

SUPERIOR COURT RULES GOVERNING PARENTAGE AND SUPPORT PROCEEDINGS

Rule 1. Title and Scope of Rules

(a) **TITLE.** These rules may be known and cited as the Superior Court Rules Governing Parentage and Support Proceedings or as “Super. Ct. P&S R. ___.”

(b) **SCOPE.** These rules govern the procedure in all actions and proceedings in the Parentage and Support Branch of the Family Court of the Superior Court of the District of Columbia.

(c) **PURPOSE.** These rules should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

(d) **APPLICABILITY OF DOMESTIC RELATIONS RULES.** Except when inconsistent with these rules, the following Superior Court Rules Governing Domestic Relations Proceedings are deemed applicable to proceedings in the Parentage and Support Branch:

5, 5-III, 5.1, 5.2, 6, 7, 8, 9, 11, 12, 13, 15, 17, 18, 19, 24, 25, 26-37, 41, 42, 43, 44, 45, 46, 50, 52, 53, 54, 54-II, 55, 56, 57, 58, 59, 60, 61, 62, 62-I, 62-II, 62-III, 62.1, 63, 63-I, 64, 65, 66, 67, 68, 69, 69-I, 69-II, 70, 71, 77, 79, 84, 86, 101, 201, 401, 404, and 406.

COMMENT

The parentage and support rules closely align with the domestic relations rules. In fact, some provisions in the parentage and support rules are similar or identical to the corresponding domestic relations provisions. If an entire domestic relations rule was deemed applicable to parentage and support proceedings, the domestic relations rule was listed in section (d). The intent is that the parentage and support rules are consistent with the domestic relations rules that are deemed applicable to proceedings in the Parentage and Support Branch, but if any inconsistency emerges, the parentage and support rule controls.

Rule 2. Definitions; Unsworn Declarations

(a) DEFINITIONS. The following definitions apply to these rules:

(1) Affidavit. A written declaration or statement of facts confirmed by the oath of the party making it.

(2) Clerk. Clerk of the Parentage and Support Branch of the Family Court.

(3) Minor. Any person under the age of 18 except:

(A) in cases involving the right to child support, any person under the age of 21; or

(B) in cases where a child support order has been issued in another jurisdiction, any person designated as a minor under the laws of that jurisdiction.

(4) "Reciprocal" or "Interstate" Support. Support based on an order issued or initiated in another state or jurisdiction other than the District of Columbia.

(5) IV-D Agency. The Child Support Services Division of the Office of Attorney General for the District of Columbia or successor organizational unit.

(b) UNSWORN DECLARATIONS.

(1) *When Allowed*. Unless otherwise provided by law, whenever any matter is required or permitted by these rules to be supported by the sworn written declaration, verification, certificate, statement, oath, or affidavit of a person, the matter may, with the same force and effect, be supported by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed as true under penalty of perjury, and dated, in substantially the following form, which must appear directly above the person's signature:

(A) If executed inside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States:

I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(B) If executed outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States:

I declare under penalty of perjury under the law of the District of Columbia that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States. Executed on

____ day of _____, _____, at
(date) (month) (year)

(city or other locations, and state)

(country)

(2) *Exclusions*. Rule 2 (b)(1) does not apply to:

(A) a deposition;

(B) an oath of office; or

(C) an oath required to be given before a specified official other than a notary public.

COMMENT

In accordance with D.C. Code §§ 46-353.03 and -356.04 (2018 Supp.), the definition of “minor” may be governed by the law in the state where a child support order was issued.

Rule 3. Commencing an Action and Enforcement of Child Support Orders

(a) IN GENERAL. The following parentage and support actions under D.C. Code § 11-1101 (2012 Repl.) are commenced by filing a petition or counterclaim with the court:

- (1) proceedings to determine parentage of any child;
- (2) actions for support of minor children;
- (3) actions to enforce child support orders; and
- (4) proceedings for reciprocal or interstate support under D.C. Code §§ 46-351.01 to -359.03 (2018 Supp.).

(b) CONTENTS OF PARENTAGE PETITION. A petition to commence a parentage proceeding under D.C. Code § 11-1101 (a)(11) (2012 Repl.) must set forth the jurisdiction of the court and all relevant information concerning the allegation of parentage, including, but not limited to, the following:

- (1) the relationship of the petitioner to the child(ren);
- (2) the date and place of birth of the children;
- (3) the alleged natural father of the child(ren); and
- (4) other requests for relief.

