

## INSTRUCTIONS TO PREPARE A CUSTODY OR COMPANIONSHIP PACKET

This packet was prepared for your convenience to assist you in filing a petition or motion with the Court. Please review the attached documents and complete any research necessary to answer all questions asked. Complete and accurate information is necessary for your case to proceed through court. Incomplete or inaccurate information will result in delays.

### WHICH PACKET DO I NEED?

A **custody petition** is a request by one person for custody of the child (ren).

A **shared custody petition** is a request by more than one person for custody of the child (ren). This packet can be used if neither *petitioner*, nor person requesting custody, is a parent, or if only one petitioner is a parent.

A **shared parenting petition** is a request by both parents to share custody of the child (ren). A Shared Parenting Plan must be submitted to the Court by the parties. A Shared Parenting Plan template is available for your use through the Clerk's Office.

A **parenting time or companionship petition** is a request for visitation rights by court order to the petitioner. A request for parenting time or companionship can be made with or without filing a custody petition.

### What happens with Child Support when Custody is decided by the Court?

The Hamilton County Juvenile Court assigns a case number beginning with a "P" to all paternity and child support matters and a case number beginning with an "F" to all custody and companionship rights cases. Child support matters must be addressed only under a "P" number and custody and companionship issues must be addressed only under an "F" number. A situation involving both types of issues will by definition have two separate case numbers. One group of magistrates hears child support cases, and a separate group of magistrates hears the custody and companionship rights cases.

In any custody action in which the parties to the case are the parents of the child or children, the party filing the action must complete an Application for Child Support Services under Title IV-D of the Social Security Act. This will authorize the Hamilton County Child Support Enforcement Agency to provide services related to the establishment, modification, and enforcement of any child support orders that may arise after the Court decides the issue of custody.

When the Court issues a decision awarding custody or modifying a prior award of custody in a case involving the parents, it may be necessary to schedule another hearing before a child support magistrate to deal with the issue of child support. Any such cases would be assigned a child support case number beginning with a "P". If the party to whom the Court has awarded custody is already receiving child support, no further action will be needed. However, if there has never been an order of child support, or if the party previously ordered to pay child support now has legal custody, the Clerk's Office will set a hearing date to address the child support issue.

Ohio law requires that a Shared Parenting Plan address, among many other things, the issue of child support. A Shared Parenting Plan should refer to the appropriate "P" number for the language related to child support issues. These issues include the amount and effective date of

the child support order, orders related to health insurance coverage, and the issue of who is able to claim the child or children as a tax exemption. Even if there is an agreement that no child support will be exchanged, there needs to be a "P" number. If no "P" number exists, a party will need to file a support action in the Clerk's Office in order to obtain one. A party making a dual filing will only be required to pay one filing fee if applicable.

When the Court issues a decision awarding custody or modifying a prior award of custody to a non-parent, then that person has a right to request an order of support by either contact the Child Support Enforcement Agency (there is no cost for this service) or by filing a motion to set support with the Court (a filing fee may be required).

### Filling Out a Packet: What to Know

1. Please type or use a blue or black ink pen to complete your packet.
2. All forms must be completely filled out with accurate information. Some forms may require research prior to completion. Please take the time to gather all information prior to submitting your packet. Failure to provide complete and accurate information will result in delays and could result in your petition or motion being dismissed by the Court.

### Filling Out a Petition, Motion and Other Required Forms

1. The term "In Re:" refers to the name(s) of the child (ren). This is the caption of the case. You should include the complete name of every child for whom you are requesting the Court to make orders.
2. Add the case number, if known, to the top right-hand corner of the petition or motion. If you don't know this information or this is the first time the case has ever been in this court, Clerk Office staff will assist you.
3. Fill out each line of the petition, motion and other forms with complete and accurate information, making sure to check the boxes where requested.
4. Please attach all requested documents to your petition or motion. See the check list for guidance.
5. The petition or motion must be signed in front of a notary.
6. After all the documents are completed, notarized and witnessed; bring the packet to a deputy clerk in the Clerk's Office of the Hamilton County Juvenile Court, located on the first floor at 800 Broadway, Cincinnati, Ohio, 45202.
7. Filing fees must be posted at the time of filing by cash, check, money order, American Express, Discover, or Master Card. Please note that there is an additional fee charged for use of a credit card. The filing fee for custody and companionship petitions or motions is \$165.00. A second Motion on the same cases is \$150.00. There is an additional fee for service by publication in the amount of \$100.00.

