dispute Resolution Division. The telephone number is (202) 879-1549.

WHAT IS A CONSENT ORDER?

If you want your settlement agreement to be enforceable like a court order, you can ask the judge to enter a consent order. A consent order can be temporary or a final order that ends the case.

COURT HEARINGS

WHEN DO I GET TO SEE THE JUDGE?

The first hearing before the judge is the initial hearing. This hearing usually occurs within 60 to 90 days after the filing of the complaint in a custody or divorce case or within 45 days after the filing of a child support petition. Each party must appear in person at the initial hearing.

WHAT HAPPENS AT THE INITIAL HEARING?

While you are waiting in the courtroom for your case to be called for the initial hearing, you may be asked to go into the hallway to meet with an attorney-negotiator who can provide information and may be able to help you settle your case. The attorney-negotiator's goal is to help you and the other party come to an agreement. If you are able to come to an agreement and resolve the issues in the case, the attorney-negotiator will notify the judge and the judge will call your case. If the judge approves the proposed settlement, he or she will enter a consent order ending the case.

If you have a case involving child support and/or paternity issues, you may be asked to meet with an attorney or paralegal from the D.C. Attorney General's office prior to your hearing. The staff person from the D.C. Attorney General's office may take a position with which you agree or one that you oppose. While these interviews may be very helpful to resolving your case, you are not required to meet or sign an agreement with the D.C. Attorney General's office. You may instead choose to have the judge hear your case.

If you do not reach a settlement, the judge will have the initial hearing. After each party takes an oath to tell the truth, you will talk to the judge about what you want from the case. The judge decides whether there should be a temporary order (for example, an order about where the child will live and when visits will occur until the next hearing or trial), and then the judge will set a date for another hearing or for a trial.

WHAT HAPPENS AT STATUS HEARINGS?

After each party has been sworn in, you can tell the judge how things have been going since the last hearing. You also can ask the judge to issue a temporary order, or keep or modify any temporary order issued at a previous hearing. The judge may then schedule another status hearing, send the parties to mediation, or schedule the case for trial.

WHAT CAN I DO TO GET HELP BEFORE THE TRIAL?

Judges have the authority to issue temporary orders that remain in effect until the case is over. For example, the judge can order that, until the trial, the child will live with one parent and the other parent will have visitation rights. A judge can also require one party to pay child support or alimony to the other pending a final decision in the case. The judge can issue a temporary order after a hearing or if the parties agree to it.

WHAT IF I HAVE AN EMERGENCY AND WANT THE JUDGE TO DO SOMETHING ABOUT IT QUICKLY?

If you have a problem that you think the judge needs to deal with immediately, you can file a motion to ask for an emergency hearing or an emergency order. The main purpose of an emergency order is to stop the other side from doing something that would be an urgent health or safety risk to you or your child and that cannot be fixed later.

You can file an emergency motion at any time during the case, or if an emergency happens after the judge has issued a final order. Consider whether you really need a hearing on the same day you file your motion. If you believe that a same-day hearing is necessary, bring information with you about how to contact the other side − at least by telephone. The judge may want to try to contact the other side from the courtroom before making a decision. Or the judge may decide to wait a few days before holding a hearing when everyone can come to court.

You can get a form to request an emergency hearing or order in the Family Court Self-Help Center.

MOTIONS

WHAT IS A MOTION?

A motion is a formal written request to the court that is filed with the Central Intake Center. Copies must be served on all the parties. You can ask the court to take action only by filing a written motion or making the request to the judge in person at a hearing. So, for example if you want more time with your child, you would file a motion for increased visitation and state the facts that support your request. Sending the judge a letter or trying to call the judge to discuss your case is not allowed.

WHAT DO I DO TO FILE AND SERVE A MOTION?

The Family Court Self-Help Center can provide form motions and explain how to complete them. You can also get an all-purpose form motion online at: http://www.dcbar.org/for-the-public/legal-resources/pro-se-pleadings.cfm.

After you write your motion, you must then sign it and include a statement called a "certificate of service" that you sign stating that you sent a copy to every party. You can file your motion at the Central Intake Center on the JM Level of the Moultrie Courthouse or electronically on CaseFileXpress. Unless you have permission not to pay filing fees, you must pay a filing fee of $20. Parties may pay filing fees by cash, money order, or cashier's check – not by personal check. You can serve a motion on the other side by mailing a copy of that motion to the person's address. If you and the other side are signed up with CaseFileXpress, you can serve electronically.

