



# CUSTODY INSTRUCTION PACKET

# TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE NUMBER</u>
<b>Introduction</b>	
When To Use The Packet.....	1
How To Use The Packet.....	3
Tips and Reminders.....	4
Who is Petitioner and Respondent.....	4
Legal Advice.....	4
Organizing Court Papers.....	6
Frequently Asked Questions About Custody.....	7
Custody Process Flowchart.....	9
<b>Section 1: Filing For Custody</b>	
Starting the Process.....	10
Petition for Custody.....	10
Custody Separate Statement.....	12
Information Sheet.....	13
Optional Forms.....	
Affidavit that a Party’s Address is Unknown.....	14
Consent Order-Custody, Visitation.....	14
Waiver of Rights Under the Servicemembers’ Relief Act	16
Where to File.....	17
Filing Fee.....	17
Additional Instructions.....	18
Sample Forms	
Petition for Custody.....	22
Custody Separate Statement.....	23
Information Sheet.....	26
Affidavit that a Party’s Address is Unknown.....	28
Consent Order-Custody, Visitation.....	29
Waiver of Rights Under the Servicemembers’ Relief Act..	31

<b>Section 2: Parent Education Class</b>	
Certificate of Completion.....	32
<b>Section 3: Mediation</b>	
Consent Orders.....	34
Temporary Orders.....	34
<b>Section 4: Hearing with a Judge</b>	
Scheduling the Hearing.....	38
Motion for Continuance.....	38
The Day of the Hearing.....	40
Affidavit of Non-Military Service.....	40
The Final Custody Order.....	41
Sample Forms	
Motion for a Continuance.....	42
Affidavit of Non-Military Service.....	43
<b>Appendix A</b>	
Standard Visitation Guidelines.....	44
<b>Appendix B</b>	
Best Interest of the Child Factors.....	48
<b>Appendix C</b>	
Court Hearing Procedure Information.....	49

# CUSTODY INSTRUCTION PACKET

---

---

Use the Custody Instruction Packet **ONLY** when:

- There is **NO** Custody Order in place in Delaware or anywhere else. (If there is an existing Custody Order regarding your child and you want to **change the Order**, read the Modification of Custody Instruction Packet.); **AND**
  
- The child has been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** filing your Petition for Custody. (There are exceptions to this 6 month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies to your situation.); **AND**
  
- You are one of the following:
  - The Mother of the child; **OR**
  - The Father (or presumed father) of the child; **OR**
  - The Adoptive Parent; **OR**
  
- You are a **STEPPARENT**, however, you may file for custody **ONLY IF**:
  - You are married to the child's parent; **AND**
  - Your spouse has custody or placement of the child; **AND**
  - Your spouse dies or becomes disabled while your spouse has custody or placement of the child; **AND**
  - The child has been living with you **AND** your spouse until such time that your spouse died or became disabled.
  
- If you believe that you have standing to file a Petition for Custody and you are not one of the people listed above, contact an attorney.

To make this Instruction Packet easier to read, it will explain Custody as if you wanted to file for Custody of one child. If you have more than one child with the other parent, you may file for Custody of **all of your children with the other parent** on the same petition. **Please note that if your children have different fathers or mothers, you must file for Custody on separate petitions.** For example, if two of your children have one father and one of your children has a different father, you would be required to file two petitions, one for each father.

## HOW TO USE THE PACKET

This packet contains general information about the process of filing a Petition for Custody, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. All of the forms must be neatly filled out by hand or typed. **ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET.** The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet.

**YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE.** For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to ensure that you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.



**READ THIS SECTION CAREFULLY**



**THIS DOCUMENT MUST BE FILED**



**FILL IN THE BLANKS OR WRITE INFORMATION HERE**



**YOU DO NOT HAVE TO TAKE THESE STEPS NOW.**

 **TIPS AND REMINDERS ...**

- ✓ Remember who is the Petitioner and who is the Respondent.
  - The **PETITIONER** is the person who filed the Petition for Custody, in other words, you.
  - The **RESPONDENT** is the person replying (responding) to the Petition.
  
- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to you at the court hearing to prove why the Court should give you what you want.
  
- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**
  
- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE**. Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and answer your questions without having to hire that attorney for full representation. Before you meet with the attorney, ask what fees may be involved for such limited services.
  
- ✓ If you would like assistance in finding an attorney, you can call the **Lawyer Referral Service** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-800-773-0606. (You may call the same

telephone numbers and ask for the **Legal Help Link** to find out if you qualify for free legal assistance.)

- ✓ **Always bring your photo identification** with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.
  
- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.**



**PLEASE READ AND REMEMBER THESE IMPORTANT TIPS**

**REMEMBER**

---

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have “clocked-in.” Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource and Self-Help Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND “certified mail, return receipt requested” so that you have proof that the other party received the envelope. If you cannot afford to pay for “certified mail” we suggest you get a “certificate of mailing” at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource and Self-Help Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

## FREQUENTLY ASKED QUESTIONS ABOUT CUSTODY



### **Who Can Petition for Custody of a Child?**

The biological mother, biological father or adoptive parent of a child may petition for custody of the child. A stepparent may petition for custody only if they are married to the child's parent, their spouse has custody or placement of the child, their spouse died or became disabled while having custody of the child and the child was living with the stepparent and their spouse at the time the spouse died or became disabled.



### **What are the Types of Custody?**

Joint Custody: parents share the duties and responsibilities of raising the child. Each parent must care for, support, discipline and make decisions about the child's medical, educational, religious, health and social needs. Parents are expected to share information, discuss and decide together major issues regarding the child.

Sole Custody: an arrangement where the non-custodial parent does not actively share in the duties and responsibilities of raising the child.

-The non-custodial parent still has the right to request information concerning the child's progress in school, medical treatment, significant developments in the child's life, school activities and conferences, special religious events and other activities in which the parent may wish to participate. The non-custodial parent still has the right to reasonable access to the child by telephone and mail.

- *Sole custody is not a termination of the non-custodial parent's rights. For information on Termination of Parental Rights, please see the Termination of Parental Rights Instruction Packet.*



### **What is Placement?**

Placement is the aspect of the Custody Order that involves where the child will live most of the time. The Custody Order will state whether the child should live primarily with one parent or live equally with both parents. If the Court determines the child should live mostly with one parent, that parent has *primary placement* of the child.



### **What is Visitation?**

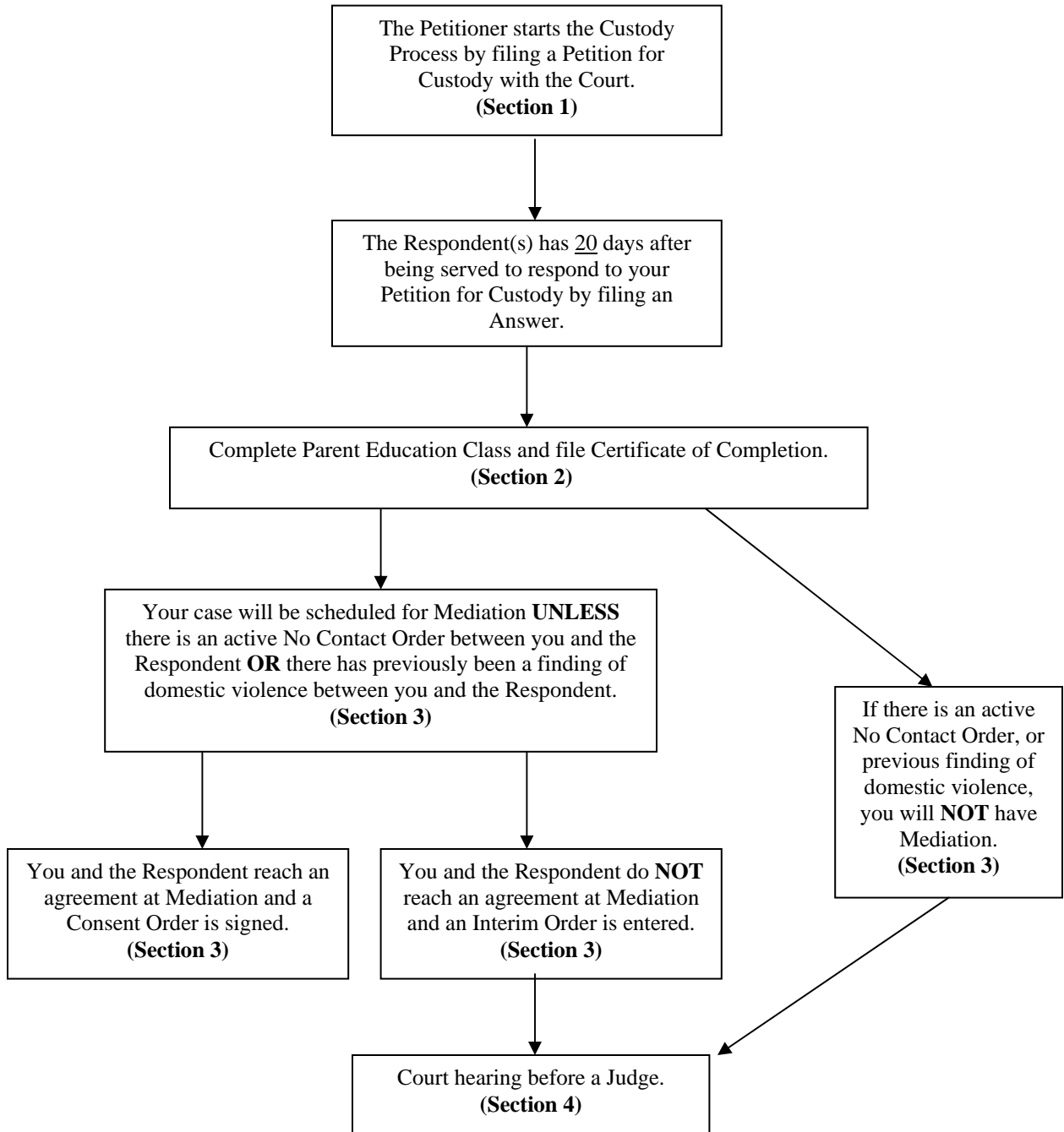
Visitation is the means by which the parent who does not have primary placement spends time with the child. Visitation establishes a schedule of contact with the child. Generally when the Court addresses custody, it also addresses visitation. The Family Court Standard Visitation Guidelines provide a general idea of visitation arrangements. The Guidelines are located in Appendix B of this packet.



