

## HOW TO FILL OUT PAPERS FOR LEGAL DECISION-MAKING AUTHORITY (LEGAL CUSTODY), PARENTING TIME and/or CHILD SUPPORT

### WHEN TO USE THIS PACKET:

Use this packet if you want to get a court order for legal decision-making authority (legal custody), parenting time and/or child support. **YOU CANNOT USE THIS PACKET TO ESTABLISH PATERNITY.** USE THIS FORM **ONLY** if you are the natural or adoptive parent of the child(ren), **AND**

- You already have a court order establishing paternity, OR
- You have a court order for child support, OR
- You have established paternity by filing an affidavit of paternity through the Hospital Paternity Program (A.R.S. § 25-812, § 36-334) or other method permitted by law after July of 1996.

If you want a court order for legal decision-making authority (legal custody) and parenting time, the court will also want to review the current child support order. If there is no order or if the order needs to be changed, the court will sign a child support in your case.

### IF YOU HAVE A COURT ORDER FOR PATERNITY OR CHILD SUPPORT FROM ANOTHER STATE

If you have a court order involving the child(ren) from this case from a different state, you should:

- Get a **certified copy** of the paternity or child support order from the other state, **AND**
- Get the Register a Foreign Order paperwork from the Law Library Resource Center website or one of the locations, **AND**
- Follow the instructions to file a Foreign Family Court Order from another state in this Court.

### IF YOU HAVE A COURT ORDER FOR PATERNITY OR CHILD SUPPORT FROM ANOTHER COUNTY IN ARIZONA

If you have a court order involving the child(ren) from this case from a different county in Arizona you should:

- Get a **certified copy** of the paternity or child support order from the other county, **AND**
- Give the **certified copy** to the Clerk of Court when you file your court papers.

**IMPORTANT NOTICE ABOUT WHEN YOU CAN BRING A LEGAL DECISION-MAKING (LEGAL CUSTODY) CASE IN THE SUPERIOR COURT IN ARIZONA:** Generally, you should have resided (lived) in Arizona with the child(ren) for at least 6 months, **OR** Arizona must be the child(ren)'s primary place of residence before you file, **OR** if the child is less than 6 months old, the child must have resided (lived) in Arizona since his/her birth. If you have questions regarding this requirement, see a lawyer before filing.

**IMPORTANT NOTICE ABOUT WHEN YOU CAN SUE ANOTHER PERSON IN ARIZONA FOR PATERNITY OR CHILD SUPPORT:** You can sue the other Party in Arizona to establish, enforce, or change a support order, or establish paternity, if ONE of the following statements is true about the other Party:

- The other Party is a resident of Arizona; **OR**
- You serve the other Party with the court papers in Arizona. (See the Law Library Resource Center packet on service if you have any questions.); **OR**
- The other Party agrees to have the case heard here and files written papers in the court case; **OR**
- The other Party lived with the child in this state; **OR**
- The other Party lived in this state and provided pre-birth expenses or support for the child; **OR**
- The child lives in this state because of the acts or directions of the other Party; **OR**
- The person had sexual intercourse in this state and the child may have been conceived in this state; **OR**
- The other Party signed an affidavit acknowledging paternity; **OR**
- The other Party did any other acts that substantially connect the person with this state (see a lawyer to help you decide).

## DOMESTIC VIOLENCE

Domestic violence can be part of any relationship. Domestic violence includes physical violence such as hitting, slapping, pushing or kicking, directed against you and/or your children **AND/OR** it can also include regular verbal abuse and/or threats of physical violence made against you and/or your children, as a method to control you.

Court documents request your address and phone number. If you are a victim of domestic violence, or if you **do not** want your address known to protect yourself or your children from further violence, **you must file a "Request for Protected Address"** and ask that your address **not** be disclosed on court papers. If the Court grants your Request, you **do not** need to put your address and phone number on your court **papers**. If possible, get a P.O. Box or use another valid address on these papers. If you have no other address or phone number where you can be reached, write "protected" on the forms where asked for this information. You must, as soon as possible, tell the Clerk of the Court an address and phone number where you can be reached.