(c) CONTENTS OF SUPPORT PETITION. A petition to commence a support proceeding under D.C. Code § 11-1101 (a)(3) (2012 Repl.) must set forth the jurisdiction of the court and relevant information concerning the petition for support, including, but not limited to, the following:

- (1) the relationship of the petitioner to the child(ren);
- (2) the date and place of birth of the children;
- (3) facts concerning parentage; and
- (4) other requests for relief.

(d) ACTIONS TO REGISTER AN ORDER FOR ENFORCEMENT AND/OR MODIFICATION FROM ANOTHER JURISDICTION. Proceedings to register an order from another jurisdiction for enforcement and/or modification under D.C. Code §§ 46-356.01 to -.16 (2018 Supp.) are commenced by filing a certified copy of the order to be registered and any other supporting documentation required by statute.

COMMENT

Parentage and support cases may be initiated by petition in the Parentage and Support Branch or by complaint in the Domestic Relations Branch. If parentage or child support is the only issue to be resolved, the case must be filed by petition in the Parentage and Support Branch. See Comment (f) to General Family Rule A. This rule applies only to actions in the Parentage and Support Branch. If a separate case is filed in the Domestic Relations Branch, a related P&S matter may be consolidated in the Domestic Relations Branch with that case. See D.C. Code § 11-1104 (a), (b)(2)(B) (2012 Repl.); Domestic Relations Rule 42(a).

Rule 4. Process

(a) CONTENTS; AMENDMENTS.

(1) *Contents.* A Notice of Hearing and Order Directing Appearance or a Notice of Motion Hearing must:

- (A) name the court and the parties;
- (B) specify the date and time of the hearing;
- (C) be directed to the respondent;
- (D) state the name and address of the petitioner's attorney or, if unrepresented, of the petitioner;
- (E) state the time period within which the respondent must file a response to the petition or motion;
- (F) notify the respondent that failure to appear after being served, may result in a default judgment against the respondent for the relief demanded in the petition or motion;
- (G) notify the respondent that failure to appear may result in issuance of a bench warrant and entry of a parentage and/or support order;
- (H) be signed by the clerk; and
- (I) bear the court's seal.

(2) *Amendments.* The court may permit a Notice of Hearing and Order Directing Appearance or a Notice of Motion Hearing to be amended.

(3) *Service Outside the District of Columbia.* A notice or order in lieu of notice should correspond as nearly as possible to the requirements of a statute or rule whenever service is made pursuant to a statute or rule that provides for service of a notice or order in lieu of notice on a party not an inhabitant of or found within the District of Columbia.

(b) ISSUANCE OF NOTICE.

(1) *Support or Parentage Case.* In a case in which a party seeks permanent or temporary support of a child, to modify a child support order, or to establish parentage, the clerk must issue a Notice of Hearing and Order Directing Appearance or a Notice of Motion Hearing, specifying the date and time of the hearing, to each named respondent or individual whose attendance is required.

(2) *Motion for Contempt or Post-Judgment Motion.* When a judge or magistrate judge orders a hearing on a motion for contempt or a post-judgment motion, the clerk must issue a Notice of Motion Hearing for each party to be served.

(c) **SERVING A NOTICE.** A Notice of Hearing and Order Directing Appearance or a Notice of Motion Hearing must be served on the respondent or other named person, along with the petition or motion, in one of the following ways:

- (1) by any person who is at least 18 years of age and not a party:
 - (A) delivering a copy of each to that individual personally; or
 - (B) leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
 - (C) leaving a copy of each at the individual's place of employment with someone of suitable age and discretion;
- (2) by mailing a copy of each to the person to be served at the person's dwelling or usual place of abode or at the person's place of employment by certified mail, return receipt requested, and also by separate first-class mail—except that service by certified

mail that is unclaimed or refused and first-class mail alone is not a sufficient basis to permit the entry of a default order of parentage in a case where the respondent fails to file an answer or otherwise fails to respond appropriately;

(3) by the Metropolitan Police Department as authorized by D.C. Code § 13-302.01 (2012 Repl.);

(4) by a United States marshal or deputy marshal as authorized by D.C. Code § 13-302 (2012 Repl.); or

(5) in any manner authorized by applicable statute.