## When do I use a motion to modify?

A **motion to modify** is used whenever a court order already exists, either through this Court or another court, and you are asking to change the order.

A **motion to modify custody** is a request to change custody from the child (ren)'s current custodian to the petitioner.

A **motion to modify shared parenting or shared custody** is a request to change either the terms of the Shared Parenting or Shared Custody agreement or to change one or both of the custodians.

A **motion to modify companionship/ parenting time** is a request to change your current companionship/parenting time schedule by court order.

## I am requesting custody or companionship for more than one child. Can I use the same packet for all children?

You can use the same packet for all children who have the same parents. If some of the children have different parents, you need to fill out one packet for each set of parents.

If you are not the parent of a child (ren) and are requesting custody or visitation, called *companionship*, and are not granted custody, you must fill out both a packet for custody and a packet for companionship. If a parent is requesting custody but is not granted custody, the court will automatically consider parenting time (visitation) rights to that parent.

## What documents will I need to file my petition or motion?

1. **A copy of each child (ren)'s birth certificate.** If you do not have a copy of a birth certificate, you must obtain one. To obtain a birth certificate you may contact any city or county Department of Vital Statistics for any child born in the state who has not been adopted. Most birth certificates can be obtained by filing online. Each state and county will have an agency responsible for keeping these records.
2. **A copy of a death record, if a parent or former custodian is deceased.** Acceptable documentation includes, but is not limited to, a copy of the death certificate, other government records, or a copy of the funeral home notice. Death certificates can be obtained through the Department of Vital Statistics in the city or county where the person died.
3. **Copies of other courts' orders relating to the custody or companionship rights of the child (ren) who are the subject of your petition or motion.**

Local agencies for obtaining birth or death records in Ohio include:

Cincinnati Health Department  
Office of Vital Statistics  
1525 Elm Street  
Cincinnati, Ohio 45202  
(513) 352-3120  
<http://www.cincinnati-oh.gov/health/birth-death-certificates/>

Hamilton County General Health District  
250 William Howard Taft Rd.  
Cincinnati, Ohio 45219  
(513) 946-7800  
<https://www.hamiltoncountyhealth.org/>

The Ohio Department of Health  
P.O. Box 118  
Columbus, Ohio 43126-0118  
(614) 466-2531  
<https://www.odh.ohio.gov/vs>

Why do I need to fill out the affidavit in compliance with O.R.C. 3127.23?

The *affidavit in compliance* is a legally required document. The information contained in the affidavit provides historical information regarding the life of the child (ren) to the court to help ensure that it has jurisdiction to hear your case.

Why do I need to fill out the personal identification form?

The personal identification form provides the court with current information regarding the life of the parties and the child (ren). The information is necessary to provide the judge or magistrate with information related to the parties and the child (ren), which is important in making custody or companionship decisions.

Why do I need to sign releases?

In order to ensure the safe placement of child (ren), the court requires releases of information to obtain background checks on all adult household members in a petitioner's home. Each person who lives in your home is required to sign two releases: The Hamilton County Department of Job and Family Services questionnaire and release and the Hamilton County Sheriff Department's release. Additional releases may be necessary as determined by the magistrate.

How do I fill out a release of information?

