PETITION TO ESTABLISH CUSTODY AND VISITATION

IMPORTANT

THIS PACKET IS IN NO WAY INTENDED TO SUBSTITUTE FOR THE ADVICE OF A PRIVATE ATTORNEY

Private Counsel Is Always Recommended For Legal Matters

The law allows any person to represent themselves in a legal action. However, filing an action with the court and representing yourself in the courtroom can be a complicated legal procedure and this packet does not attempt to address all the legal issues involved in bringing your matter before the court. This packet is created to help you access the legal system without the assistance of an attorney.

When representing yourself, you are responsible for understanding the law that governs your case and for filing the proper legal documents. The laws and rules are set out in the Nevada Revised Statutes, The Rules of Civil Procedure, and the local rules governing the jurisdiction in which you are filing your documents.

When you sign these documents and present them for filing with the court, it is assumed by the court that you have carefully read the documents, that you understand all the terms in the documents, that you agree with all the provisions in the documents, and that you are aware of all the consequences those provisions may produce.

Before filling in any portion of the following documents, read all the materials included in this packet regarding custody, visitation, child support and definitions of terms.

THIS INFORMATION IS PROVIDED AS A COURTESY ONLY. THE COURT, SELF-HELP CENTER, NON-PROFIT ORGANIZATION, OR LAW LIBRARY THAT MAY PROVIDE THIS INFORMATION SHALL NOT BE LIABLE FOR ERRORS CONTAINED HEREIN OR FOR

SOME DEFINITIONS and EXPLANATIONS OF TERMS USED IN FAMILY CASES WITH CHILDREN

The following definitions and explanations are only to be used as general guidance. ***In no way are they intended to cover all the legal significance and importance of the terms. You are advised to seek a full explanation of the terms, definitions, and explanations from a private attorney licensed to practice law in the State of Nevada.***

Alimony or Spousal Support: Alimony, or Spousal Support, is the amount paid to one spouse by the other for a period of time after the marriage is over, usually to assist the spouse in being able to maintain a lifestyle to which that spouse is accustomed, until that spouse can get back on firm financial footing. Spousal support may be for a limited amount of time, such as months or years, or may be permanent such as for a lifetime or until remarriage, whichever occurs first. If the spouse that is receiving support remarries, unless otherwise agreed upon, the spousal support stops. There is no formula for spousal support and either party may receive spousal support. The factors governing spousal support are complicated and if you have any questions regarding spousal support, ***they should be discussed with a private attorney.***

Assets: Generally, ***anything*** acquired or purchased during the time of the marriage is considered a community asset and, therefore, community property, and it usually does not matter if one name is on the property or both names are on the property. Nevada is a community property State and the law in Nevada is that community assets are equally divided at the time of a divorce. ***There are some exceptions, and those should be discussed with a private attorney.*** The term "community assets" includes: the income of both parties during the marriage and anything purchased with either income, any interest acquired in real property, any retirement funds earns during the marriage, vehicles purchased during the marriage (even if in only one name), furniture purchased during the marriage, etc. In many cases, it does not matter in whose name these things are purchased. Sole and separate property is not ***usually*** considered community property ***unless*** it was given as a gift to the community or the community has acquired an interest in it in another way. If one party wastes community assets or gives community assets away without the other party's knowledge or consent, that party may have to reimburse the community for the wasting of assets. If there is a question of wasted assets, ***those should be discussed with a private attorney.***

Child Custody: There are two kinds of custody, "legal" custody and "physical" custody. For a more complete explanation of custodial terms used in divorce, separation and custody cases, see the information sheet entitled Common Custody Terms. Custody is a complicated issue and you are urged to see the advice of private counsel on how to establish custody and visitation.

Child Support: Child support is governed by statute and, like child custody, can become complicated. Although the basic formula as set by statute is 18% of the non-custodial parent's gross income for 1 child, 25% for 2 children, 29% for 3 children, 31% for 4 children and an additional 2% for each additional child, ***there are deviations from the formula that can be considered.*** The minimum child support allowed is $100.00 per month, per child, and the

maximum for each child is determined by the gross income of the non-custodial parent as set out in the statutes. ***Under certain conditions, there are deviations from the minimum and maximum amounts.*** The child support statutes can be found at NRS 125B.070 and NRS 125B.080 and any child support agreed upon must be based on the requirements of those statutes. ***Child support cannot just be waived by the parents.*** You are urged to seek the advice of a private attorney on how to fully address child support and any deviations from the formula. Child support must be reviewed every 3 years or at any time if there is a substantial change of circumstances (such as the loss of a job or the legal responsibility for the support of another family member or another child). It is the responsibility of the parties to request a review and modification of the child support.