WHAT DO I DO IF I DISAGREE WITH A MOTION OF ANOTHER PARTY?

If you disagree with another party's request in a motion, you can file a written opposition to explain why the judge should deny the motion. You must include a statement called a "certificate of service" that you sign stating that you sent a copy to every party.

You must file and serve your opposition to a motion within 10 business days after you receive the motion. Domestic Relations Rule 7(b)(2). If you receive the motion by mail, you have an additional 3 business days to file and serve an opposition.

WHAT IF I NEED MORE TIME TO FILE OR OPPOSE A MOTION?

If you need more time than the rules allow, you should contact the other side and see if you can get the other side to agree to give you extra time to file your motion. If the other side does not agree, you must file a motion asking the judge to extend the deadline.

If you want to extend a deadline that the judge set in an order in your case, you need to file a motion to get the judge's approval even if the other side agrees. If the other side agrees, the motion should be called a "consent motion." Judges usually grant consent motions.

DISCOVERY

WHAT IS DISCOVERY?

Discovery is a way for any party to get information directly from the other side about the issues in the case. Judges generally do not get involved in discovery. There are several

types of discovery. One type is asking the other side for relevant documents. A party can also send a list of written questions to the other party who is required to answer those questions in writing under oath. Domestic Relations Rules 26 – 37 explain these and other types of discovery in detail. It is helpful in preparing discovery to look at the factors or law that the court will consider in your case. If the other side has important documents that you want to see before trial, or if you need other information before trial, you can also discuss the issue with the judge at a hearing.

If you have questions about discovery, you can get help through the D.C. Bar Pro Bono Program's Advice and Referral Clinic. The Advice and Referral Clinic is held the second Saturday of each month from 10 a.m. until 12 p.m. and operates out of two locations: Bread for the City's Northwest Center at 1525 7th Street, N.W., and Bread for the City's Southeast Center at 1640 Good Hope Road, S.E.

WHAT CAN I DO IF I NEED EVIDENCE FROM SOMEONE WHO IS NOT A PARTY TO THE CASE?

If you need testimony or documents from a person who is not a party, you can subpoena the witness to trial and also ask him or her to bring documents to court. If you need documents from a person or organization that is not a party, and that person or organization will not agree to give you them, you can subpoena the records. Domestic Relations Rule 45 explains how to use subpoenas. There also are special rules about subpoenas for people who live or work more than 25 miles from the District of Columbia.

You can get a blank subpoena from the Family Court's Central Intake Center on the JM level of the Moultrie Courthouse. The subpoena should be filled out before serving it and include your contact information, the case name and number, the judge's name, and the date and time of the next hearing or trial.

Domestic Relations Rule 45 also tells a person receiving a subpoena how to object to being asked to testify or provide records.

TRIAL

WHAT IS A PRETRIAL CONFERENCE?

A pretrial conference is a hearing that is usually held a few weeks before the trial. The primary purposes of the pretrial conference are to (1) identify the issues for trial, and (2) identify the evidence (witnesses and documents) for trial. Parties should come to the pretrial conference with a list of witnesses and their contact information, and copies of each document or other exhibit to share with the other side.

WHAT IS EVIDENCE?

Evidence includes all of the things a party tells or shows a judge to prove his or her case at trial. The kind of evidence that is needed depends on the kind of case. Ask yourself: what information will convince the judge to do what I am requesting?

Evidence includes the testimony of witnesses who know or have observed you or the other party or the child, and can tell the judge what they have seen or heard first-hand. Usually, a witness can testify only about what the witness saw or heard with his or her own eyes and ears. Documents and photographs also can be used as evidence.

The judge decides what evidence he or she will consider when making a final decision. The judge uses rules of evidence to decide what evidence can be considered. A party can object to another party's attempt to put forward evidence. If the judge does not explain a ruling, you can ask for an explanation. The judge may not give either party advice about how to get specific evidence admitted or excluded.

The rules of evidence used in the Superior Court are not collected in one official book. However, with some exceptions, the Superior Court's rules are the same as the Federal Rules of Evidence, which are available online at http://www.law.cornell.edu/rules/fre/.

WHAT HAPPENS AT TRIAL?

