

Custody & Visitation

*Of the nearly 20,000 cases filed in Juvenile Court every year, more than two-thirds involve child support, custody, or visitation issues. The terms below are frequently used in **Custody or Visitation** cases that may include shared parenting, shared custody, changes in sole custody.*

Affidavit: A written statement of facts. The author must swear an oath that the facts are true. Must be notarized and administered by an appropriate court officer.

Alleged or Putative Father: A man named as the father of a child born to unmarried parents, but not been legally determined to be the father.

Amend: Change, correct or edit a complaint or other court document.

Appeal: Request for review made to a higher court by a party that lost on one or more issues.

Biological or Natural Father: A man who has provided the paternal genes of a child.

Caption / In Re: The heading on a legal document listing the people or entities involved in the case, the court, the case number, and a description of the legal document.

Certified Copy: A copy of a document with a formal mark or seal from the person who keeps and maintains the original document. The formal mark or seal proves the document is a complete and accurate copy of the original.

Child Abuse: Any physical mistreatment of a child that indicates the child's health or welfare is harmed threatened. This includes any physical or mental injury, sexual abuse, negligent treatment or maltreatment by a person who is responsible for the child's welfare.

Child Neglect: Failure by a parent or legal custodian to provide appropriate care to a child, which threatens the child's overall well-being. This includes failure to provide a child with suitable food, shelter, clothing, hygiene, medical care, or parental supervision.

Civil Case: A non-criminal lawsuit.

Complaint: The formal written document filed in a court which sets forth the names of the parties, the allegations, and the request for relief sought. Sometimes called the initial pleading or petition.

Continuance: A decision by a judge to hold a court proceeding on a later date.

Custody:

- **Custodial Parent/Custodial Party:** The person who has primary care, custody, and control, and decision-making power over the child.
- **Non-Custodial Parent:** The parent who **does not** have primary care, custody, control, or decision-making power over the child.
- **Sole Custody:** Section 3109.042 Custody rights of unmarried mother
An unmarried female who gives birth to a child is the sole residential parental and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and/or legal custodian.

- **Shared Parenting/Shared Custody:** Shared parenting is a child custody arrangement where both parents share the responsibility of raising their children. It involves the child spending a significant amount of time with each parent, often with equal or close to equal parenting time. Shared parenting can also be called **SHARED CUSTODY** or joint physical custody. Both parents have shared legal physical rights to their child(ren).

Custody Order: A legally binding determination that establishes with whom a child will live.

Dependency: Used to describe child neglect or child abuse cases.

Deposition: An oral statement made under oath, often taken from potential witnesses, that may be used later in trial.

Discovery: A lawyer's examination, before trial, of information held or known by the opposing party that helps the lawyer prepare for trial. This can also refer to the process used to gather that information, and to the information itself.

Emancipation: The age a person is no longer considered a minor (child) under government laws.

Emergency Order/Ex Parte: A proceeding by one party only, without notice to or challenge by the other side.

Entry: The filing of a written, dated, and signed decision by a court. An entry can contain the court's final decision on a case, or it can be for one small issue, such as continuing a hearing.

Evidence: Information presented in testimony or in documents that is used to persuade the judge or magistrate.

- **Admissible Evidence** Information that can legally and properly be used in court
- **Exhibits Evidence** Physical evidence or documents that are used in a court proceeding.

Finding: A formal determination by a court or administrative process that has legal standing.

File Stamped: A stamp on a document made by the Clerk of Court indicating the date and time a document was officially filed with the Court.

Foreign Decree: An out-of-state decree of divorce, dissolution, legal separation or annulment, or order that allocates or awards legal custody, physical custody, parenting time, companionship or visitation. It may be registered with the court to enforce or modify child custody determination however the act of registering does not necessarily vest the court with jurisdiction.

Guardian ad Litem (GAL): A person appointed in juvenile cases, when there is a conflict between child and parent or when the court believes a GAL is needed for other reasons, to help the court determine what is in the best interest of the child.

Hearing: A formal proceeding. Parties and witnesses testify and evidence is presented to the judge or magistrate.

In Camera: In chambers or in private, outside of the presence of the parties and the public.

Indigent: A person who is unable to pay fees and costs related to a case.

Job and Family Services (JFS): Hamilton County Job and Family Services is the local agency that administers state, federal and local programs designed to support families and keep kids safe.

Judgment: The official decision or finding of a judge or magistrate, also known as a decree or order.

Jurisdiction: The legal authority of a court to hear and decide a case.

Legal Father: A man who is recognized by law as the male parent of a child.

Litigation: A case, controversy, or lawsuit. Participants in litigation are called litigants.