### **How does the Court make a decision regarding custody of a child?**

When making a decision about custody, placement and visitation, the Court will consider what is in the best interests of the child. The child's "best interest" is a legal standard comprised of 8 factors found in Title 13 of the Delaware Code Section 722. The 8 best interest factors may be found on page 11 of this instruction packet.

# CUSTODY PROCESS



# SECTION 1

## STARTING THE CUSTODY PROCESS



You **MUST** file the **ORIGINAL** and **ONE (1) COPY** of each form below with the Court.

- Make a copy of each completed form for your records.
- Have your set of copies “clocked-in” for your file. Having a paper “clocked-in” means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.



**Petition for Custody** form. (*file the original and one copy*)

- Sample form found on page 22.
- Only a **natural** or **adoptive parent** or a **qualifying step-parent** may file for custody. If you are not one of the above and would like custody of that child, please see the Legal Care of a Child Overview to help you determine what type of petition you should file.
- The U.S. and Delaware State Constitutions require that whenever a petition is filed with the Court, **ALL** of the people involved with the case must be notified. By naming a person as a Respondent, you are asking the Court to notify him/her of the petition. In Custody cases the following people should be named as Respondent(s):
  - Any parent of the child;
  - Any guardian of the child or the person with whom the child is living;
  - Any Guardian ad Litem of the child;
  - Any organization having custody of the child (for example, the Division of Family Services).

If you fail to notify any of the necessary parties, your petition is deficient and you may have to start the process over, including paying another filing fee.

- When alleging facts in your Petition for Custody, you want to give the Court information so that it can decide what custody arrangement is in the child's "**best interest.**" The child's "best interest" is the legal standard the Court must follow when deciding who should have custody of a child. (See Title 13 of the Delaware Code, section 722.) The Court will want to know about the following things when deciding what is in the child's "best interest." Explain to the Court how the following things apply to your situation.

1. The wishes of the child's parents as to his/her custody and living arrangements;
2. The wishes of the child as to his/her custody and living arrangements;
3. The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home or affecting the child's best interest;
4. The child's adjustment to his/her home, school and community;
5. The mental and physical health of all individuals involved;
6. How well each parent has in the past and currently satisfies their parental rights and responsibilities with respect to their children;
7. Evidence of domestic violence; and
8. The criminal history of any party or other resident of a household, including guilty pleas, pleas of no contest and criminal convictions.

The Court can also consider any other information pertaining to the best interest of the child.

- When writing down your allegations, you should list each point that you want to make in its own **numbered paragraph**. This will make it easier for the Court and the Respondent to understand why you think you should have custody of the child. An example of numbered paragraphs can be found on the Sample Petition for Custody found at the end of this section.
- If you need more space to write, you may attach additional pages to the Petition for Custody. Be sure to state on the petition that you have attached more pages, so the Court and the Respondent will know to look for additional information.
- The Court will not consider parents' conduct that does not affect the child. Furthermore, the Court does not believe one parent is better than the other because of his or her sex.
- You must sign your Petition for Custody in the presence of a notary public or authorized Court staff.



**Custody Separate Statement** form. (*file the original and one copy*)

- Sample form found on page 23.
- The Custody Separate Statement explains to the Court a child's past and present living arrangements, so the Court can determine if it has authority to decide your Petition for Custody. If all of your children have had the **same living arrangements as one another** for the past five years, then you may include all children on a single form. However, if your children have **lived apart** from each other sometime during the past five years, you must complete a separate form for each child. For example, if last year, your daughter resided with you and your son resided with the other parent, it would be necessary to file two Custody Separate Statements, explaining where each child lived.



**Information Sheet** form. (file the original and one copy)

- Sample form found on page 26.
- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.



## BELOW ARE OPTIONAL FORMS

**ONLY** file the following forms if the situation applies to you.

### **If you do not know where the Respondent(s) live, file:**

 **Affidavit that a Party's Address is Unknown** form. (*file the original and one copy*)

- Sample form found on page 28.
- **ONLY** file this form if you do **NOT** know where the Respondent(s) lives.
- You must provide the Court with each Respondent's current address. If you do not know where the Respondent(s) currently lives, you must **try to locate** him or her. Ways to do this include talking to the Respondent's friends or relatives or checking the Internet. If, after looking for the Respondent(s), you cannot find his/her current address, you must complete this form. **Do not complete** this form until you have made an effort to locate the Respondent(s).
- You must complete this form before you publish notice of the matter in the newspaper. Please see pages -- for more information regarding Notice by Publication.

### **If all parties agree upon custody and visitation, file:**

 **Consent Order-Custody, Visitation** form. (*file one original*)

- Sample form found on page 29.
- File this document only if **you and the Respondent(s) have already agreed** on how the custody matters should be decided.

- On this form you will describe for the Court the following things:
  - Which parent will have custody of the child,
  - Whether that parent will have Joint Custody or Sole Custody (see pages 35-37 for information about the types of custody),
  - Where the child will be living,
  - Which parent will have visitation with the child, and
  - What the visitation schedule will be.
- When describing the visitation schedule, be as **specific** as possible. Explain the places, dates and times that visitation will occur. Also, explain to the Court who will be responsible for driving the child to and from the visitations.
- Avoid agreements that simply state that “visitation shall be by mutual agreement of the parties.” While this may make it easier for you and the Respondent to reach an agreement now, it gives you no guidance in how visitation will occur should you and the Respondent be unable to reach a mutual agreement regarding visitation at a later date. It may be better to decide on the details of visitation now, rather than have to come back to Court to resolve your differences in the future. For more information about visitation, please see pages 36-37. You may also refer to the Visitation Instruction Packet.
- You and the Respondent must both **sign and have notarized** the Consent Order.
- Before you file the Consent Order, you and the Respondent(s) **may** have to meet with a court employee to review the terms of your agreement.
- Once you have filed your agreement with the Court, it will be forwarded to a Commissioner who will review your agreement. If the Commissioner finds that the agreement is in the best interest of the child, then he or she will sign the agreement and it will become a court order, called a **Consent Order**.

- Once the Commissioner signs the Consent Order, it is a court order and you and the Respondent **MUST** follow the instructions in the Order. The Court will mail a copy of the signed order to you and the Respondent(s).
- If circumstances change in the future, you may be able to change the terms of the Consent Order by filing to modify custody. See the Modification of Custody Overview and Instruction Packet for more information on how to change a custody order.

### **If the Respondent(s) is in the military, file:**



**Waiver of Rights under the Servicemembers' Civil Relief Act** form. (*file the original and one copy*)

- Sample form found on page 31.
- If the Respondent(s) is in the military, the Respondent(s) must file an Answer, an Affidavit of Appearance or **YOU** must have the Respondent(s) sign a Waiver of Rights under the Servicemembers' Civil Relief Act. If the Respondent(s) does not file one of these documents, you must file a **Motion to Appoint an Attorney**. You should start this process as soon as possible because it takes time. The Court will not schedule your custody hearing until you complete this process.
- If there are multiple Respondents who are in the military, a separate form must be filed for each Respondent.



**BE SPECIFIC WHEN COMPLETING THE FORMS** and make sure you address **ALL** of the best interest factors explained found in Appendix B in your petition. When you complete a form, write in blue or black ink **AND** write neatly.



File the forms at the Family Court **in the County where the child currently lives**. If the child does not currently live in Delaware, you should talk to an attorney before filing to make sure the Delaware Family Court is the right Court to hear your case and to find out in which state and county you should file.

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- In New Castle County, you may file your papers at the Resource Center on Lower Level One of the Leonard L. Williams Justice Center.
- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed or e-mailed.

A filing fee is charged for each petition that is filed. The filing fee can differ depending on the type of petition you are filing. To find out what the filing fee is, you can look at the Family Court website or go to the Family Court Resource Centers. The filing fee can be paid in cash, by credit card, by debit card, by check or by money order made payable to “Family Court”. If you are filing by mail, you may only pay by check or money order. **FAMILY COURT WILL NOT ACCEPT YOUR PAPERS WITHOUT THE FILING FEE**. There are additional costs if you must publish notice of this action. (See pages -- for more information of when publication is necessary.)

## ADDITIONAL INSTRUCTIONS FOR SECTION 1



### SERVICE OF PROCESS

**Each** Respondent **must receive** a copy of the Petition for Custody. The delivery of the Petition for Custody and any other forms you file is called **Service of Process**. The way that you accomplish Service of Process depends on how much information you can provide the Court about where the Respondent(s) lives. Determine from the following options how Service of Process should be accomplished in your case.