Child Visitation: The statute governing child visitation and exchange is clear. It is not enough to just state "reasonable visitation" in any kind of agreement. The visits and terms of the exchange of the child ***must be clear and specific.*** There must be specific days, times and places of exchange included in the agreement, and the holiday calendar must be clearly defined. If there are expenses involved with the exchange and visits, the agreement must state which parents is going to bear the expenses, or, if the expenses are going to be shared. If there is travel involved, who makes the travel arrangements must be stated. If the visitation is going to be "supervised", the arrangements must be stated as to who will supervise the visits, whether the supervised visitation will be temporary or permanent, and, if temporary, when unsupervised visitation will commence, and under what conditions. T***he written agreement for visitation is the controlling agreement and any verbal agreements are usually not enforceable through the courts.***

Community Property: Any assets acquired or purchased during the marriage are usually considered "community property" no matter whose name they are in. That is the starting point for the division of property of the marriage. Nevada is a community property State and it is the law that the division of community property start with an equal division. ***However,*** there are important deviations and exceptions to equal community property distribution. See "Assets" above. ***A private attorney should be consulted regarding division and distribution of community property.***

Debts: Generally, any bills or debts acquired during the marriage are considered community debts and are equally divided at the time of the divorce. ***There are exceptions.*** Debts that are incurred for such things as gambling or for purchasing things that are not for the benefit of the community may be considered sole and separate debts. ***Such debts should be discussed with a private attorney.***

Residency Requirement: One of the "Petitioners" must be a resident of the State of Nevada and that person is known as the "resident petitioner". In order to establish residence in the State of Nevada, that person must have physically lived and physically been here in the State for at least six (6) weeks immediately prior to filing the Joint Petition. If both people are residents of the State of Nevada, only one is actually designated as the "resident petitioner" for purposes of the filling out and filing of the Affidavit of Resident Witness Form.
A child, or the children, MUST be a resident, or residents, of the State of Nevada for a period in excess of six (6) MONTHS before the State of Nevada can enter any orders regarding custody, or visitation, of the child or children. This is FEDERAL LAW. If the child, or children, are not residents of the State of Nevada for a period of more than

six (6) months immediately prior to the filing of the Petition, the State of Nevada has no jurisdiction over orders regarding the children. THERE ARE EXCEPTIONS, but those should be discussed with a private attorney. The parties ***cannot*** automatically agree to waive the jurisdiction issue.

Resident Petitioner: The Petitioner, or party, on whose behalf the Affidavit of Resident Witness is going to be filed. If both Petitioners are residents, only one will be the "Resident Petitioner".

Resident Witness: A person that will swear in the Affidavit of Resident Witness that one of the Petitioners has been physically present in the State of Nevada for a period of at least six (6) weeks immediately prior to the filing of the Joint Petition. The Resident Witness may be a friend, a family member, or a co-employee.

Sole and Separate Property: Sole and separate property are those things Husband and Wife owned prior to the marriage, and it ***may*** also include a personal injury settlement received during the marriage by one of the parties, ***if*** the proceeds were kept entirely separate from the community. Sole and separate property remains the property of the individual who owned it prior to the marriage. ***There are exceptions, such as a home or other real property.*** The community may acquire an interest in a home or real property during the time of the marriage even if it belonged to one party prior to the marriage. If there is a question regarding such an interest, and what percentage the community may have acquired, ***you are urged to see a private attorney.***

COMMON "CUSTODY" TERMS USED IN DIVORCE AND PATERNITY ACTIONS

Custody terms that are used in legal documents have some very important legal consequences and can have a tremendous impact on your future actions in the court.

There are two kinds of custody that must be addressed in divorce and paternity documents. ***"Physical" custody and "Legal" custody.*** Physical custody has to do with the actual, physical interaction and contact between parent and child. Legal custody has to do with the rights and responsibilities to make decisions about the important aspects of the child's life, such as the child's education and the child's health needs.

The following terms are commonly used to describe "custody" arrangements. It is important to realize that these are not the only terms used and if there are terms that you don't understand or you are not sure of their meaning, for your own protection, have the terms clearly defined in any legal document you sign or any orders that issue from the court.

These definitions are not complete legal definitions, but only give you an idea of what terms are commonly used in documents and what they ***generally*** mean. For a more complete definition, please speak to an attorney, or clarify the terms with the mediator, if you are in mediation, or, clarify the terms at the time of any hearing or conference with the judge.