At the trial, each side has a chance to present his or her case. The plaintiff usually goes first, and then the defendant has his or her turn. A trial usually starts with opening statements where each party explains what he or she wants the court to do and summarizes the evidence he or she intends to present. Each party then presents evidence to convince the judge to rule in his or her favor. So, for example, the plaintiff may testify and may also call other witnesses to testify. The defendant gets to ask questions of the plaintiff and his witnesses. After the plaintiff presents his case, the defendant can call additional witnesses and present other evidence. The plaintiff has the right to question any witnesses the defendant calls. After all of the evidence is presented, each party may make closing arguments based on the evidence explaining why the judge should rule in his or her favor.

The parties should be ready with all their evidence on the day of trial because judges expect parties to be completely ready at that time.

WHAT SHOULD I DO TO PREPARE FOR TRIAL?

Here is a checklist that may be helpful to prepare for trial:

- Do you have a clear explanation for your case?
- Are you ready to address all the factors the court must consider in your type of case?
- Have you made sure all of the witnesses you need at trial will be at the courthouse?
- Do you have all of the documents you intend to use at trial?
- Have you prepared questions for each of your witnesses?
- Have you met with each of your witnesses?
- Have you prepared questions for each of your opponent's witnesses?
- Have you prepared your opening statement?
- Have you prepared your closing argument?

AFTER THE TRIAL

WHAT HAPPENS AFTER TRIAL?

After the trial is over, the judge will make a decision about the case. The judge must issue a written decision. You can ask the judge when the written decision will be issued.

WHAT IF I THINK THE JUDGE MADE A MISTAKE AT TRIAL AND I AM UNHAPPY WITH THE DECISION?

Either the plaintiff or the defendant can appeal a final decision to the D.C. Court of Appeals. To begin the appeal, the party who wants to appeal must file a Notice of Appeal in the Family Court's Central Intake Center on the JM level of the Moultrie Courthouse. The Notice of Appeal must be filed within 30 days after the final order is dated and issued. The Notice of Appeal form is available in the Family Court Self-Help Center. It costs $100.00 to file an appeal unless a judge has determined that you do not have to pay court fees. For next steps and more information on the appeals process, look online at the Court's handbook for filing a notice of appeal: http://www.dccourts.gov/internet/documents/SelpHelpNoticeOfAppealBrochure.pdf.

CAN A FINAL ORDER BE CHANGED?

Yes. Under certain circumstances, custody and child support orders can be changed.

A party can request to modify a custody order by filing a motion to modify custody. For the judge to agree to modify a custody order, the party who wants the change must prove that: (1) there has been a substantial and material change in circumstances; and (2) modifying or terminating the custody order is in the best interest of the child. D.C. Code § 16-914(f)(1).

A party can request to modify a child support order by filing a motion to modify child support. For the judge to modify a child support order, the party who wants the change must show there has been a substantial and material change in circumstances (for example, a parent's income increases or decreases significantly, or the child starts spending significantly more time with one parent). If a new child support order would differ from your existing child support order by 15% or more, the judge will presume a substantial change exists. A modification of a child support order can only go back to the date the motion to modify was filed and served on the other party.

WHAT DO I HAVE TO DO TO SERVE A MOTION TO MODIFY A FINAL ORDER?

If you file a motion to modify within 60 days after the final order was entered, you can serve the motion by regular mail like any other motion. If you file the motion more than 60 days after the final order was entered, Domestic Relations Rule 5(b)(2) requires you to serve the motion in the same way you serve an original summons and complaint.

WHAT CAN I DO IF THE OTHER SIDE VIOLATES A FINAL ORDER?

You can file a motion to enforce the order or a motion for contempt. If the judge finds that the other side violated the order, the judge can take steps to make sure that person complies – including, in rare cases, putting that person in jail. Samples of these motions are available at the Family Court's Self-Help Center or online at: http://www.dcbar.org/for-the-public/legal-resources/pro-se-pleadings.cfm#motions.

WHAT HAPPENS IF I DO NOT PAY COURT-ORDERED CHILD SUPPORT?

Past-due child support is commonly known as “arrears.” Individuals with child support arrears may face a number of enforcement measures, including contempt of court, revocation of their driver’s license, seizure of their bank accounts, and garnishment of wages and tax refunds. In some circumstances, there are defenses to child support arrears including if the individual with arrears receives certain public benefits or where the arrears are more than 12 years old. D.C. Code § 15-101.

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