□ **The Respondent Lives in Delaware and You Know His/Her Address**

If the Respondent lives in Delaware **AND** you know his/her address, a **Process Server** (someone whose job involves delivering Court papers) will give a copy of your petition and other papers to the Respondent(s). This is called **Personal Service**. You do not need to fill out any additional paperwork.

□ **The Respondent Does Not Live in Delaware and You Know His/Her Address**

If a Respondent(s) does **NOT** live in Delaware **AND** you know the Respondent's address, the Court will mail your papers *via* certified mail, return receipt requested, to the Respondent(s).

- If delivery of the certified mail is unsuccessful, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent(s) lives. This is referred to as **Service of Process by Mail and Publication**. You must also complete an Affidavit that Address is Unknown form (see page 14). The Court will notify you by mail if you need to publish notice in the newspaper.

❑ **You Do Not Know Where the Respondent Lives or Works**

If you do **NOT** know where a Respondent lives or works and therefore the Process Server cannot deliver your petition to that Respondent, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent's last known address was located. You must also complete an Affidavit that Address is Unknown form (see page 14).



**PUBLICATION**

- Instructions on how to publish notice of a court action are available in the Resource Centers. It is important to carefully follow the instructions for publication. If you do not publish the notice properly, your Petition for Custody could be dismissed.
- You must publish the notice **in the county where the Respondent(s) resides or in the county where the Respondent's last known address was located**. You are responsible for contacting the newspaper and paying the necessary publication fee to the newspaper.
- If you must publish the notice, **YOU** must provide **PROOF** to the Court that you published the notice. If the Court does **NOT** receive satisfactory proof of publication **WITHIN 30 DAYS** from the date that you filed your Petition for Custody, the Court may dismiss your case and you will have to start all over again, including paying another filing fee.
- You may publish in the following **approved Delaware newspapers** depending on where the Respondent(s) resides.
  - **New Castle County**  
*News Journal*  
950 W. Basin Road  
New Castle, Delaware 19720

(302) 324-2500

- **Kent County**  
*Delaware State News*  
421 Webb's Lane  
Dover, Delaware 19903  
(302) 674-3600
  
- **Sussex County**  
*Sussex Countian*  
P.O. Box 40 (13 South Front Street)  
Georgetown, Delaware 19947  
(302) 855-7400

- If you must publish in an out-of-state newspaper, you should select a newspaper that is widely distributed in the area where the Respondent(s) lives (or last lived if you do not know the address) **AND** the newspaper should be one which the Respondent(s) would most likely read.



## THE ANSWER

- Once the Respondent(s) has been served with the Petition for Custody, each Respondent(s) has **20 days** from the date of service (the date that the court papers are delivered to the Respondent(s)) to respond by filing an **Answer** to your Petition for Custody. If there is more than one Respondent in your case, each Respondent must file his/her own separate Answer. You should receive a copy of the Respondent's Answer in the mail from the Respondent.
- On the Answer to your Petition for Custody, the Respondent(s) must **admit** (agree with) or **deny** (disagree with) each of the statements you made in your petition. The Respondent(s) may explain why he/she disagrees with the statement.



## **AUTOMATIC COURT ORDER**

- When you file a Petition for Custody, Family Court immediately enters a **Preliminary Injunction** (an automatic **Court Order**) that applies to **BOTH YOU AND THE RESPONDENT(S)**. It becomes effective **UPON YOU as soon as you file** the Petition for Custody. You will receive a copy of the Preliminary Injunction when you file the petition. The Preliminary Injunction becomes effective upon the Respondent(s) at the time the Respondent(s) **is served** with the petition.
- The Preliminary Injunction contains language that prohibits any party from removing a child from the jurisdiction of the Delaware Family Court without receiving permission from the other party or the Court.
- The purpose of the Preliminary Injunction is to prevent a person from **permanently** removing the child from Delaware, or from removing the child for a period of time that would interfere with the other person's right to spend time with the child and participate in the child's life. **NEITHER YOU NOR THE RESPONDENT MAY RELOCATE (MOVE) THE CHILD TO ANOTHER STATE OR TAKE THE CHILD OUT OF DELAWARE FOR A PERIOD OF TIME THAT WOULD CAUSE FAMILY COURT TO LOSE LEGAL AUTHORITY (JURISDICTION) TO DETERMINE THE CUSTODY CASE.** If you have questions regarding the relocation of a child, you should contact an attorney.

**SECTION 2 BEGINS AFTER THE SAMPLE FORMS FOR  
SECTION 1.  
YOU SHOULD BEGIN SECTION 2 ONCE YOU HAVE FILED  
THE FORMS IN SECTION 1.**



# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

## PETITION FOR CUSTODY

Check the county in which you are filing.

**Petitioner**

**Respondent**

Name <b>Anne C. Smith</b>			Name <b>John D. Smith</b>		
Street Address <b>101 Oak Street</b>			Street Address <b>490 Pine Street</b>		
Apt. or P.O. Box Number <b>Apt. # 123</b>			Apt. or P.O. Box Number		
City <b>Dover</b>	State <b>DE</b>	Zip Code <b>19901</b>	City <b>Wilmington</b>	State <b>DE</b>	Zip Code <b>19899</b>
Social Security Number <b>111-22-3333</b>		Date of Birth <b>2/3/64</b>		Date of Birth <b>7/13/65</b>	
Attorney Name and Phone Number <b>n/a</b>			Attorney Name and Phone Number <b>n/a</b>		

<b>CK04-12111</b>
Petition Number

IN THE INTEREST OF the following child(ren):

Name <b>Doug A. Smith</b>	Date of Birth <b>10/14/91</b>	Name <b>Mary J. Smith</b>	Date of Birth <b>4/17/96</b>
Name	Date of Birth	Name	Date of Birth
Name	Date of Birth	Name	Date of Birth

The said child(ren) live with (Name): **Anne C. Smith**

Relationship to child(ren): **Mother**

**101 Oak Street, Apt. # 123** **Dover** **DE** **19901**  
(STREET ADDRESS) (CITY) (STATE) (ZIP CODE)



Petitioner alleges the following facts: (Please list in consecutively numbered paragraphs. Attach additional pages if needed.)

1. Mother and Father are currently going through a divorce.
2. The children have resided with Mother since the parties separated in January 2004.
3. The children are now attending school in the Capitol School District and are excelling in their classes. It is not in the child's best interest to be removed from their school and friends.
4. The children enjoy spending time with their cousins who reside in Dover. It is not in the best interest of the children to be removed from their extended family in Dover.

List your allegations in numbered paragraphs.

WHEREFORE, Petitioner prays that a Summons issue to the above-named person(s) and the person(s) listed in Paragraph 5 of the attached Separate Statement, and the that the Court grant Custody of the above-named child(ren) to Petitioner and enter such Orders as may be in the best interest of the child(ren). The attached Statement is incorporated and made part hereof.

SWORN TO AND SUBSCRIBED  
before me this date,

 March 17, 2004  
 Donna King  
 Notary Public/Clerk of Court

Sign in the presence of a notary.

  
 Movant/Attorney

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County



Check the county in which you are filing.

## CUSTODY SEPARATE STATEMENT

Petitioner

v. Respondent



Name Anne C. Smith	Name John D. Smith	File Number CK04-1211
-----------------------	-----------------------	--------------------------



1. What type of petition are you filing? FILL IN PETITION TYPE (E.g. Petition for Custody)



2. Who is the child(ren) named in your petition? (Please provide full name and date of birth)

Child's Name	Date of Birth (mm/dd/yyyy)	Place of Birth (City, State)
Doug A. Smith	10/15/2010	Dover, DE
Mary J. Smith	4/22/2013	Dover, DE



3. Have all the children listed above continually resided with one another?  Yes  No

**If you answered "No," the children have not continually resided with one another; please complete a Custody Separate Statement for each child.**

CURRENT ADDRESS	Address where child(ren) <u>currently reside(s)</u>			Date(s) Child(ren) lived here	
	<b>** If the address where the child(ren) currently resides is a confidential address in Family Court, DO NOT provide the address on this form. Instead, please mark the fields as CONFIDENTIAL.</b>			1/28/2016 to present	
	Address		City	State	Zip
	101 Oak Street, Apt 123		Dover	DE	19901
	People living in the household with the child(ren):		Date of Birth	Relationship to child(ren):	
Anne C. Smith		12/26/1985	Mother		
Mary A. White		4/28/1959	Grandmother		



4. During the **past five years**, where has/have the child(ren) lived? List addresses from the most recent to the oldest. If the child(ren) is under the age of five years old, end with the first address where the child lived.