Primary Physical Custody: The child physically resides with, and spends the great majority of time with, one parent, designated as the primary physical custodian, and the other parent has visitation rights and privileges. For example: the non-custodial parent may have visitation at least every other weekend, one evening during the off week, alternate holidays and some block time for vacation periods. Non-custodial arrangements vary with each set of circumstances.

Joint Physical Custody: Each parent has significant periods of time with the child. **IT DOES NOT MEAN** that each parent has an exact equal amount of time with the child. The significant time may be worked out over longer periods such as weekly, monthly, or even annually. This may also be designated as ***shared physical custody.*** Joint physical custody does not mean that there will be no child support obligation. Usually, there is still a child support obligation of some kind from one parent to the other, depending upon the financial position in which each is left following the divorce.

Sole Physical Custody: Sole physical custody is very seldom granted by the court. Usually, the term is used when one parent is completely out of the child's life, such as in prison, or in circumstances that contact with the non-custodial parent would expose the child to physical danger or abuse. Sole physical custody does not automatically mean that the non-custodial parent has no visitation rights. The court may grant one parent sole physical custody and grant the non-custodial parent specific visitation. The term sole physical custody is most often combined with sole legal custody which then grants one parent the complete control over making all the decisions for the child without any input by the non-custodial parent. However, sole physical custody may also be combined with joint legal custody. In that case, although one parent has the

child solely in their physical custody, the important decisions for the child are made with input by the non-custodial parent.

Joint Legal Custody: Both parents equally share the right and responsibility to make decisions about the child's health, education and welfare. Should the parents not be able to agree on such decisions, the parents usually return to mediation to see if they can work out their differences and if they cannot work them out through mediation, the matter is presented to the Court for the final decision. Both parents have an equal right to access such things as the child's doctor's records and school records.

Sole Legal Custody: One parent, alone, has the right and responsibility to make all the decisions about the child's health, education and welfare, without any input from the non-custodial parent. Sole legal custody is only granted in unusual cases and circumstances.

The State encourages custody arrangements that allow the child to have significant time with both parents and expects both parents to share the responsibility of making the important decisions involving their child's life.

NRS 125B.070
Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.

1. As used in this section and NRS 125B.080, unless the context otherwise requires:

(a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) "Obligation for support" means the sum certain dollar amount determined according to the following schedule:

(1) For one child, 18 percent;
(2) For two children, 25 percent;
(3) For three children, 29 percent;
(4) For four children, 31 percent; and
(5) For each additional child, an additional 2 percent,

of a parent's gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is

INCOME RANGE If the Parent's Gross Monthly Income Is at Least		But Less Than	PRESUMPTIVE MAXIMUM AMOUNT The Presumptive Maximum Amount the Parent May be Required to Pay per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is:
$0	-	$4,168	$500
$4,168	-	$6,251	$550
$6,251	-	$8,334	$600
$8,334	-	$10,418	$650
$10,418	-	$12,501	$700
$12,501	-	$14,583	$750

If a parent's gross monthly income is equal to or greater than $14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is $800.

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. As used in this section, "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

(Added to NRS by 1987, 2267; A 1991, 1334; 2001, 1865; 2003,101, 342)

PRESUMPTIVE MAXIMUM AMOUNTS OF CHILD SUPPORT
EFFECTIVE JULY 1, 2010 – JUNE 30, 2011

NRS 125B.070

Presumptive Maximum Amounts increased 2.7% pursuant to the Consumer Price Index (all items) increase in Calendar Year 2009 (December—December) as published by the U.S. Department of Labor http://www.bls.gov/cpi/#tables

INCOME RANGE			PRESUMPTIVE MAXIMUM AMOUNT
If the Parent's Gross Monthly Income is at Least		But Less Than	The Presumptive Maximum Amount the Parent May Be Required to Pay per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is:
$0	-	$4,235	$621
$4,235	-	$6,351	$683
$6,351	-	$8,467	$747
$8,467	-	$10,585	$807
$10,585	-	$12,701	$870
$12,701	-	$14,816	$931
$14,816	-	No Limit	$995

Determined and issued by the Administrative Office of the Courts on or before April 1 of each year in accordance with the provisions of NRS 125B.070(3).