(d) TERRITORIAL LIMITS OF EFFECTIVE SERVICE. Serving a Notice of Hearing and Order Directing Appearance and the petition establishes personal jurisdiction over a respondent:

(1) who is subject to the jurisdiction of this court;

(2) who is a party joined under Domestic Relations Rule 19 and is served at a place not more than 100 miles from the place of the hearing or trial; or

(3) when authorized by a federal or District of Columbia statute.

(e) SERVING AN INDIVIDUAL IN A FOREIGN COUNTRY. Unless applicable law provides otherwise, an individual – other than a minor, an incompetent person, or a person whose acknowledgment has been filed – may be served at a place not within the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering to the individual personally a copy of the Notice of Hearing and Order Directing Appearance and petition or the Notice of Motion Hearing and motion; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement as the court orders.

(f) PROVING SERVICE.

(1) *Affidavit Required*. Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit.

(A) *Service by Delivery*. If service is made by personal delivery pursuant to Rule 4(c)(1), (3), or (4), the return of service must be made under oath (unless service was made by the United States marshal or deputy marshal) and must specifically state:

(i) the caption and number of the case;

(ii) the process server's name, residential or business address, and the fact that he or she is eighteen (18) years of age or older;

(iii) the time and place when service was made;

(iv) the fact that a Notice of Hearing and Order Directing Appearance and petition or a Notice of Motion Hearing and motion were delivered to the person served; and

(v) if service was effected by delivery to a person other than the party named in the notice, then specific facts from which the court can determine that the person to whom was delivered meets the appropriate qualifications for receipt of process set out in Rule 4(c)(1)(B) or (C).

(B) *Service Under Rule 4(c)(2)*. If service is made by certified mail and first-class mail in accordance with Rule 4(c)(2), the return of service must be accompanied by the signed receipt, when available, and an affidavit, which must state:

(i) the caption and number of the case;

(ii) the name and address of the person who posted the certified and first-class mail;

(iii) the fact that the mailing contained a Notice of Hearing and Order Directing Appearance and petition or a Notice of Motion Hearing and motion;

(iv) if the return receipt does not purport to be signed by the party named in the notice, then specific facts from which the court can determine that the person who signed the receipt meets the appropriate qualifications for receipt of process set out in Rule 4(c)(1)(B) or (C);

(v) if the return receipt is not available, whether the certified mail was unclaimed or refused; and

(vi) whether the first-class mail was returned.

(2) *Validity of Service*. Failure to prove service does not affect the validity of service.

(3) *Amending Proof*. The court may permit proof of service to be amended.

(g) TIME LIMIT FOR SERVICE.

(1) *In General*. Except where service is waived or made in open court, service must be accomplished before the time for commencement of the hearing specified on the Notice of Hearing and Order Directing Appearance or Notice of Motion Hearing. A separate proof must be filed as to each respondent who has not responded to the petition.

(2) *Extensions of Time*.

(A) *Application to Clerk*. Prior to the commencement of the hearing specified in the Notice of Hearing and Order Directing Appearance or Notice of Motion Hearing, the petitioner may file an application requesting the clerk to extend the time for service. The application must include a certificate of good faith efforts to complete service by the petitioner or by the petitioner's attorney.

(B) *Reissuance*. On receipt of an application that meets the requirements of Rule 4(g)(2)(A), the clerk must reissue a Notice of Hearing and Order Directing Appearance or Notice of Motion Hearing that specifies a new date and time for the initial hearing.

(3) *Dismissal*. The petitioner's failure to comply with the requirements of this rule will result in the dismissal without prejudice of the petition. The clerk will enter the dismissal and serve notice on all the parties.

(h) BENCH WARRANT.

(1) *When Personally Served*. Service of Notice of Hearing and Order Directing Appearance or Notice of Motion Hearing in accordance with D.C. Code § 46-206

(b)(1)(A)-(C) (2012 Repl.) provides a sufficient basis for issuance of a bench warrant for failure of the respondent to appear.

(2) *When Served by Mail*. Service executed in accordance with D.C. Code § 46-206 (b)(2) (2012 Repl.) does not provide a sufficient basis for issuance of a bench warrant for failure of the respondent to appear.