PRIOR ADDRESS	Address where child(ren) previously resided		City	State	Zip Code
	10 Clayton Street		New Castle	DE	19720
	Date(s) child(ren) lived there	Name of person(s) child(ren) lived with		Relationship to child(ren)	
2/14/2014 to 1/27/2016		Anne C. Smith & Mary A. White		Mother and Grandmother	
PRIOR ADDRESS	Address where child(ren) previously resided		City	State	Zip Code
	490 Pine Street		Wilmington	DE	19899
	Date(s) child(ren) lived there	Name of person(s) child(ren) lived with		Relationship to child(ren)	
10/1/2010 to 2/14/2014		John V. Smith and Anne C. Smith		Father Mother	
PRIOR ADDRESS	Person's current address		City	State	Zip Code
	Unknown (John Smith) 101 Oak Street, Apt 123		Dover	DE	19901

<b>PRIOR ADDRESS</b>	Address where child(ren) previously resided		City	State	Zip Code
	Date(s) child(ren) lived there to	Name of person(s) child(ren) lived with	Relationship to child(ren)		
	Person's current address		City	State	Zip Code
<b>PRIOR ADDRESS</b>	Address where child(ren) previously resided		City	State	Zip Code
	Date(s) child(ren) lived there to	Name of person(s) child(ren) lived with	Relationship to child(ren)		
	Person's current address		City	State	Zip Code



5. Check **ONE** and complete as directed.

- No one other than the parties have physical custody, legal custody or visitation rights with the child(ren).  
 A person(s) other than the parties have physical custody, legal custody or visitation rights with the child(ren). If you check this box, complete the information below. Attach additional sheets if necessary.

<b>PERSON 1</b>	Name of person(s) with physical custody, legal custody or visitation		Relationship to child(ren)		
	Person's current address	City	State	Zip Code	
<b>PERSON 2</b>	Name of person(s) with physical custody, legal custody or visitation		Relationship to child(ren)		
	Person's current address	City	State	Zip Code	



6. Select all that apply and complete as directed.

- I have not been involved in any other court action for custody and/or visitation of this child(ren).  
 I have been involved in another court action for custody and/or visitation of this child(ren). If you check this box, complete the information below. Attach additional sheets if necessary.

<b>ACTION 1</b>	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)	State	
	Visitation	John V. Smith	DE	
	Court	Case Number	Date Filed	
	Family Court	CK16-1122	10/2/2016	
	Result	Date of Order		
	Visitation granted	12/15/2016		
<b>ACTION 2</b>	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)	State	
	Court	Case Number	Date Filed	
	Result	Date of Order		
<b>ACTION 3</b>	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)	State	
	Court	Case Number	Date Filed	
	Result	Date of Order		



7. Check **ONE** and complete as directed.

- I do not know of any other court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship, Adoption or Paternity involving myself, the other party or the child(ren) that could affect this petition.
- I, the other party or the child(ren) have been and/or are currently involved in another court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship or Adoption, that could affect this petition. *If you check this box, complete the information below. Attach additional sheets if necessary.*

ACTION 1	Type of Action (e.g. PFA, TPR, Guardianship, Other)	Person (who filed the action)		State
	PFA	Anne C. Smith		DE
ACTION 2	Court	Case Number	Date Filed	
	Family Court	CK04-12111	8/11/2017	
ACTION 2	Type of Action(e.g. PFA, TPR, Guardianship, Other)	Person (who filed the action)		State
	Court	Case Number	Date Filed	



Sign in the presence of a notary or court staff.



Anne C. Smith  
Petitioner

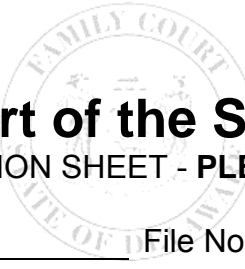
Sworn to and subscribed before me this 18<sup>th</sup> day of September, 2017.



Signed by notary or court staff.



Donna King  
Clerk of Court/Notary Public



Fill in the date you file the form.

# The Family Court of the State of Delaware

## INFORMATION SHEET - PLEASE PRINT

If you know your case file number, put it; if not, leave blank.

Date: 12/13/2017 File No.: CN17-99999

Please fill in A to K pertaining to you the Applicant/Petitioner. (For additional petitioners use additional sheets)

**A. Name:** Anne C. Smith Each Petitioner must complete a separate form

**B. Address:** 101 Oak Street, Apartment #123  
 City/State/Zip: Dover, DE 19901

**C. Phone – Home:** (302) 555-1111 Work: (302) 555-9999 Cell: (302) 999-8888

**D. Employer & Address:** ABC Child Care Center  
500 Pine Street  
Dover, DE 19904  
 Hours/Shift 7:30 to 4:30 Monday-Friday

**E. Social Security No.:** 000-00-0000 **F. Date of Birth:** 2/3/1986

**G. Place of Birth (City & State):** Wilmington, DE

**H. Sex:** F **Race:** White **Height:** 5'4" **Weight:** 135 lbs **Hair:** Blond **Eyes:** Brown  
**Marks/Scars/Tattoos:** None

**I. Type of motor vehicle operated by you:** 2010 Honda Accord

**J. Driver's License No.:** 9999999 **State of Issue:** DE **Expiration Date:** 2/3/2020

**K. Your relationship to the Defendant/Respondent:** Spouse

**L. Attorney:** None

Entering your email address on this line authorizes the Court to send you notices by email. If you choose this option, you will not receive notices in regular mail.

I authorize Family Court to deliver court orders in my case(s) to my email address instead of to my mailing address. My email address is: Anne.C.Smith@example.com

\*Please note that if you provide an email address, all orders in your pending civil cases in Family Court will be sent in an encrypted email via Egress to the email address provided and will not be mailed to your physical address. For information on how to receive encrypted emails through Egress, please visit <https://judicial.state.de.us/courtbox/Download.aspx?id=94888&court=readonly>.

**Please fill out the information below in reference to the child(ren) who are involved.**

**Children**

Name	Relationship	Sex	Race	D.O.B.	SSN	Birthplace City & State
<u>Douglas A. Harding</u>	<u>Nephew</u>	<u>M</u>	<u>White</u>	<u>10/14/2012</u>	<u>987-65-4321</u>	<u>Newark, DE</u>

Please fill in L to Y pertaining to the Defendant/Respondent. (For additional respondents use additional sheets)

M. Defendant/Respondent is a: (Check One)  ADULT  JUVENILE

N. Name: Michelle Jones

O. Address: 490 Pine Street  
 City/State/Zip: Dover, DE 19901

P. Phone – Home: (302) 333-3333 Work: (302) 222-2222 Cell: (302) 111-1111

Q. Employer & Address: XYZ Corporation  
67 Walnut Avenue  
Dover, DE 19901

Hours/Shift 9:00 AM to 5:00 PM, Monday-Friday

You must complete a separate form for each Respondent.

R. Social Security No.: 888-88-8888 S. Date of Birth: 7/13/1991

T. Place of Birth (City & State): Wilmington, DE

U. Relationship to Child:  Not Applicable  Mother  Father  Relative  Non-Relative  
 Other (Please Describe) \_\_\_\_\_

V. Sex: F Race: White Height: 5'4" Weight: 140 lbs Hair: Black Eyes: Brown

Marks/Scars/Tattoos: Tattoo of a heart on right shoulder

W. Driver's License State & No.: DE 1111111 X. Type of vehicle operated by Defendant/Respondent: 2009 Chevy Impala

Y. Parent's Name (if a juvenile): \_\_\_\_\_

Z. Time when Respondent is usually home: 7:00 PM to 6:30 AM, Monday-Friday; mornings on weekends

List places where the Respondent spends time other than at home or \_\_\_\_\_

AA. Additional information about Respondent that may aid the process server in locating him/her to serve petition:

If you are unable to locate the Respondent at her place of residence or her place of employment, she spends a lot of time at her brother's house, which is located at 775 Spruce Lane, Dover, DE 19901.

Write directions to each address listed on this form to make sure that the process server can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go West on 8th Street until you reach Pine Street. Turn right and go 3 and one-half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Go North on Route 13 and take the first right onto Cherry Drive. Go about a mile and a half and turn left onto Walnut Avenue. XYZ Corporation is on your left.

Brother's Residence: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

# The Family Court of the State of Delaware

in and for  New Castle  Kent  Sussex County

Check the county in which you are filing.

## AFFIDAVIT THAT A PARTY'S ADDRESS IS UNKNOWN

Petitioner		
Last	First	MI
Smith	Anne	C.

vs.

Respondent		
Last	First	MI
Smith	John	D.

File No. CK04-12111
CPI No.

Fill in the county in which you are filing.

State of Delaware  
Kent County )

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this 17th day of March, 2004, personally appeared before me, a Notary Public for the State and County aforesaid, Anne C. Smith, ("Affiant"), who, being by me duly sworn according to law did depose and say:

The person filling out the form is the "Affiant" and his/her name goes here.

1. My name is Anne C. Smith

2. I do not know the current address and/or telephone number, nor do I know anyone who could provide me with the current address and/or telephone number of John D. Smith. I have contacted his/her (Please check as appropriate)  Parent  Spouse  Employer  Other: Respondent's Brother. His/Her last known address and telephone number were:

490 Pine Street  
Wilmington, Delaware 19899

Fill in the date that the Respondent last lived at the above address.

3. I have had no contact with him/her since January 1, 2004 as of January 10, 2004.

4. I have been informed of my responsibility to accomplish publication and my failure to do so will result in the petition being dismissed.

5. The information contained herein is true and correct to the best of my knowledge and belief.

Sign in the presence of a notary.

Anne C. Smith  
Affiant

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.