PRESUMPTIVE MAXIMUM AMOUNTS OF CHILD SUPPORT
EFFECTIVE JULY 1, 2011 – JUNE 30, 2012

NRS 125B.070

Presumptive Maximum Amounts increased 1.5% pursuant to the Consumer Price Index (all items) increase in Calendar Year 2010 (December—December) as published by the U.S. Department of Labor http://www.bls.gov/cpi/#tables

INCOME RANGE			PRESUMPTIVE MAXIMUM AMOUNT
If the Parent's Gross Monthly Income is at Least		But Less Than	The Presumptive Maximum Amount the Parent May Be Required to Pay per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is:
$0	-	$4,235	$630
$4,235	-	$6,351	$693
$6,351	-	$8,467	$758
$8,467	-	$10,585	$819
$10,585	-	$12,701	$883
$12,701	-	$14,816	$945
$14,816	-	No Limit	$1,010

Determined and issued by the Administrative Office of the Courts on or before April 1 of each year in accordance with the provisions of NRS 125B.070(3).

NRS 125B.080 Amount of payment: Determination. Except as otherwise provided in NRS 425.450:

1. A court of this state shall apply the appropriate formula set forth in NRS 125B.070 to:

(a) Determine the required support in any case involving the support of children

(b) Any request filed after July 1, 1987, to change the amount of the required support of children.

2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in NRS 125B.070. If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.

3. If the parties disagree as to the amount of the gross monthly income of either party, the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in NRS 125B.070, any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of NRS 125B.070 or NRS 425.450 or as a result of a review conducted pursuant to subsection 1 of NRS 125B.145, must be based upon changed circumstances.

4. Notwithstanding the formulas set forth in NRS 125B.070, the minimum amount of support that may be awarded by a court in any case is $100 per month per child, unless the court makes a written finding that the obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.

5. It is presumed that the basic needs of a child are met by the formulas set forth in NRS 125B.070. This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.

6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the court shall:

(a) Set forth findings of fact as to the basis for the deviation from the formula; and

(b) Prove in the findings of fact the amount of support that would have been established under the applicable formula.

7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally by both parents in the absence of extraordinary circumstances.

8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

9. The court shall consider the following factors when adjusting the amount of support of a child upon specific findings of fact:

(a) The cost of health insurance;

(b) The cost of child care;

(c) Any special educational needs of the child;

(d) The age of the child;

(e) The legal responsibility of the parents for the support of others;

(f) The value of services contributed by either parent;

(g) Any public assistance paid to support the child;

(h) Any expenses reasonably related to the mother's pregnancy and confinement;

(i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;

(j) The amount of time the child spends with each parent;

(k) Any other necessary expenses for the benefit of the child; and

(l) The relative income of both parents.

(Added to NRS by 1987, 2267; A 1989, 859; 1991, 1334; 1993, 486; 1997, 2295; 2001, 1866)

CHILD SUPPORT WHEN PARENTS ARE SHARING JOINT PHYSICAL CUSTODY OR WHEN THE CHILDREN ARE GOING TO BE SPLIT BETWEEN PARENTS

The Nevada Supreme Court set out an additional formula to that found in the child support statutes for parents who share joint physical custody of their children or who are going to split the custody of the children.

Joint Physical Custody presumes the child is going to spend an approximate equal amount of time with each parent.

Split Custody is when one parent has the physical custody of more children than the other parent. For instance, in a family of three children: Father has primary physical custody of two children and Mother has primary physical custody of one child.

Joint Physical Custody

The Court directed that the child support be figured according to the percentage as stated in NRS 125B.070 and the parent earning the most pays the parent earning the less, the difference. At the present time, $100 per month, per child is the minimum even if a parent is not working.

For example: If parents are sharing joint physical custody of one child and mother is not working, the child support would be figured as follows:

18% of Father's gross monthly income

$100 for Mother's obligation

The difference between the two would be the child support the Father would pay to Mother

Another example: If parents are sharing joint physical custody of two children and both parents are working:

25% of Father's gross monthly income

25% of Mother's gross monthly income

The parent who earns the most would pay the parent who makes the less the difference.

Split Custody

Both parents have a support obligation to the other and it must be figured according to the statutory formula.

For example: There are 3 children in the family. Father has the primary physical custody of 2 and Mother has the primary physical custody of 1.

Mother would have an obligation of 25% of her gross income for the two children who primarily live with Father.

Father would have an obligation of 18% of his gross income for the one child who primarily lives with Mother.

Subtract the less from the greater and the difference is paid to the parent who has the lesser obligation.

Some Figures on the example:

Mother's gross monthly income is $1600.
25% of that is $400—that is mother's obligation for the 2 children living with father
Father's gross monthly income is $1700.
18% of that is $306—that is father's obligation for the 1 child living with mother

Therefore, Mother would pay Father the difference—$94 a month in child support.