**1. The Hamilton County Department of Jobs and Family Services Questionnaire and Release**

Please fill out all information completely and accurately in detail down to the point that indicates "For Official Use Only by HCDJFS DO NOT WRITE BELOW THIS LINE." Accompanying this form is the authorization to release information which must be signed in front of a witness

**2. The Hamilton County Sheriff Department's Personal Information Release Form**

The second release which must be signed is the personal information release form. This form is used by the Hamilton County Sheriff Department to complete criminal background checks. Please sign and fill out all information completely and accurately down to the point that indicates "For Official Office Use Only.

## SERVICE:

### Who do I need to notify that I have filed a petitioner or motion with the Court?

The law requires that any person with a legal claim to custody or companionship rights with a child has to be notified of a petition or motion. This includes a parent who may not currently be involved in the child (ren)'s life (s). You must serve notice to:

1. The child (ren)'s mother, even if she has never been involved in the child (ren)'s life (s);
2. The child (ren)'s father, even if he has never been involved in the child (ren)'s life(s) or legally determined to be the father;
3. Any person who currently has legal (by law) or physical (the person with whom the child is currently living) custody of the child (ren);
4. Any person who has court ordered companionship rights with the child (ren).

### How do I notify parties?

The preferred method of service in the state of Ohio is by certified mail notice. If certified mail is not claimed by the person, the court can send out regular mail service to the party. If not returned as undeliverable, service is complete. In order to request certified and regular mail service, fill out the form titled "Request Instructions for Ordinary Mail Service" and the "Hamilton County Juvenile Court Service Request" forms. The service request form requires the complete name and address of the party you are attempting to notify. If a party is temporarily staying with someone, and you don't think they receive mail at that address, send the notice in care of (c/o) the person who owns or rents the property.

Other acceptable methods of service in Ohio include:

#### **Personal Service**

Personal Service is a request for the Sheriff's Department or a privately paid process serving agency to serve a summons and a copy of the complaint on the named individuals. If you request personal service, make sure you provide information regarding the hours and locations where the person will most likely be (ex. home at 6:30 p.m., or work 9:00 a.m. until 5:00 p.m.). Please note that if the person is not present at the identified location at the time service is attempted, service will not be able to be completed.

#### **Residential Service**

Residential Service is a request for the Sheriff's Department or a privately paid process serving agency to serve a summons and a copy of the complaint on the named individuals by leaving a copy at the address provided. If you request residential service, make sure you provide information regarding the hours and locations where the person will most likely be found (ex. home at 6:30 p.m., or work 9:00 a.m. until 5:00 p.m.). **Please note that if residential service is not considered under Ohio law to be the most effective method of service.** The Court may or may not accept residential service and may require you attempt other types of service, such as certified mail or personal service, if they are not satisfied that the notice was actually received by the person you are attempting to serve. This could cause delays in your case.

## **Publication Service**

Publication service is only acceptable when all other attempts to notify a party have been ruled out. You will have to demonstrate to the magistrate what attempts you made to locate an address for a person before the magistrate will consider accepting publication service including: internet searches, making phone calls to locate an address, checking with friends and family members, etc. To properly fill out a request for publication you must include the last known address of the person. **Be aware that there is an additional fee for publication service.**

**Please note that telling someone about the hearing is not the same as legal service of process.** Even if you know that the person has notice of the hearing, if he or she does not appear in court and legal service is not complete, the court cannot proceed on your case.

## How do I complete the request for service form?

Select the "Type of Form" (Summons, Subpoena or Notice), and list your selection in the first column. On the form, the people who are usually served with this type of notice are listed for your assistance. List your selection in the center column, and type or print the person's name and complete address, including the zip code in the third column. If you are requesting more than one type of service, complete the same process on the next line, changing only the center column. Please note that the usual standard legal service requires that you send both certified and regular mail service to each party. You can review the section on "How do I notify parties?" for guidance in determining the type of service you may need.

## Completing the Checklist:

The checklist is used to make sure that you have provided all of the necessary paperwork to complete your packet. If items are missing from the packet, the court may delay or dismiss your petition or motion.