

SELF-REPRESENTED LITIGANT

NON-PARENT PETITION TO ESTABLISH

CUSTODY

This form is intended for litigants who:

- ✓ Do not have a previous custody order issued by the court and wish to establish custody.

Information you will need:

1. The exact name and address of the other party in this matter.
2. The exact name(s) and date(s) of birth of all children included in the Petition for Custody.

Instructions:

These instructions are meant to guide you through the process of **asking the court to establish a custody order for your minor child(ren)**. If a custody order has already been issued by the court, you may want to petition the court to *modify* custody rather than *establish* custody. In that case, use the Rule to Modify Custody. The court will set all custody orders according to the best interest of the child(ren).

This packet of forms is not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action. **When you represent yourself in court, you must follow all the proper procedures and the law. It is your responsibility to see your case through the whole process.**

1. Be sure you have the correct form.
2. Read all instructions before you begin.
3. Fill in the blanks with 100% accurate information- *any false statement made in court or written in a court document may constitute perjury.*
4. Check all options that pertain to your situation.
5. If you have trouble reading, writing, or understanding what is in this motion, seek help at

INSTRUCTIONS FOR FILING PETITION TO ESTABLISH CUSTODY

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STEP ONE THE PETITION

*The first step is to fill out and file the **Petition to Establish Custody** form with the attached **Verification**. Read everything carefully, double check the information you fill in, and make sure you fill out the forms completely.*

These instructions will guide you through the Petition paragraph by paragraph.

- The top part of this form is your case information.
 - If there is already a case open in court between you and the other parent, you will have to file this petition in that case. You will have to get all of the case information from the Clerk's office when you file it. The information that you put in this part must match the open case information. Leave this part blank for now if you are unsure.
 - If there is no previous case in court with the other parent, fill in your name in the first blank on the left because you are the petitioner if you file the petition. The other parent is the defendant, so write his/her name underneath. When you file this form in the Clerk of Court's office, they will give you the docket number. For now, leave the blanks on the right empty
- The beginning paragraph asks you to fill in your name and domicile. Your domicile is the parish/county and state of your current permanent address.
- Paragraph 1 asks you to fill in the other parent's name and domicile.
- Paragraph 2 asks you to fill in the names and dates of birth of all of your minor children born or adopted to you and the other parent.
- Paragraph 3 asks you to tell the court where the children are currently residing.
- Paragraph 4 asks you to select the physical custody arrangement that you are requesting from the court.
 - The first option is if you are requesting joint custody of the child(ren), with one parent getting more time and the other parent getting physical custody with the child(ren). If this is what you're requesting, check this option and write the name of the parent you want to have domiciliary status in the first blank. Usually, the domiciliary parent is the one the child primarily resides with and the parent that gets to make important decisions for the child. Then, write the other parent's name in the second blank, so that he/she can have physical custodial periods with the child. Then in the lines that follow, explain the time periods you would like for that parent to have those custodial periods.
 - The second option is if you are requesting joint custody of the child(ren) with both parents sharing equal time with the child(ren). If this is what you're requesting, check this option and write the name of the parent you want to have domiciliary status in the first blank. Then, write the other parent's name in the second blank, and in the lines that follow, explain the time periods that you consider equal time for both parents.
 - The third option is if you are requesting sole custody of the child(ren). If this is what you're requesting, check this option and then select one of the three options underneath. The first option here is if you want the other side to be allowed some visitation with the child(ren). The second option here is if you want the other side to have visitation with the child(ren) but under supervision. The third option here is if you don't want the other side to have any visitation with child(ren) at all.

- Paragraph 5 asks you to tell the court why you think the custody arrangement that you're requesting is in the best interest of the child(ren). Please give your detailed explanation for why you want to set custody like you're asking. Remember that the court usually will not grant sole custody, so it's important to give serious reasons if that is what you're requesting.
- Finally, sign and provide your name, address, and telephone number at the top, under where it says - Respectfully submitted.

Along with your petition, you will also have to sign the Verification form, which states that you are swearing that everything in your petition is true.

- This step requires you to go to a notary.
- Fill out the top part with your case information just like your petition.
- Write in the parish that you will get the form notarized in the first blank. Write your name in the center blank but **do not sign the form until you are directly in front of the Notary.** The notary will fill in the bottom part of the form.

Finally, you will have to fill out the last page in your form packet titled Order. All you have to do is fill in the top part with your case information just like your petition. Finally, fill in the service information for the other parent. You must provide his/her name, address, and telephone. Be sure you provide an address where the Sheriff's office can find him/her.

2 STEP TWO FILING

After you've filled out all of the documents, you must file them with the Clerk of Court's office.

- You must go to Clerk of Court's office in the parish where you are bringing your case.
- You must file the original forms that you filled out. It's also a good idea to make 4 copies of your filled out forms and bring them with you. When you file the originals, ask the Clerk of Court's office to stamp 2 copies for your records. The clerk will keep 2 copies for service on the defendant.
- The Clerk of Court's office can also provide your case information, like the name of your case, your case number, and your division. Write this information down and keep it because you will need it to check the status of your case.
- Anytime you file something with the Clerk of Court's office, you will have to pay a filing fee, unless you have been granted pauper status. There are different fees for different documents. The Clerk of Court's office can tell you how much the fees are.
- If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the first box on the last page of the Petition. You also have to fill out and file a separate In Forma Pauperis form, which you can get from the Self-Help Resource Center or the Clerk of Court's office. ***IMPORTANT-** Pauper status doesn't make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

Once you file your documents with the Clerk of Court's office, it will take a little time for it to get to the judge's office. Once the judge signs it, the judge's office will send the documents back to the Clerk of Court's office.