Please note the difference: if Mother's income is $8,000 per month and Father's income is $2,000, 25% of Mother's income would be $2000 per month and 18% of Father's income would be $360. The difference of the obligations would be $1640 per month. **However**, because the presumptive maximum for each child at $8,000 per month is $625, the Mother's obligation would be $1250, not $1640. The presumptive maximum is used after the difference is figured.

IMPORTANT REMINDER

The deviations listed in NRS 125B.080 still may be figured into the formula to increase or decrease the child support obligation.

GENERAL INFORMATION ABOUT FILING A COMPLAINT/PETITION

The forms must be typewritten or legibly handwritten in black ink.

There will be a filing fee to file this document with the Court. The fee may change from time to time, and it is recommended that you contact the Court Clerk's office to check on the current fee prior to presenting the documents for filing.

IF you are indigent and cannot afford the filing fee, you may request the fee be waived by filing the packet entitled **Request for Waiver of Fees and Costs**. The Court will examine your financial status and determine whether a full or partial waiver can be granted, or if the request will be denied.

There are facilities for copying your documents at the Court Clerk's office at the charge of **$.025 per page.** Therefore, it is recommended that you make any copies of the documents you may want, or need, prior to going to the Court Clerk's office. You will need **two** copies of each document to be filed unless told otherwise. If exhibits are attached to the original document, a copy of the exhibits must be attached to each copy.

Location of the Court Clerk's Office

The Court Clerk's Office for **Churchill County** is located at 73 N. Maine Street, Suite B, Fallon, NV, 89406, on the second floor. The phone number is (775) 423-6080.

If you are mailing the documents to the Court Clerk's office for filing, OR if you have submitted an Order of Decree for the Judge to sign, **it is strongly suggested that you provide a self-addressed, stamped envelope when you file your documents. A copy of the file-stamped documents will then be mailed to you.**

FILLING OUT THE DOCUMENTS

1. **For All Documents**: Fill in the spaces on lines 9 through 13, **exactly** as they appear in your other documents. This is the "heading" of the document and it is always the same. If you are the Plaintiff in the original document, you will remain the Plaintiff; if you are listed as the Defendant in the original document, you will remain the Defendant. The Case No. and Dept. No. are always the same.

2. **NOTE: If Children Are Involved**—UCCJA stands for the Uniform Child Custody Jurisdictional Act. It is a Federal law which dictates the criteria that must be present in order for a Court to have jurisdiction to enter an order regarding custody and visitation of a minor child. **In order for a Court to enter a valid order regarding custody or visitation over a minor child, the child must be a resident of the State of Nevada and must have been physically present in the State for a period of six months prior to the filing of the Complaint or Petition.**

3. The Civil Cover Sheet: Leave the Case and Dept. No. blank, as this will be assigned when the document is filed. Fill in your name, address and phone number under Plaintiff. Fill in the information, if known, for Defendant. Check the appropriate box for the action you are filing. Then sign and date the form.

4. The Complaint or Petition:
   a. Divorce – Be sure you are familiar with the terms and definitions regarding community assets and debts. Pensions and bank accounts are assets. Vehicles and their VIN numbers should be listed as assets in the appropriate columns. Credit cards should be listed as debts and the last four numbers of the accounts should be included, if known.
   b. Child Custody or Visitation – Be sure you are familiar with the terms and definitions regarding child custody and visitation. Also be sure you know how the child support must be calculated according to the Nevada Revised Statutes.

5. **This document must be signed in the presence of a Notary Public by BOTH parties.** However, each party may appear before a different Notary to have the documents notarized.

6. The Affidavit of Resident Witness: The Affidavit of Resident Witness is **only** used for a Complaint or Petition for divorce. **The Affidavit must be filled in by the person who is going to swear you have been a resident of the State of Nevada for at least six (6) weeks prior to filing any documents.**

7. **This document must be signed by the Resident Witness in the presence of a Notary Public. YOU CANNOT BE YOUR OWN RESIDENT WITNESS.**

8. The Summons: Print your name as the Plaintiff and the other party's name as the Defendant. Fill in purpose in the middle of the form –i.e. divorce, child custody, personal injury, etc. Print your name, address and telephone number in the space at the bottom of the Summons.

9. On the second page of the Summons, if there are other documents to be served along with the Complaint or Petition, list those documents on the lines under the heading. **Do not fill in any other lines;/information at this time. Leave all other spaces blank.**

10. Once the documents have been completed, make two copies of each. Take the original **and copies** to the Court Clerk to be filed, together with the filing fee. The copies will be returned to you, for each of your files.

