FAMILY COURT OF THE STATE OF DELAWARE

SUBPOENA

Why would I subpoena someone?

Subpoenas are used if you want a person to testify at your hearing and that person will not voluntarily appear or is unable to appear without a subpoena. If a person is willing to appear, a subpoena is not necessary. However, it is strongly recommended that all witnesses be subpoenaed to guarantee that they will attend Court.

When do I need to issue the subpoena?

You should complete and serve the subpoena as soon as you know your hearing date.

How do I get a subpoena?

Subpoenas are available at the Intake office of all three counties. The Clerk will give you a signed and sealed subpoena that is otherwise blank.

Note: subpoenas must be obtained in the county where the hearing is to be held.

The cost of a signed and sealed subpoena is $10.00. There is no fee in Protection from Abuse cases and cases in which your filing fee was waived. If you were granted a fee waiver, bring it with you.

Whom can I subpoena?

Any person can be subpoenaed; however, the Court cannot enforce subpoenas on persons who live outside of Delaware.

How do I fill out the subpoena?

1) Fill in the names of the parties, the file number, and the petition number.
2) Fill in the name and address of the person to be subpoenaed. A separate subpoena must be filled out for each person being subpoenaed.
3) Fill out your name, address, and telephone number as the requesting party.
4) Select whether you want the person to testify, give a deposition, produce documentary evidence, or permit inspection of premises. In the blank space below, you can write out more specific details about what evidence you want that person to bring, if any.
5) Fill in the date and time of the hearing.

Will the Court serve my subpoena?

The Court will serve subpoenas for petitioners in Protection from Abuse (PFA) cases. PFA petitioners may call the Court at (302)255-0300 for a status of service of their subpoena before their hearing date.

How do I serve (deliver) the subpoena?

Any person over the age of 18 who is not a party to the case may deliver the subpoena. Delivery must be made directly to the person. The server must make copies of the proof of service and provide one to the person being served and one to the person requesting service.

Individuals included on the Court's list of Approved Special Process Servers (Form 588B) may serve subpoenas for a fee. More information on Approved Special Process Servers can be found here: Family Court - Information on the

[Use of Special Process Servers - Help & Support - Delaware Courts - State of Delaware]

What does the person who delivered the subpoena have to do?

The delivery person, or server, must give the addressee (the person being subpoenaed) the subpoena. The server must then complete the proof of service. This requires the server to list specific information about when, where and whom they served. The server must provide a copy of the proof of service (along with the subpoena) to the person subpoenaed and to the person who requested the service.

What happens after the subpoena is delivered?

A copy of the subpoena and proof of service should be filed with the Court.

What if the subpoena cannot be delivered in any of the ways listed above?

If the person is not served with the subpoena, the person is not obligated to appear.

What happens if the person subpoenaed does not appear in Court?

Failure of a person to obey a subpoena without an adequate excuse may be deemed a contempt of court. However, the person issuing the subpoena is required to take reasonable steps to avoid imposing an undue burden or expense on that person.

What happens if the hearing gets continued?

If the hearing is continued, you must complete and have served another subpoena with the new hearing date and time.

I received a subpoena. Do I have to appear?

The Court will quash (dismiss) a subpoena if it fails to give reasonable time for compliance, requires you to disclose privileged information, or subjects you to undue burden. If you believe that one of these applies to you, you must file a Motion to Quash a Subpoena.If you do not file a Motion to Quash a Subpoena, the only person who can release you from the subpoena is the person who issued it.

Is there a specific rule about issuing a subpoena commanding the production of documents, electronically stored information, or tangible evidence?

Yes. Pursuant to Family Court Rule of Civil Procedure 45(a)(3), before such a subpoena is served on the person, a notice and a copy of the subpoena must be served on each party. The same rule applies if you are seeking inspection of a premises by subpoena.

Family Court Contact Information

New Castle County	Kent County	Sussex County
500 NORTH KING STREET	445 SOUTH GOVERNORS AVENUE	100 EAST MARKET STREET
WILMINGTON, DE 19801	DOVER, DE 19904	GEORGETOWN, DE 19947
(302) 255-0300	(302) 672-1000	(302) 855-7400

For more information, visit the Family Court webpage or scan the QR code.