(i) NOTICE GIVEN IN OPEN COURT. Oral or written notice given by a judge, magistrate judge, or any authorized court representative, to any person during a hearing may constitute notice in lieu of service. If notice is provided in this matter, the clerk must promptly place proof of this notice in the appropriate court record.

COMMENT

The summons in parentage & support cases is called a Notice of Hearing and Order Directing Appearance (“NOHODA”). Specifically, the NOHODA serves the summons and notice function prescribed by D.C. Code § 46-206 (2012 Repl.). The content and service of a NOHODA must comply with the provisions of the statute which requires in parentage & support cases, that the petition be attached to the notice of an already scheduled hearing. While the statute refers only to “notice” and not specifically to a NOHODA, P&S Rule 4 tracks the statute in all other respects.

Rule 4(i) authorizes judges, magistrate judges, clerks, and other court employees to provide oral or written notice in lieu of service. *In re B.J.*, 917 A.2d 86, 90 (D.C. 2007), states that Superior Court rules of procedure are “broad enough to permit service of process by a courtroom clerk within a courtroom” *In re B.J.* also recognizes that, while non-resident litigants attending court are immune from service of process in other cases, there is an exception when the subject matter of the court proceeding is closely related by subject matter to the action in which service of process is being made. *Id.* However, under D.C. Code § 46-353.14 (2018 Supp.), a petitioner “is not amenable to service of civil process while physically present in the District to participate in a proceeding” under the Uniform Interstate Family Support Act.

Rule 5. Form of Pleadings, Motions, and Other Papers

(a) STATIONERY. Pleadings, motions, and other papers must be on opaque white paper, approximately 11 inches long and 8 1/2 inches wide, without a back or cover.

(b) CAPTION; NAMES OF PARTIES; LOCATIONAL INFORMATION.

(1) *In General.* Except as provided in Rule 5(b)(2), every pleading, motion, or other paper shall contain a caption setting forth:

(A) the name of the Superior Court, Family Court, Parentage and Support Branch;

(B) the title of the action, which must include:

(i) in the petition and answer, the names and residence addresses of all parties; or

(ii) in pleadings other than the petition and answer, it is sufficient to state the name of the first party on each side with an appropriate indication of other parties;

(C) the case number;

(D) the name of the pleading;

(E) where necessary to avoid confusion, the name or names of the party or parties on whose behalf the pleading or other paper is filed; and

(F) if the case has been assigned to a specific calendar or a specific magistrate judge, the calendar number or the magistrate judge's name must appear below the file number.

(2) *Substituted Address.* A party who has a reasonable basis to fear harassment or harm to the party or the party's family from disclosure of the party's residence address is not be required to state the address provided that the party substitutes the name and residence or other address of the party's attorney or a third person willing to accept service copies for the party and in care of whom such service copies may be sent. A paper which has a substituted address must be clearly marked to indicate that such a substitution has been made. In using a substitute address, a party certifies that the party may be notified of court proceedings and receive service copies of papers at that address.

(3) *Parties' Information Deemed Correct and Current.* Except as modified by a notice filed with the court and served on the parties under Domestic Relations Rule 5, the names, addresses, and telephone numbers represented in the pleading, motion, or other paper are deemed conclusively correct and current.

(c) SIGNING OF PLEADING, MOTION OR OTHER PAPER. Every pleading, motion, or other paper must be signed in accordance with Domestic Relations Rule 11. Below the signature, the paper must contain:

(1) if the party is represented by counsel, the attorney's name, office address, telephone number, e-mail address, if any, and District of Columbia Bar number; or

(2) if the party is not represented by counsel, the name, full residence address, telephone number, and e-mail address, if any, of the party by whom the paper was filed, or a substitute name, address, telephone number, and email address, if any, if a substitution has been made under Rule 5(b)(2).

(d) PARAGRAPHS.

(1) *In General.* Each claim or defense must be made in a separate paragraph. The contents of each paragraph must be limited as far as practicable to a statement of a single set of circumstances.

(2) *Prior or Pending Action.* The last paragraph of a party's initial pleading must:

(A) identify the court and docket number of any prior or pending action based on or including the same child; or

(B) state that there are no such cases.