Signed by notary or court staff.  
Donna King  
Notary Public

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

## CONSENT ORDER – CUSTODY, VISITATION

*Petitioner*

*v. Respondent*

Name <b>Anne C. Smith</b>	Name <b>John D. Smith</b>	File Number <b>CK04-12111</b>
Street Address <b>10 Oak Street</b>	Street Address <b>490 Pine Street</b>	
Apt. or P.O. Box Number <b>Apt. #123</b>	Apt. or P.O. Box Number	Petition Number <b>04-42301</b>
City State Zip Code <b>Dover DE 19901</b>	City State Zip Code <b>Wilmington DE 19899</b>	
Attorney Name and Phone Number <b>n/a</b>	Attorney Name and Phone Number <b>n/a</b>	

IN THE INTEREST OF the following child(ren):

Name (Child #1) <b>Doug A. Smith</b>	Date of Birth <b>10/14/91</b>	Name (Child #2) <b>Mary J. Smith</b>	Date of Birth <b>4/17/96</b>
Name (Child #3)	Date of Birth	Name (Child #4)	Date of Birth
Name (Child #5)	Date of Birth	Name (Child #6)	Date of Birth

The parties in the above-entitled case hereby agree upon the following arrangement and do consent to the entry of an Order providing for the same:

Type of Custody:  Joint Custody  Sole Custody

Custody Awarded to: **Anne C. Smith and John D. Smith**

Physical Placement with: **Anne C. Smith**

Relationship: **Mother**

Address: **10 Oak Street, Apt. #123**  
**Dover, DE 19901**

Visitation Awarded to: **John D. Smith**

Relationship: **Father**

Address: **490 Pine Street**  
**Wilmington, DE 19899**

Check which type of custody you have agreed upon. If you check Joint Custody, you must list both parents on the next line. If you check Sole Custody list only one of the parents on the next line.

Fill in the name of the parent that the child is going to live with most of the time.

OVER



Describe the visitation schedule you have agreed on in detail.

Visitation shall be as follows:

Father shall have visitation with the children every other weekend beginning the first weekend in August. Father will pick the children up from school on Friday afternoon and will have them with him until 4 p.m. on Sunday afternoon. Mother and Father will meet at the McDonald's in Middletown to exchange the children at 4pm on Sunday afternoons. Both parties will try to be on time, but if one is running late, he/she will call the other's cell phone and let him/her know of the delay.

Father shall have visitation with the children every Wednesday evening from 6:30 to 8:30 p.m. Father will pick the children up at Mother's house and will drop them off at Mother's house. If there is a school activity on Wednesday evening so that the child(ren) cannot visit with Father, then Tuesday evening may be substituted.

Father and Mother will follow the visitation schedule set forth in the Standard Visitation Guidelines regarding holidays except for Christmas. Mother will have the holidays in Column 1 on odd years and the holidays in Column 2 on even years. Father will have the holidays in Column 1 on even years and the holidays in Column 2 on odd years. The children will spend all of Christmas Eve with Mother every year and all of Christmas Day with Father every year. Mother will drop the children off at Father's home at 9pm on Christmas Eve and Father will keep the children until 4pm the afternoon before school resumes after Winter Break. Father will drop the children off at Mother's house that afternoon.

Mother will have the children for all of Spring Break.

Fill in the date you have the form notarized.

**Affidavit of Consent**

Be it remembered that on July 20, 2004, the above named petitioner and respondent personally came before me, the subscriber, a Notary Public for the State and County listed below, who being duly sworn to law did depose and say: I, the undersigned hereby agree upon the following custodial/visitation agreement for the above-named child(ren). I have signed this consent agreement voluntarily and of my own free will.

We hereby waive our right to a Review of a Commissioner's Order is entered pursuant to this Voluntary Agreement

Sign in the presence of a notary or court staff.

*Anne C. Smith*

Petitioner

*John D. Smith*

Respondent

State of Delaware

State of Delaware

County of Kent

County of Kent

Sworn to subscribed before me:

Sworn to subscribed before me:

*Donna King*

Mediator/Notary Public

*Donna King*

Mediator/Notary Public

So Ordered this Date:

Signed by Commissioner.

Commissioner

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

IN RE THE MARRIAGE OF

Anne C. Smith )  
 )  
 ) Petitioner,  
 )  
 ) and  
 )  
John D. Smith )  
 )  
 ) Respondent,  
 )

File No.: CK04-12111

Petition No.: \_\_\_\_\_

## WAIVER OF RIGHTS UNDER THE "SERVICEMEMBERS CIVIL RELIEF ACT"

STATE OF DELAWARE

Write in the county in which you are filing.

Kent COUNTY )

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, March 25, 2004, personally appeared before me, a Notary Public for the State of Delaware in the County declared above, John D. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Respondent in the above captioned case.
2. That Affiant is active duty in the United States military: a
3. The Affiant waives his/her rights under the "Servicemembers Civil Relief Act" and so acknowledges that he/she, or his/her attorney, will be required to appear at all legal proceedings associated with the above captioned case.

The "Affiant" is the Respondent. ONLY the Respondent may complete this form. If you are the Petitioner in this proceeding, you may not fill out this form.



Sign in the presence of a notary or court staff.

John D. Smith

Respondent ("Affiant")

SWORN TO AND SUBSCRIBED before me this date, March 25, 2004



Signed by notary or court staff.

Donna Young

Notary Public or Clerk of Court

## Section 2

# PARENT EDUCATION CLASSES

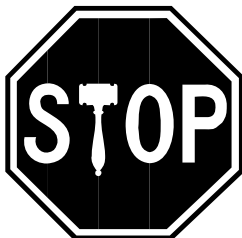


You **MUST** file the certificate below:



**Certificate(s) of Completion of Parent Education Class.** *(file original(s))*


- All parents with children under the age of 17 must take a Parent Education Class. A listing of available classes is available at the Family Court Resource Centers. Once you have completed the Parent Education Class, a Certificate(s) of Completion of Parent Education Class will be given to you. You must file the **ORIGINAL** copy of the Certificate of Completion of Parent Education Class with the Family Court prior to the final hearing.
- Be aware, if you fail to attend the Parent Education classes or do not file your Certificate of Completion with the Court, the Court will take your failure to do so into consideration when deciding who should have custody. The Court may dismiss your case based on your failure to attend the classes.
- You should register for the Parent Education Classes **AS SOON AS POSSIBLE** because the classes tend to fill quickly and you may be placed on a waiting list.
- The parent with whom the child primarily lives is responsible for filing the original Certificate of Completion. If your child lives with you and the other parent equally, then you, as the person who filed the Petition for Custody, are responsible for filing the original Certificate of Completion.



**SECTION 3 DESCRIBES WHAT  
HAPPENS NEXT.**

## Section 3

# MEDIATION

 After all of the Respondents have been served with the Petition for Custody and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your custody matter for **Mediation**. **ALL PARTIES** are required to attend.

- The Court will **NOT** schedule Mediation if there is an active **No Contact Order** involving you and the Respondent(s) or there has been a previous finding of domestic violence such as the following:
  - A Protection from Abuse Order, **OR**
  - An adjudication of criminal charges.If there is an active No Contact Order involving you and the Respondent(s), you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- The Court will **NOT** schedule mediation if one of the parties is a sex offender as defined by Delaware law. If one of the parties is a sex offender as defined by Delaware law, you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- Mediation is **NOT** a Court Hearing. At Mediation, a Mediator (a neutral third party) will **try to help** you and the Respondent(s) reach an agreement about custody. The Mediator will ask you and the other parent to tell how you both think the matter should be resolved and will work with you to find a solution that is agreeable to both of you. In other words, the Mediator is there to help you and the other parent work together in deciding what arrangement is best for your child. Therefore, try your best to come with a “spirit of cooperation.”



## CONSENT ORDERS

- If, at the end of Mediation, you and the other parent reach an agreement, the Mediator will type your agreement into a document and you and the Respondent(s) will sign the agreement. The Mediator will also sign the agreement. Then, you will be allowed to leave and the Mediator will give your signed agreement to a Commissioner. The Commissioner will decide whether your agreement should become a court order, called a **Consent Order**.
- If the Commissioner decides your agreement should become a Consent Order, the Commissioner will sign the agreement and the Consent Order will be mailed to you and the Respondent(s). You will **NOT** have to go to a Hearing with a Judge. Most often, the Commissioner will sign a Consent Order proposed by a Mediator.
- Once a consent Order is signed by a Commissioner, it is a court order and you and the Respondent(s) **MUST** follow the terms of the Order.
- If circumstances change in the future, you may be able to change the terms of the Consent Order by filing to modify custody. See the Modification of Custody Instruction Packet for more information about changing a custody order.



## TEMPORARY ORDERS

- If you and the other parent do **NOT** reach an agreement at Mediation, the **Mediator** will suggest a **Temporary (Interim) Order** for a Judge to sign. A temporary order is entered so that both parents can have contact with the child while the parties are waiting for their hearing to be scheduled.
- A Judge will review the suggested Order and will either sign it as an Interim Order or will change some of the terms before signing it as an Interim Order.

The Interim Order will remain in effect until another Court Order is issued. You and the Respondent(s) **MUST** follow the terms of the Interim Order until that time.

- As an alternative, **you and the other parent** may reach a temporary agreement at Mediation. This agreement would be made with the intent that it should only last until the Judge makes a decision after your Court Hearing. If you do this, the Mediator will type your temporary agreement into a document and you and the other parent will sign the temporary agreement. The Mediator also will sign the temporary agreement. Thereafter, you will be allowed to leave and the Mediator will give your signed temporary agreement to a Commissioner. The Commissioner will decide whether your temporary agreement should become a court order, which is called an **Interim Consent Order**.



Because some kind of Order **will be issued** after Mediation, whether it is a Consent Order or a Temporary (Interim) Order, come to Mediation prepared to discuss how the following matters should be addressed in a Custody Order.