STEP THREE COMING TO COURT

This is the final step in obtaining your child custody order. You will have to come to court to put on your case and explain to the judge why you should get the custody arrangement you are requesting.

Be sure to bring any evidence or witnesses that will help you prove your case. Remember, it is your responsibility to show the court why you should get the custody arrangement you requested. You have to prove this in court using testimony from the witnesses and any evidence that you have that is relevant.

Make sure you are present in the courtroom on the day and time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, and getting through security.

Go to the courtroom or hearing officer's office, check in and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will allow you to call your witnesses and testify first. The judge will also allow the other side to question you and your witnesses. Make sure to introduce any evidence that you brought with you when it's your turn.

ORLEANS CIVIL DISTRICT COURT

(Petitioner)

VERSUS

DOCKET NUMBER: _____

(Defendant)

FILED: _____ DEPUTY CLERK _____

PETITION TO ESTABLISH CUSTODY

NOW INTO COURT comes _____ (your name), of full age of majority and domiciled in the Parish/County of _____, State of _____ (parish & state where you permanently reside), who is the maternal / paternal (circle one) grandmother / father (circle one) of the minor child, _____, and who respectfully represents:

1.

Made Defendants herein are (check all the apply):

____ The mother, _____, of full age of majority and domiciled in the Parish / County of _____, State of _____.

____ The mother is deceased.

____ The father, _____, of full age of majority and domiciled in the Parish / County of _____, State of _____.

____ The father is deceased.

____ There is no father listed on the birth certificate.

2.

The following minor children were born of or adopted by the parties:

Child's Name: _____ DOB: _____

3.

There is no court order in place for custody. Currently, the minor child(ren) reside with

_____.

4.

_____ Petitioner requests that the parties be awarded joint custody, with _____ designated as domiciliary parent, and with custodial periods awarded to _____ as follows:

_____.

_____ Petitioner requests that the parties be awarded joint custody, with _____ designated as domiciliary parent, and with the parties sharing equal time with the minor child(ren) as follows:

_____.

_____ Petitioner requests that Petitioner be awarded sole custody subject to one of the following by the Defendant: *(please select one of the following)*

_____ Petitioner requests that the Defendant be awarded reasonable visitation as follows: _____

_____.

_____ Petitioner requests that the Defendant be awarded supervised visitation as follows: _____

_____.

_____ Petitioner requests that the Defendant not be awarded any visitation.

5.

Petitioner believes that an award of sole custody to either parent would result in substantial harm to the child because:

6.

The petitioner represents further that:

_____ The child has been living with petitioner in a wholesome and stable environment for a period of _____.

_____ Petitioner is able to offer to the child an adequate and stable living environment.

WHEREFORE Petitioner prays that after all legal delays and due proceedings, this Court issue a Judgment establishing a custody arrangement between the parties for their minor child(ren), and for all general and equitable relief.

PETITIONER FURTHER PRAYS that a rule *nisi* issue herein ordering the Defendant to appear and show cause on a date and time fixed by this Court why a custody judgment should not be rendered herein between the parties for their minor child(ren).

Respectfully submitted,

(SIGNATURE)

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

(Petitioner)

ORLEANS CIVIL DISTRICT COURT

VERSUS

DOCKET NUMBER: _____

(Defendant)

ORLEANS PARISH, LOUISIANA

FILED: _____ DEPUTY CLERK _____

VERIFICATION

STATE OF LOUISIANA
PARISH OF _____

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in this state and parish, personally appeared:

PETITIONER'S NAME

who after being duly sworn, did depose and state that he/she is the Petitioner in the above and foregoing numbered and entitled cause, that he/she has read the same, and that all of the allegations contained therein are true and correct to the best of his/her knowledge, information, and belief. Furthermore, that there are no existing prior custody decrees involving the mentioned child(ren) in this state or any other state.

PETITIONER SIGNATURE

SWORN TO AND SUBSCRIBED before me on this _____ day of _____ 20____
_____, at _____, Louisiana.

NOTARY PUBLIC

(Petitioner)

ORLEANS CIVIL DISTRICT COURT

VERSUS

DOCKET NUMBER: _____

(Defendant)

ORLEANS PARISH, LOUISIANA

FILED: _____ DEPUTY CLERK _____

ORDER

Considering the above and foregoing Petition:

IT IS ORDERED that a rule *nisi* issue herein ordering the Defendant to appear and show cause on the _____ day of _____, 20____ at _____ o'clock a.m./p.m. why a custody judgment should not be rendered herein between the parties for their minor child(ren).

THUS DONE AND SIGNED on this _____ day of _____, 20____, at _____, Louisiana.

JUDGE

PLEASE SERVE:

(DEFENDANT'S FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

PLEASE SERVE: (Second Parent's Information)

(DEFENDANT'S FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)