(e) ADOPTION BY REFERENCE; EXHIBITS. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading, motion, or paper. A copy of a written instrument that is an exhibit to a pleading, motion, or other paper is a part of the pleading, motion, or paper for all purposes.

(f) NONCONFORMANCE WITH ABOVE. A pleading, motion, or other paper not conforming to the requirements of this rule will not be accepted for filing.

COMMENT

This rule is substantially similar to Domestic Relations Rule 10.

Rule 6. Disclosures; Additional Discovery; Initial Hearings

(a) **MANDATORY DISCLOSURES.** Except as provided in Rule 6(d), at the initial hearing and any hearing thereafter, the parties must exchange the following documents:

- (1) 2 most recent pay statements;
- (2) most recent W-2, 1099, K-1, or other end-of-year income statement;
- (3) proof of other income and means tested public benefits, such as unemployment compensation, workers' compensation, Social Security disability, veteran's benefits, Temporary Assistance for Needy Families, Supplemental Security Income, and any other source of income as defined in the Child Support Guideline;
- (4) proof of Social Security derivative benefits received on behalf of the child(ren) subject to the case;
- (5) most recent tax return, if self-employed;
- (6) proof of alimony paid to the other party in the case or received from any person;
- (7) proof of court-ordered child support for another child(ren) and proof of payment of the same;
- (8) proof that other child(ren) reside in the home whom the party has a legal duty to support;
- (9) proof of the increase in a parent or custodian's health insurance premium for including or adding child(ren) to the parent or custodian's health insurance plan;
- (10) health insurance card, if the child(ren) is/are already covered by a health insurance plan;
- (11) proof of any extraordinary medical expenses incurred on behalf of the child(ren) subject to the case that a party seeks to have included in the child support calculation;
- (12) proof of child care expenses incurred for the child(ren) due to employment or education; and
- (13) any other document required by the court.

(b) **RESPONSIBILITY TO PRODUCE.** Where the District of Columbia is the named party and the custodial parent has assigned his or her rights to support to the District of Columbia, the District of Columbia through the IV-D agency is responsible for producing the documents on behalf of the District of Columbia. In all other cases where the District of Columbia is the named party, the District of Columbia through the IV-D agency is responsible for producing the documents on behalf of the custodial parent.

(c) **FAILURE TO PRODUCE NECESSARY DOCUMENTS.** If the documents in Rule 6(a) are not produced but are necessary for the computation of the child support guidelines, a continuance may be granted.

(d) **THIRD PARTY CUSTODIANS.** A third party custodian is not required to provide the documents listed in Rule 6(a)(1)-(8).

(e) **ADDITIONAL DISCOVERY.** Any party may obtain additional discovery in accordance with Domestic Relations Rules 26 through 37.

(f) **INITIAL HEARING.**

- (1) *In General.* At the initial hearing, the judge or magistrate judge may:
 - (A) explore the possibilities for early resolution through settlement or alternative dispute resolution or for expediting the case by use of stipulations;
 - (B) explore issues of service, notice, and identity of necessary parties and enter any appropriate orders regarding the same;

(C) determine whether parentage has been legally established and, if parentage has not been legally established, enter any appropriate orders, including adjudications of parentage based on in-court acknowledgment or genetic testing;

(D) determine any outstanding motions, if time allows and the parties are prepared, or set a date for hearing the motions;

(E) determine whether mandatory disclosures were made and whether there should be modifications to the mandatory disclosures specific to the case and enter any appropriate orders regarding the same;

(F) after consulting with the parties, set dates for future events in the case with the goal of establishing a permanent child support order at the earliest possible date—which may include a deadline by which mandatory disclosures or other discovery must be completed, a deadline by which motions must be filed, and a deadline for the filing of any legal memoranda—and require that the parties exchange additional information or documents, including that set forth in Domestic Relations Rule 26(a)(1);

(G) enter a temporary or permanent child support order; or

(H) order the parent(s) to search for a job and to provide proof of job search efforts.

(2) *Modifying Schedule*. The schedule set at the initial hearing may be modified by agreement of the parties, except that dates for court proceedings may not be modified without the court's leave.

COMMENT

Rule 6(d) exempts third party custodians from the requirement to provide the documents listed in Rule 6(a)(1)-(8) because, under D.C. Code § 16-916.01 (d)(8) (2018 Supp.), the income of a third party custodian is not considered when calculating child support.