❑ **PARENTAL DUTY AND RESPONSIBILITY**

- Because it is usually in the best interest of the child to have both parents active in his/her life, the Court generally orders **Joint Custody**, in which parents share the duties and responsibilities of raising the child. Under this arrangement, each parent must care for, support, discipline and make decisions about the child's medical, educational, religious, health and social needs. Parents are expected to share information, discuss and decide together major issues regarding the child.
- If you want **Sole Custody**, an arrangement where the other parent does not actively share in the duties and responsibilities of raising the child, you must demonstrate that such an arrangement is in the

child's best interest. (For more information on the best interest of a child see page 11).

- Generally, no matter how the parental duties and responsibilities are shared, each parent will have the right to request information concerning the child's progress in school, medical treatment, significant developments in the child's life, school activities and conferences, special religious events and other activities in which the parent may wish to participate. Also, each parent will have the right to reasonable access to the child by telephone or mail.

#### □ **PLACEMENT**

- Another aspect of the Custody Order involves where the child will live most of the time. The Custody Order will state whether the child should live primarily with one parent or spend equal time living with each parent. If the Court determines the child should live mostly with one parent, that parent has **primary placement** of the child. Placement is determined according to what is in the **CHILD'S** best interest, not the parent's best interest.

#### □ **VISITATION**

- Generally, when the Court addresses Custody, it will also address Visitation to enable the parent not given primary placement to spend time with the child. Visitation establishes a schedule of contact with the child. For more information on Visitation please read the Visitation Instruction Packet.
- You should review the Family Court's **Standard Visitation Guidelines** to get a general idea of visitation arrangements. The Standard Visitation Guidelines may be found in Appendix A of this packet and on the Family Court website. Consider whether the Standard Visitation Guidelines accommodate your and the Respondent's schedule as well as the schedule of the child. You

are not required to follow the Standard Visitation Guidelines. At Mediation, you and the Respondent can work together to establish a visitation schedule that works best for you, Respondent(s), and **most importantly** your child.



**Be realistic when asking for the terms of a custody order.** The law says that it is better for a child to have at least some contact with both parents unless that contact would endanger the child's physical health or significantly impair his or her emotional development. The focus is on what is in the **CHILD'S best interests**. Just because **YOU** do not want the other parent to be involved in the child's life may not mean that is in your **CHILD'S** best interest. Therefore, at Mediation, be prepared and try to work with the other parent to accommodate the other parent's right to a continuing relationship with the child.



**IF YOU REACHED AN AGREEMENT AT MEDIATION, THIS IS THE END OF THE PACKET. OTHERWISE, GO TO SECTION 4.**



## Section 4

### HEARING WITH A JUDGE

#### SCHEDULING THE HEARING



A **Court Hearing** will be scheduled by the Court **ONLY** if:

- The Mediation was unsuccessful (no agreement or a temporary agreement was reached) **OR** Mediation was not required; **AND**

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing**.



Judges may schedule a **case management conference** or a **pre-trial hearing**. The purpose of these proceedings is to discuss the status of your case prior to scheduling a full evidentiary hearing where you will present evidence and call witnesses.



If you cannot attend the scheduled hearing (pre-trial or evidentiary), you must file the following form:



**Motion for Continuance.** (*file one original and mail one copy to the Respondent*)

- Sample form on page 42.
- If, once you receive your Notice, you cannot attend the scheduled pre-trial or evidentiary hearing, you must contact the Court **IMMEDIATELY** by filing a **Motion for Continuance**. **DO NOT** call

the Court. On this Motion, you must state **very specific reasons** why you cannot attend the hearing. You must have a legal and unavoidable reason for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for Continuance, you must contact the Respondent(s) regarding the continuance and then **tell the Court in your motion how the Respondent(s) feels about the continuance**. Because the law is very strict when it comes to rescheduling, these Motions are not always granted.

- You will be notified by the Court if your Motion for Continuance has been granted. **UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING.** If you fail to appear at your hearing, the Court may dismiss your custody petition. Then you will have to start the process again by filing a new Petition for Custody and paying another filing fee.

## THE DAY OF THE HEARING



Complete the following form and bring it to Court with you on the day of your hearing.



**Affidavit of Non-Military Service** form.

- Sample form on page 43.
- **ONLY** complete this form if the Respondent(s) is **NOT** in the military.
- If there is more than one Respondent, you must complete a separate form for each person.



The Court Hearing is a Trial in front of a Judge. At the Court Hearing, you and the Respondent(s) will each be given an opportunity to tell your side of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story.



Family Court provides **Court Hearing Procedure Information** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. It will be helpful to read this information before your scheduled hearing. This information is available in Appendix C of this packet and on the Family Court website.



At the hearing, it is up to **YOU** to prove to the Judge **WHY** it is in the child's best interest for the Court to grant you what you are requesting in your Petition for Custody. The best interest standard is explained on page 11 of this Instruction Packet. Review that information before the hearing, so you are prepared to present your case to the Court. You should come to Court prepared

to offer evidence regarding **Parental Duty and Responsibility, Placement, and Visitation**. For more information on these topics see pages 35-37.



After both sides have presented all of their evidence, one of two things can happen. The Judge can **announce his/her decision** at the end of the hearing, in which case you will leave the Courthouse knowing what the custody arrangement is. **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the custody arrangement sometime after the hearing. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or Court Order, in the mail.

Once the Court has entered a Custody Order, you and the Respondent(s) should follow the terms of the Order. In other words you should do what the Order tells you to do. The Court will not enforce any agreements made by the parties that are not in a Court Order. If circumstances change, you and the Respondent(s) can change the Order by filing the proper petition. For information on how to change a custody order, please see the Modification of Custody Overview and Instruction Packet.



**THIS IS THE END  
OF THE CUSTODY  
INSTRUCTION  
PACKET.**

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

## MOTION FOR Continuance

Fill in the title of the motion that you are filing.

### Petitioner

### Respondent

Name <b>Anne C. Smith</b>		
Street Address <b>101 Oak Street</b>		
Apt. or P.O. Box Number <b>Apt. # 123</b>		
City <b>Dover</b>	State <b>DE</b>	Zip Code <b>19901</b>
Social Security Number <b>111-22-333</b>	Date of Birth <b>2/3/64</b>	
Attorney Name and Phone Number <b>n/a</b>		

Name <b>John D. Smith</b>		
Street Address <b>490 Pine Street</b>		
Apt. or P.O. Box Number		
City <b>Wilmington</b>	State <b>DE</b>	Zip Code <b>19899</b>
Social Security Number <b>787-98</b>	Date of Birth	
Attorney Name and Phone Number <b>n/a</b>		

File Number <b>CK04-12111</b>
Petition Number

Fill in the type of hearing that is scheduled. This information appears on the Notice of Hearing you received in the mail.

A PROCEEDING involving Custody having been filed in this Court, Movant hereby moves the Court for a continuance and, in support thereof, alleges the following facts:

Explain what you would like the court to order.

The parties' daughter, Mary Smith has suffered from severe tonsillitis. She is scheduled for surgery on November 30<sup>th</sup>, 2004, the date of the parties' custody hearing. I request that the Court grant a continuance so that I can be with my daughter while she is in surgery. I have contacted the Respondent and he agrees that a continuance should be granted.

Describe in detail for the Court why it should grant your motion. Tell the Court how the other party feels about your request.

SWORN TO AND SUBSCRIBED before me this date,

November 10, 2004



Sign in the presence of a notary.

Anne C. Smith

Movant/Attorney

Donna King

Notary Public/Clerk of Court



Signed by notary or court staff.

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date

11/10/2004

Fill in the Respondent's name and the date that you mailed him/her a copy of the motion.

John D. Smith

pre-paid.

SWORN TO AND SUBSCRIBED before me this date,

November 28, 2004



Sign in the presence of a notary.

Anne C. Smith

Movant/Attorney

Donna King

Notary Public/Clerk of Court



Signed by notary or court staff.

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

**In re the Marriage of:  
Petitioner**

**Respondent**

Name <b>Anne C. Smith</b>			Name <b>John D. Smith</b>			File Number <b>CK04-12111</b>	
Street Address <b>101 Oak Street</b>			Street Address <b>490 Pine Street</b>			Petition Number <b>04-42301</b>	
Apt. or P.O. Box Number <b>Apt. #123</b>			Apt. or P.O. Box Number				
City <b>Dover</b>	State <b>DE</b>	Zip Code <b>19901</b>	City <b>Wilmington</b>	State <b>DE</b>	Zip Code <b>19899</b>		
Social Security Number <b>111-22-3333</b>		Date of Birth <b>2/3/64</b>	Social Security Number <b>787-98-6767</b>		Date of Birth <b>7/13/65</b>		
Attorney Name and Phone Number <b>n/a</b>			Attorney Name and Phone Number <b>n/a</b>				

**The section below is to be completed by and signed in the presence of a Notary Public/Clerk of Court on the day of your Divorce/Annulment Hearing.**

Fill in the county where you are filing.

## AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE )

Kent COUNTY )

ss. )

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2004, personally appeared Before me, a Notary Public for the State of Delaware in the County declared above, Anne C. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Petitioner in the Petition for Divorce/Annulment;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.



Sign in the presence of a notary or court staff on the day of your hearing.



Anne C. Smith

Petitioner

SWORN TO AND SUBSCRIBED before me this date, November 30, 2004



Signed by notary or court staff.