11. The Court Clerk will "issue" the Summons, meaning complete the remaining portions of page 1. The Clerk will sign and stamp the documents, and return them.

12. Serving the Documents: If the other party is a resident of another State and has never lived in the State of Nevada, and the marriage (in case of divorce) did not take place in Nevada, you must get permission from the Court to personally serve the Defendant outside the State. This is done through the supplemental packet entitled **Motion to Allow Out of State Service.**

13. Service on the other party, either in person or by publication, **MUST BE MADE** within ***one hundred twenty (120) days*** after the Complaint is filed and the Summons issued or the action may be dismissed by the Court.

14. By Personal Service: Staple the **copy** of the Summons to a copy of the Complaint. If additional motions have been filed with the Complaint, a copy of those must also be included. This is the packet of documents that must be personally served on the other party.

15. **Because you are a party to the action, you cannot serve the documents on the other party.** Service may be made:
    a. By the Civil Division of the Sheriff's Office in the county in which the other party lives or works
    b. By a responsible adult over the age of 18 years, such as a friend or relative.
    c. By a private process service.

16. The Sheriff's Office and private process service will charge a fee for service of the documents. Deliver the packet of documents together with the **original** Summons to the individual you have chosen from the above list.

17. After service is made on all parties, the second page of the **original** Summons must be completed and signed in the presence of a **Notary Public** by the individual who served the documents. If the Sheriff's Office completes service, it will complete the Summons and return it to the Court Clerk. If anyone else completes service, it is your responsibility to retrieve this document and file it with the Court. Clerk. Without proof of service on the other party, the Court cannot grant your Complaint. **It is your responsibility to keep track of the service of the documents, regardless of the method chosen**, including filing the completed Summons with the Court Clerk.

18. Service by Publication: If you do not know where the other party is, you will need to supplemental packet entitled **Motion to Allow Publication of Summons** in order to serve the other party by publishing the Summons in the newspaper.

19. Once the other party is served with a copy of the Complaint or Petition, they have **twenty (20) days** after the date of service to respond.

20. If the Defendant Does NOT File an Answer Within 20 Days: You may fill out the appropriate **Default** packet and submit the documents to the Court for a final review and decision by the Judge. Without these documents, your action will not become final and will eventually be dismissed.

21. If the Defendant DOES File an Answer within 20 Days: You should receive a copy of the document by mail or personal service. If the Defendant does not have an attorney, however, they may not send you a copy of the Answer. Therefore, it is important to check with the Court Clerk's Office to see if an Answer has been filed prior to filing any **Default** documents.

22. After Service is Complete: **Nothing automatically happens in a case. It is your responsibility to keep the case moving. It is important to take immediate action if the other party files and serves any kind of document. There are very important time frames in which documents and pleadings must be filed. If those time frames are not met, you may be put at a great disadvantage. However, if an attorney is representing the other party, the attorney may take the lead and steer the procedure.**

23. If the other party challenges the allegations in the Complaint or Petition, the case may become one in which formal discovery is appropriate. **It is your responsibility to be aware of the rules that govern discovery and the time limits and procedures associates with discovery.**

24. Discovery is addressed in the Nevada Rules of Civil Procedure and the Tenth Judicial Court Rules, as well as pre-trial procedures. Your case may be seriously compromised if you do not know and follow the Rules. You are strongly advised to seek the advice and counsel of a private attorney regarding discovery procedures and time lines.

25. If the Defendant Files an Answer and Counterclaim Within 20 Days: All of the above apply, within additional step. You must file **a Reply to Counterclaim** within 20 days of receipt of the counterclaim, if personally served, or within 23 days from the postmarked date if it was mailed to you. **If you do not respond to the counterclaim, the other party may be granted what they ask in the counterclaim.**

If you need guidance in filling out the forms or in the procedure of the case, seek the advice of a private attorney.

NOTE: YOU MAY NOT USE THESE FORMS IF YOU ARE PRESENTLY REPRESENTED BY AN ATTORNEY IN THIS MATTER.

If you are requesting that the Court waive the filing fee, the filing procedure is different than above. Complete the **Request for Waiver of Fees and Costs** packet and follow those directions.

IMPORTANT GENERAL INFORMATION

This packet does not contain all the documents you may need for your case. The forms in this packet only "initiate: the action. If the other party files an Answer and Counterclaim, you will need the packet "Reply to Counterclaim". If the other party does not file and Answer at all within the 20 days after service, you will need the Default packet to finish your case.