Magistrate: An attorney appointed by a judge to hear certain cases. A magistrate hears evidence and makes rulings and issues a decision. The judge may accept the magistrate's order or modify it, but magistrates' orders are also effective without a judge's approval.

Magistrate Orders: Written orders that regulate proceedings in a case. Magistrate orders are effective without a judge's approval.

Mediation: A problem-solving process that includes a neutral third person. It is an alternative process to come to an agreement without a contested hearing.

Motion: A formal way of asking the Court to hear an issue. Motions can be filed before, during, and after a verdict is reached in a case.

- **Motion in Limine:** A motion made outside the presence of a jury requesting that the court either allow or not allow certain evidence to be presented. These motions are usually heard before a trial begins.
- **Motion to Compel:** A request filed by one party for the Court to order the other party to respond to their questions or requests for documents. If a party does not produce the requested information, the party may face sanctions, such as a fine or have to pay the other party's attorney fees.

Motion to Vacate/Motion for Relief from Judgment/60(B) Motion: A motion filed by a party after a final judgment entry has been signed requesting the court undo the judgment.

Notice: When a person is officially told of a legal proceeding or the filing of a document.

Objection: A protest by an attorney, challenging evidence presented at trial.

Ohio Revised Code (ORC): The written laws of the State of Ohio.

Ohio Rules of Civil Procedure: Rules that all Ohio trial courts must follow in civil (non-criminal) matters.

Oral Argument: An opportunity for lawyers to argue their case before the reviewing court and to answer questions from the judge or magistrate.

Petitioner: The person, state or tribal agency initiating a petition or motion.

Pleadings: Statements or allegations, presented in logical and legal form, which constitute a plaintiff's cause of action or a defendant's grounds of defense.

Pre-Trial/Preliminary Hearing: A hearing used by the judge or magistrate to determine if there is enough evidence to prosecute an individual.

Pro se: When a person represents themselves in a legal matter instead of being represented by a lawyer.

Proceeding: The conduct of business before a judge or administrative hearing officer.

Putative Father: The person alleged to be the father of the child but who has not yet been medically or legally declared as such.

Quash: To vacate or void a summons, subpoena, warrant, etc., making it no longer valid to be used for an arrest.

Recusal: A voluntary action by a judge or magistrate to remove themselves from a given case because of self-interest, bias, conflict, or prejudice. Also, the process by which a judge is removed from a case because a party objects to the judge's involvement in a case.

Remand: When an appellate court sends a case back to a lower court for further proceedings. The lower court is usually instructed to do something differently in the further proceedings, but that does not necessarily mean the lower court's decision will change.

Response: A response to a plaintiff's initial court filing, which is also called a complaint or petition. An answer normally denies some or all of the facts in the complaint and sometimes includes allegations or charges against a plaintiff, called a cross-complaint.

Service: Delivery of a legal document, such as a complaint or a summons, by an authorized person following all requirements of the applicable laws. Service is required, unless waived, for complaints, summonses, or subpoenas, to notify a person of a lawsuit or other legal action taken against them.

Service of Process: The actual delivery of legal paperwork requiring a person to respond or appear.

Service by Publication: Service of process accomplished by publishing a notice, either in a newspaper or a public facility, after a court determines that other means of service are impractical or have been unsuccessful. This method of service is not available in every jurisdiction.

Shared Parenting Plan: A plan that addresses all child-related issues such as physical living arrangement, child support, medical and dental care, school placement, and parenting time. Under a Shared Parenting Plan, both parents are considered to be the residential parents and legal custodians of the child. A Shared Parenting Plan becomes an order of the Court.

Show Cause: An order directing a person to appear and bring forth any evidence as to why the remedies requested should not be granted. It is usually based on a motion and affidavit asking for relief.

Stay: An order by a court that temporarily suspends all or some of the proceedings in a case.

Subpoena: A court order for a witness to appear and give testimony.

Subpoena Duces Tecum: A court order requiring a witness to bring certain documents or records to court within a specific time frame.

Summons: A notice to a defendant that an action against him or her has commenced in the court and that a judgment will be issued if the complaint is not answered within a certain time.

Termination of Parental Rights: A judicial proceeding freeing a child from all custody and control by a parent or parents so that the child may be adopted.

Transcript: A written, word-for-word record of what is said in court.

Transfer: Sending a case from one court to another.

Trial: A court proceeding in which a judge or a jury decides disputed facts and determines guilt or innocence based on the evidence presented.

Uphold: The appellate court agrees with the lower court decision and does not change it.

Vacate: To undo a decision by a court. The court will then have to make a new decision on the case or issue.

Visitation/Companionship: The right of a non-custodial parent to visit or spend time with his or her children.