Donna King

Notary Public or Clerk of Court

## STANDARD VISITATION GUIDELINES

Parents are encouraged to create an agreed equitable written visitation schedule that fits their circumstances and their children's lives, with the following serving as a schedule when the parents cannot agree. Nothing herein prohibits the parents from changing the schedule upon mutual agreement. In the event of conflicting dates and times, the following is the order of priority: holidays; birthdays; summer visitation and school breaks; weekend; then weekdays. This schedule presumes that if the parents have more than one child, the visitation will be exercised with all children together.

If a child indicates a strong opposition to being with the other parent, it shall be the responsibility of both parents to appropriately deal with the situation by calmly discussing with the child his or her reasons, and to work together to alleviate these misgivings without confrontation or argument. If they cannot resolve the problem, the parents shall seek the immediate assistance of a counselor or other professional, or may file a motion requesting Court-ordered counseling. It is the absolute affirmative duty of the residential parent to foster an environment which avoids such problems and to make certain that the children go for visitation.

1. **WEEKENDS:** Except during the time periods identified as Winter and Spring breaks, as well as summer visitation, the nonresidential parent shall have visitation on alternate weekends from Friday at 6 p.m. until Sunday at 6 p.m., beginning \_\_\_\_\_, \_\_\_\_\_.
2. **WEEKDAY:** Except during the time periods identified as Winter and Spring breaks, as well as summer visitation, the nonresidential parent shall have visitation from 5 p.m. until 8 p.m. each Wednesday evening, beginning \_\_\_\_\_, \_\_\_\_\_.
3. **HOLIDAYS:** \_\_\_\_\_ shall have the children on the holidays in Column 1 in odd-numbered years and the holidays in Column 2 in the even-numbered years. \_\_\_\_\_ shall have the children on the holidays in Column 1 in the even-numbered years and the holidays in Column 2 in odd-numbered years:

### Column 1

Easter or other religious  
holidays  
Fourth of July  
Halloween  
Christmas Day

### Column 2

Memorial Day  
Labor Day  
Thanksgiving Day  
Christmas Eve

4. With the exception of Christmas and Halloween visitation, holiday visitation shall be from 9 a.m. until 6 p.m. the day of the holiday. Halloween

visitation shall begin at 5 p.m. and end at 8 p.m. on Halloween. Christmas Eve visitation shall begin at 6 p.m. on December 24th and end at noon on December 25th. Christmas Day visitation shall begin at noon on December 25th and end at 6 p.m. on December 26th. When a holiday falls on a Monday immediately following a visitation weekend, the visiting parent shall be entitled to keep the children continuously from 6 p.m. Friday until 6 p.m. Monday.

5. **OTHER:**

---

---

---

---

---

---

---

6. **MOTHER'S/FATHER'S DAY:** On Mother's Day and Father's Day, no matter whose turn for visitation, the children shall be with the appropriate parent from 9 a.m. until 6 p.m.
7. **BIRTHDAYS:** In odd-numbered years, \_\_\_\_\_ shall have all the children on each child's birthday from 5 p.m. until 8 p.m. In even-numbered years, \_\_\_\_\_ shall have the children on their birthdays.
8. **SCHOOL BREAKS (Winter and Spring):** In odd-numbered years, \_\_\_\_\_ shall have all the children for all breaks from school starting at 9 a.m. the day after school recesses until 6 p.m. the day before school resumes. \_\_\_\_\_ shall have the children for school breaks in even-numbered years.
9. **SUMMER VACATION:** The nonresidential parent shall have visitation for five weeks (35 days) each summer. Summer visitation shall be taken in increments of no greater than two (2) weeks (14 days) or less than one (1) week (7 days), unless otherwise agreed, and shall not be extended because other visitation days fall within the chosen summer visitation weeks. The nonresidential parent shall give the residential parent written notice of summer visitation plans between March 1 and April 1 of each year. The nonresidential parent has priority of choice of summer visitation dates if notice is given as required and unless the residential parent's vacation is an annual mandatory shut-down of the place of employment. If no notice is given by April 1, the residential parent has priority in the scheduling of any summer vacation plans and the nonresidential parent may choose only those weeks in which the residential parent is not scheduled to be out of town on visitation with the children. The residential parent shall be entitled to up to two (2) weeks for an actual visitation, which shall not be interrupted by any conflicting visitation times. Each



- parent shall provide the other parent with destination, times of departure and arrival, method of travel and telephone number where the parent can be reached in case of an emergency when taking the children outside the parent's community.
10. **LATE PICK-UP:** The residential parent shall have the children ready for pickup at the start of all visitation periods. The children and the residential parent have no duty to wait for the nonresidential parent to arrive for visitation more than thirty (30) minutes, unless notified. The nonresidential parent who arrives more than thirty (30) minutes late without prior notification for a particular visitation, forfeits that visitation, unless the residential parent agrees otherwise.
  11. **DROP-OFF:** The nonresidential parent will not return the children early from visitation unless the parents agree to a different drop-off time in advance. The residential parent or other adult well-known to the children must be present when the children are returned from visitation.
  12. **CANCELING VISITATION:** Except in emergency situations, the nonresidential parent must give at least twenty-four (24) hours advance notice when canceling a visitation period.
  13. **MEDICAL TREATMENT AND EMERGENCIES:** If the children become seriously ill or injured, each parent shall notify the other parent as soon as practicable. If the children become ill or injured during visitation, the nonresidential parent shall contact the residential parent to secure treatment unless the situation is a medical emergency.
  14. **TELEPHONE/MAIL:** Neither parent shall interfere with telephone or mail contact between the children and the other parent. Long distance calls from an out-of-town parent shall be at that parent's expense.
  15. **TRANSPORTATION:** The nonresidential parent has responsibility for transportation of the children to and from their home for visitation periods and may use another adult well-known to the children for picking up or dropping off the children when necessary. Any person transporting the children may not be under the influence of alcohol or drugs, and must be a licensed, insured driver. All child restraint and seat belt laws must be observed by the driver. Car seats should be exchanged when required.
  16. **SCHOOL WORK:** Parents shall provide time for children to study and complete homework assignments, even if the completion of work interferes with the parent's plans for the children. The residential parent is responsible for providing the nonresidential parent all of the school assignments and books. Summer school which is necessary for a child must be attended, regardless of which parent has the child during the summer school period.

17. **EXTRACURRICULAR ACTIVITIES:** Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, should not be interrupted. The parent with whom the children are visiting shall be responsible for providing transportation to activities scheduled during visitation with that parent. Each parent shall provide the other parent with notice of all extracurricular activities, complete with schedules and the name, address and telephone number of the activity leader, if available.
18. **OUT-OF-STATE RELOCATION:** Upon relocation of the children from the State of Delaware, the parents should attempt to agree to a modified visitation schedule. If the parents cannot agree, the parent who is moving shall file a petition asking the Court to modify the visitation schedule. The Court may consider the allocation of transportation expenses.
19. **NOTICE OF CHANGE OF ADDRESS:** Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number, unless a restrictive order has been obtained from the Court. A copy of the notice shall also be provided to the Family Court, \_\_\_\_\_ County Courthouse, \_\_\_\_\_, \_\_\_\_\_, Delaware, \_\_\_\_\_.

**Title 13 of the Delaware Code, section 722****Best Interests of Child**

(a) The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:

1. The wishes of the child's parents as to his/her custody and living arrangements;
2. The wishes of the child as to his/her custody and living arrangements;
3. The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home or affecting the child's best interest;
4. The child's adjustment to his/her home, school and community;
5. The mental and physical health of all individuals involved;
6. How well each parent has in the past and currently satisfies their parental rights and responsibilities with respect to their children;
7. Evidence of domestic violence; and
8. The criminal history of any party or other resident of a household, including guilty pleas, pleas of no contest and criminal convictions.

## YOUR FAMILY COURT HEARING

Make sure to read ALL Answers to Frequently Asked Questions on Court Hearings and on the subject of your Hearing, as well as the Court Hearing Procedure Overview and any other materials BEFORE the day of your Court Hearing.

Part I: Introduction

Part II: Practice

Part III: Organize

Part IV: Tips and Reminders for Your Hearing

### PART I: INTRODUCTION

#### WHAT IS A COURT HEARING?

A Court Hearing is the same thing as a Court Trial. It is your chance to tell the Court your side of the story. After the Court Hearing, a Judicial Officer will make some of the most important decisions affecting your life. **These decisions could change your life and your children's lives, if you have children.**

#### MUST I READ ALL OF THE INFORMATIONAL MATERIALS ON COURT HEARINGS BEFORE MY COURT HEARING?

Absolutely. Because your Court Hearing is so important, the Family Court of the State of Delaware has developed a series of Answers to Frequently Asked Questions ("FAQ's") and a Court Hearing Procedure Overview to help you learn what the Court will expect of you at the Court Hearing and to help you prepare.

The Court Hearing is your chance to tell the Court your side of the story. You do not want to waste this opportunity; in many cases, there may not be another chance, at least not for a while.

#### WHAT HAPPENS AT A COURT HEARING?

A certain procedure must be followed during a Court Hearing. It is important that you are familiar with this procedure so that you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story. The Court Hearing Procedure Overview explains generally what the Court Hearing procedure is and should answer any questions you have.

#### WHERE CAN I FIND THE COURT HEARING PROCEDURE OVERVIEW?

The Court Hearing Procedure Overview is located at the Family Court Resource Centers in each of the Family Court buildings in Kent and Sussex Counties and at the Self-Help Center in the New Castle County Courthouse. It is also available on this website.