INSTRUCTIONS FOR FILING OUT FORMS

CAREFULLY READ THROUGH ALL OF THE INSTRUCTIONS BEFORE STARTING TO FILL OUT ANY OF THE FORMS.

Use black ink only to fill out the forms and neatly print the information requested.

Do not use white-out on the forms. They will not be accepted by the Court if white-out is used.

Included in this packet are the following forms:

1. A Civil Cover Sheet
2. A Family Court Information Sheet
3. A Personal Case Information Form
4. A Financial Declaration
5. A Petition to Establish Custody and Visitation
6. Two Summons forms

A note about signing in the presence of a Notary Public: When you appear before the Notary, you must have some kind of picture identification with you, such as a driver's license or other official identification card.

STEP 1

Filing Out the Civil Cover Sheet

Fill in the top portion of the cover sheet with the name, address and telephone number of both parties.

Check the box labeled "Support/Custody/Visitation- CU."

Fill in the date at the bottom of the sheet and print and sign your name on the line indicated.

That is all the information that is required on this form.

STEP 2

Filling out the Family Court Information Sheet

Fill in your name as the Petitioner and the other party's name as the Respondent.

Fill in your names and Social Security numbers as required. If you do not have a Social Security number, or do not know the other party's number, indicate that on the line for the number.

Complete the information on yourself and as much information as you can regarding the other party. If you are unsure of the information for the other party, place "unknown" on the appropriate lines.

Information on the children involved in this matter must be filled in, especially the children's Social Security Numbers. If you do not know their Social Security Numbers, print "unknown" on the line for the Number.

STEP 3

Filing Out the Personal Case Information Form

At the top left corner, fill in your name, address and telephone number.

Complete all information as required on page 1.

Follow the directions carefully and fill in the necessary information on dependents and children. The information on where the child or children have lived for the past 5 years is extremely important. This information informs the Court of its jurisdiction to enter orders regarding child custody and visitation.

Pay special attention to the information required regarding any other cases that may have been filed regarding the parties or the children. The information required includes cases such as Temporary Protection Orders, Social Services cases, child support cases or guardianships.

Your signature is required on the last page and you must sign this document **in the presence of a Notary Public.**

STEP 4

Filing Out the Financial Declaration

Fill in your name, address and telephone number in the upper left hand corner. This form must be signed in the presence of a Notary Public.

Review the document carefully prior to attempting to answer the questions. This form focuses on your employment, income and expenses as they are **at this moment in time**. This is a snapshot of your financial status as you fill out this form, not your financial status as it was in the past or what it will be in the future.

Please remember the income and expenses are based on your **monthly** income and expenses. Those items that you pay every few months should be averages as to their monthly cost. For instance, if you pay your car insurance every six months, your monthly expense for the insurance would be 1/16th of your payment.

If you do not know the approximate value of such things as a vehicle or a house, state "unknown". Do not guess as to values of major property. It is important to remember that the value of such things as furniture and clothes is not the replacement value or the original cost. The value is what one would pay for such things in a second hand store or a thrift store.

If you need assistance in filling the Financial Declaration out, it is recommended that you seek the advice of private counsel or seek assistance through the Family Court Self-Help Center.

STEP 5

Filling out the Petition to Establish Custody and Visitation

The directions for the Petition are printed on the form. ***Follow the directions very carefully. The custody, visitation and support information must be complete.***

Be sure you are familiar with the terms and the definitions regarding child custody and visitation. Also, be sure you know how the child support must be figured according to the child Support Statutes. If a child support obligations has already been established through the District Attorney's Family Support Unit, make sure that information is clear in the pleadings.

The importance of reading the materials on custody, visitation and child support, which are available at the Self-Help Center, cannot be emphasizes too strongly.

STEP 6

Filling Out the Two Summons Forms

The information on both forms will be the same. Print your name as the Plaintiff and the other party's name as the Defendant.

On the line provided in the middle of the pages, fill in the object of this action- such as "Custody and Visitation."

Print your name, address and telephone number in the space on the bottom left side of the Summons.

On the back of the document, list any other documents to be served along with the Petition. Do not fill in any other lines/information at this time.

STEP 7

Copying and Filing the Documents

Make two (2) copies of all pages of all documents except the Summons. You do not need to make copies of the Summons forms. Take the originals and the copies to the filing clerk's office that is located in at 73 N Maine Street. The filing clerks, if they have time, may make your copies but they must charge you $1.00 per page for any copies made.