### PART II: PRACTICE

#### ARE YOU READY FOR YOUR COURT HEARING?

At the Hearing, you must be clear about what you want the Court to do. Think about the way you want to tell your side of the story. Everything about you, the way you dress, the way you act, and the way you explain things, may affect the decision of the Judge, the Commissioner or the Special Master (the "Judicial Officer"). **Therefore, make sure you are fully prepared and ready to tell your side of the story at the Hearing. How do you do that? PRACTICE.**

#### HOW DO I PREPARE FOR MY COURT HEARING?

First, think about the reason for the Hearing, the reason written on the notice of the Hearing date. Is it a Custody Hearing, a Visitation Hearing, a Child Support Hearing, etc.? Make sure to understand what information the Judicial Officer is looking for in order to make his or her decision.

Look in the Overview on the subject of your Hearing, the Instruction Packet you are using, and any Answers to Frequently Asked Questions about the subject of your Hearing to find out what information the Judicial Officer needs to know. Also, look in the Delaware Code to read what the law is, and, if possible, meet with an attorney to discuss how the law applies to your situation.

Based on the information the Judicial Officer must learn from you, write down why the Court should give you what you want and not give the other person what he/she wants. Stick to the basic facts and keep things as simple as possible.

**SHOULD I HAVE OTHER PEOPLE TALK OR BRING THINGS TO THE HEARING?**

You must bring anything that your Notice says to bring. However, as to whether you should bring anything else or have someone else talk, it depends. Do you want the Court to know what other people have seen, heard, or said? If so, you should have these people at the Hearing. Do you want to talk about something that someone else wrote? If so, you should have the person who wrote the paper AND the paper at the Hearing.

For example, if you want to show the Court that your child is doing better in school since the child started living with you, you should bring to Court the child's report cards to show the Court how the child was doing in school before living with you and since living with you. If you want to talk about a letter your child's doctor wrote about your child's medical or emotional health, then you must have the doctor's letter AND the doctor at the Hearing. Remember, it is not always enough just to tell the Court something, you must prove to the Court that what you are saying is true.

**WHO SHOULD I HAVE GO TO THE HEARING?**

When it comes to deciding whom you want to speak at the Hearing, think about what you want that person to tell the Court. You do not want, for example, 2 people to tell the Court the same thing. Instead, pick the person who has the most to tell. If you want different people to talk about different things, then you might want all of them to come in. Write down (for your use ONLY) what you want the people to talk about to make sure that at the Hearing, you ask them to talk about everything you want them to cover. You may NOT tell those people what to say, but you MAY tell them what issues they should address.

Remember, you tell and show the Court at the Hearing EVERYTHING you want the Judicial Officer to know before the Judicial Officer makes his/her decision. Even if something already is in the file, bring it up again at the Hearing. Even if you told the Judicial Officer something at another Hearing, if you want the Judicial Officer to consider something in making his/her decision at this Hearing, you must bring it up again. If you do not bring up something (evidence) at the Hearing, you might not have another chance to tell the Court.

Make sure that what you or someone else tells or shows the Court helps you prove your point and relates to what the Judicial Officer must know.

**WILL THE JUDICIAL OFFICER LISTEN TO EVERYTHING I WANT TO SAY OR LOOK AT EVERYTHING I WANT TO SHOW?**

Not necessarily. The Court must follow what are called the Rules of Evidence. The Rules of Evidence are very complicated and may stop you or someone else from being able to tell or show the Court something. If you are worried about whether the Rules of Evidence may stop you from being able to fully tell the Court your side of the story, you should hire an attorney to represent you at the Hearing. Attorneys have taken classes at law school to learn about the Rules of Evidence as well as about the law.

**AM I DONE PREPARING ONCE I KNOW WHAT I WANT TO TELL AND SHOW THE COURT?**

No. You must organize. In what order do you want to tell your story to the Judicial Officer? In what order will you want to say things, have other people say things, or show things to the Court?

Keep practicing to make sure you do not forget something and to make sure that at the Hearing, you tell your story in the order you want.

**WHAT CAN I DO TO MAKE SURE SOMEONE GOES TO THE HEARING AND/OR BRINGS A PAPER OR THING THAT I WANT HIM/HER TO BRING?**

You should always have a Subpoena served. If you do not have the Court or appropriate person issue a Subpoena and that person does not show up at the Hearing, the Hearing will go on without that person and you will be unable to appeal the Court's decision to have the Hearing without the person present. Please read the Overview on Subpoenas to find out what it is and how to get one.

Similarly, if you do not think that someone will bring a paper or thing that you want that person to bring, then you should have the Court issue a Subpoena Duces Tecum. The Overview on Subpoenas also explains what a Subpoena Duces Tecum is and how to get one.

**PART III: ORGANIZE**

**WHAT DO I TAKE TO THE HEARING?**

Make sure you take the following to the Hearing:

- The Court Notice that states the Hearing Officer's name and the date and time of your Hearing. If you cannot find your Court Notice, make sure you know the name of the Hearing Officer when you enter the courthouse.
- Your notes that you used to practice to make sure that you tell and show the Court everything you want the Court to know and that you ask people all the questions you want to ask. (You should not look at your notes when you tell your side of the story. If you must look at your notes to refresh your memory, you must show your notes to the other side before you may look at them. You may look at your notes when you ask other people questions. See the Court Procedure Overview for more information about use of your notes.)
- Everything you want the Court to look at. If you are not sure whether you want to bring something, bring it just in case.
- If you want the Court to look at a paper, bring 4 copies (1 original and 3 copies). You must give the Court the original paper, give one copy to the other side, keep one copy for yourself and have the third copy available should you decide to use it when questioning a witness. To know when you should give out these papers, read the Court Hearing Procedure Overview.
- All of your Court papers from this case and put them in a folder with the most recent papers on top.
- A pen and paper so that you can take notes.

**WHAT ELSE SHOULD I DO *BEFORE* MY HEARING DAY?**

- Double check the day and time your Hearing is scheduled.
- As your Hearing day approaches and if you are able, call the people you want to go to the Hearing to remind them to be there and/or to bring with them whatever you want them to bring.
- Get a babysitter for your children, if you have any, on your Hearing Day. The courthouse is not a place for children nor is it good for your children to hear their parents talking about adult matters, or negative things about their family.
- Dress nicely for the Hearing. Make sure what you want to wear is clean. Women should wear a dress or a blouse with dress pants or a skirt. Men should wear nice pants, a shirt,

and a tie, if you have one. You are trying to make a good impression; do not wear casual clothes such as shorts, halters, miniskirts, jeans, etc.

- Make sure you know how to get to Family Court and where to park.

#### **PART IV: TIPS AND REMINDERS FOR YOUR HEARING**

##### **GOING TO THE FAMILY COURT OF THE STATE OF DELAWARE**

- Remember to dress nicely. Women should wear a dress or a blouse with dressy pants or a skirt. Men should wear nice pants, a shirt, and a tie, if you have one.
- Arrive at least 15 minutes early to the Hearing AND allow even more time to find parking. In Wilmington, you should arrive even earlier because the courthouse is large and it may take additional time for you to report to the appropriate location. When you arrive at the courthouse, you must check in at two different places: 1) the receptionist or clerk of court desk when you first enter the building to find out where in the courthouse you need to go; and 2) the reception desk on the floor where your Hearing will be. Each check-in takes time and there may be a line. After the 2nd check in, someone will call you when the Court is ready to begin your hearing.
- Effective December 1, 2005, all cell phones, pagers, or other electronic recording devices are prohibited from entering the New Castle County Courthouse.
- Do NOT bring with you to Court any weapons. This includes pocketknives, scissors, chains on a wallet, nail files, glass containers, etc.
- Bring something to do while you wait for the Court to be ready to begin your Hearing.

##### **AT THE COURT HEARING**

- Do NOT wear a hat unless you must wear one for religious or medical reasons.
- Do NOT eat or chew gum in the courtroom. (You might want to eat something before you go to the courthouse in case you get hungry during the Hearing.)
- Do NOT bring into the courtroom anything to drink. If you must have something to drink in the courtroom, you may ask the Judicial Assistant (“J.A.”) for some water.
- ALWAYS call the Judge, Commissioner or Special Master (Judicial Officer) “Your Honor.”
- ALWAYS stand when you talk to the Judicial Officer unless you are told you may sit.
- Act respectfully, reasonably, courteously, and politely to everyone in the courthouse.
- Keep calm. Do not lose your temper. Control your emotions and stay focused.
- Do NOT talk at a Hearing unless it is your turn to speak. If it is not your turn to speak, sit quietly in the courtroom. If you disagree with what someone says, write it down. This way, you will remember to ask him/her about his/her statement when it is your turn to speak.
- Do NOT have side discussions or argue with the other side at any time during the Hearing. This includes making comments under your breath about what someone, including the Judicial Officer, has said. Talk directly only to the Court unless you are answering questions or asking a witness questions.
- When it is your turn to speak, speak up so everyone in the courtroom can hear you.
- Say “Yes” and “No.” Do NOT nod your head to answer yes or no. The Hearing is being recorded, and a recording cannot tell what is your answer if you nod your head.
- Do NOT argue with the Judge, Commissioner, Special Master or Mediator.
- When being asked a question, listen carefully. If you are not sure what is being asked, ask to have the question repeated or asked a different way.
- ALWAYS tell the truth. Be honest even if you do not want to admit the truth.
- If you are told at the end of the Hearing, that the Court will give you a paper such as an Order, a letter, or a Notice, make sure BEFORE the Judicial Officer leaves the courtroom, you understand what the paper is and what it will say.