Take all of the originals and the copies of the documents, as well as both of the Summons forms to the filing clerk's office to be "filed in." There will be a filing fee payable when you file the documents. The filing fee is adjusted from time to time and it would be wise to check with the filing clerk's office to verify the filing fee.

If you are Paying the Filing Fee:

The filing Clerk's Office is located at 73 N. Maine Street Suite B.

The File Clerk will take the original and the copies of the Civil Cover Sheet, the complaint and the Affidavit of Resident Witness and assign them a case number and department number and file them in. The clerk will keep the original of all the documents and return the file stamped copies to you.

The file Clerk will them "issue" the Summons. In "issuing" the Summons, the file clerk will fill in the Case Number, the Department Number, and date of issuance. The deputy clerk will sign the bottom right line and on the original Summons, the clerk will place a raised stamp. The copy will not have a raised stamp on it. It is important for you to recognize the original Summons from the copy of the Summons.

GO TO: Serving the Documents

STEP 8

If you are Requesting A Fee waiver

If you are requesting that the court waive the filing fee, the filing procedure is different than above. You must complete the packet either a Declaration In Support of Fee Waiver or a Request For Waiver of Fees packet. At that time, the fee waiver forms and the original and copies of all forms in this packet are presented to the filing clerk at 73 N. Maine Street Suite B., Fallon, NV.

When the Court makes a decision on the fee waiver, a copy of the Order and your copies of the documents will be mailed to you so you can make arrangements for service on the other party.

If your fee waiver is granted you now continue and go to the instructions on Serving the documents.

If you fee waiver is denied you must take your documents to the Filing Clerk's Office and pay the filing fee. The clerk will then issue the Summons. After you pay the filing fee, and the Summons is issued, you are ready to continue with the regular instructions on Service the Documents.

Serving the Documents

The documents to be served on the other party should be stapled together in the following order, starting from the top:

1. Summons (copy, not the original)
2. Petition to Establish Custody and Visitation
3. Personal Case Information Sheet (UCCJA)
4. Financial Declaration

The Summons and documents packet must be served on the other party within ONE HUNDRED TWENTY (120) days of the day the Summons was "issued" by the clerk, or the Court may dismiss the action.

If service is to be made on the other party by publication, you must seek further advice from private counsel or guidance form the Family Court Self-Help Center for directions as to how such service is accomplished.

Personal Service on the Other Party

Service of the packet of documents may be made by:

1. The sheriff of the county where the other party is found, either at home or at work;
2. A private process server; or
3. Any citizen over the age of 18 who is not a party to the action.

You may not serve the documents on the Respondent and the documents cannot be served by mail.

The documents must be served on the other party directly and personally, or they may be left at the home of the party with an adult at that residence.

If you choose to have the Sheriff's office serve the documents, you must deliver the **original Summons** and the packet of documents to be served to the County Sheriff's Civil Division.

The Sheriff's office will charge a service fee. However, if the Judge signed an Order waiving your fees and costs, you may show a copy of the Order to the Sheriff's office and they will waive the service fee if the other party is to be served in Churchill County.

The Sheriff's office will serve the documents, complete the Affidavit of Service and send the original Summons back to the Clerk for filing.

It is up to you to keep track of the service of the documents. You may keep in contact with the Civil Division of the sheriff's office and keep in touch with the filing clerk to make sure the documents are served and the Affidavit of Service if filed with the Court.

You may also have the documents served on the other party through a private, professional process server or service. If that is your choice, make sure the process server fills out the Affidavit of Service and files the original Summons with the Court.

If you choose to have anyone other than the Sheriff's office or a professional process service serve the other party, the Affidavit of Service on the reverse side of the original Summons must be filled out and signed in front of a Notary public by the person who served the documents.

After the Affidavit of Service is filled out, the original Summons must be filed with the filing clerk. It is a good idea if you make a copy of the original Summons with the Affidavit of Service completed on the reverse side and have it file stamped when you file the original Summons with the clerk. The clerk will return the copy to you for your records.

The other party has twenty (20) days from the date of service (not counting the day of service) in which to answer oppose or respond to the Petition.

After Service is Completed

How your case will be handled after service of the Petition and Summons is completed on the Respondent will depend entirely on whether an "Answer", "Opposition," or "Response" is filed by the opposing party.

It is important to take immediate action if the other party files and serves any kind of documents. There are very important time frames in which documents and pleadings must be filed. If those time frames are not met, you may be put at a great disadvantage.

REMINDER: These documents only initiate the case. They do not take you through the whole procedure.