## CASE NUMBER

Use the Case Number on all your court papers. This is the number you were given in the paternity or child support case you had in Maricopa County. Or, if your paternity or child support case was from another county or another state, use the number the Clerk of the Court gave you when you filed the certified copy of your other court case in Maricopa County (see instructions above).

## FAMILY DEPARTMENT / SENSITIVE DATA COVER SHEET (All Forms: TYPE OR PRINT IN BLACK INK)

- Write in the information requested about petitioner, respondent, and any children under the age of 18.
- **DO NOT INCLUDE MAILING ADDRESS ON THIS FORM IF REQUESTING ADDRESS PROTECTION.**
- Case Type: Mark only one box that matches the legal procedure for which you are filing the documents in this packet:
- Interpreter: Check "yes" or "no" to indicate whether an interpreter is needed. If "yes", write in what language(s).

No additional copies needed. Do NOT serve this document on the other party.

**Location:** If you are filing your documents in downtown Phoenix, check the Downtown Phoenix box; if you are filing your documents in the Northeast facility, check the Northeast box. If you are filing your documents in Mesa, check the Mesa box. If you are filing your papers in Surprise, check the Surprise box.

## SUMMONS AND PRELIMINARY INJUNCTION:

Fill in the following information where requested: Your name; address (if not protected); city, state and zip code; telephone number; ATLAS NUMBER (if you have one); name of Petitioner; and name of Respondent.

If you are represented by an attorney, write in the attorney's bar number. Tell the court whether you represent yourself or are represented by an attorney. DO NOT fill out the rest of the form except on Page 2 of the Preliminary Injunction; fill out the description of other party. The Clerk of Court will complete it later.

### PETITION

- A.** Make sure your form states PETITION TO ESTABLISH LEGAL DECISION-MAKING (CUSTODY), PARENTING TIME AND CHILD SUPPORT, OR PETITION FOR LEGAL DECISION-MAKING (CUSTODY) AND PARENTING TIME in the upper right-hand part of the first page. Decide what you want a court order for. Here are your choices:
1. LEGAL DECISION-MAKING (CUSTODY), PARENTING TIME, AND CHILD SUPPORT: Check this box if you have a court order for paternity but not for legal decision-making (legal custody), parenting time and child support, OR if you have a court order for child support but need to change it because of what you are asking the court to do with legal decision-making (legal custody) and parenting time.
  2. LEGAL DECISION-MAKING (LEGAL CUSTODY) AND PARENTING TIME: Check this box if you have a court order for child support and do not think your requested changes to legal decision-making (legal custody) and/or parenting time will change the child support order.  
**WARNING: The Judge may change the child support order even if you do not ask for this.**
- B.** In the top left corner of the first page, fill out the following: YOUR name; address (if not protected); city, state and zip code; telephone number; and your ATLAS number, if you are receiving or have received AFDC from the Arizona Department of Economic Security.
- C.** Fill in the space that says "Name of Petitioner" and "Name of Respondent." **Complete the caption the same way it was in the paternity or child support case in Maricopa County. If your paternity or child support order was from another county or another state, and this is the first time you are filing a court case in Maricopa County, complete the caption the same way it was in the paternity or child support case from the other county or state.**

**WARNING: IF YOU HAVE AN EXISTING CASE IN MARICOPA COUNTY AGAINST THE SAME PARTY, DO NOT GET A NEW DR/FC/FN CASE NUMBER WHEN FILING YOUR CASE! USE YOUR EXISTING DR/FC/FN CASE NUMBER. IF YOU DO NOT KNOW YOUR EXISTING CASE NUMBER, ASK THE CLERK FOR YOUR EXISTING NUMBER BEFORE YOU FILE YOUR COMPLAINT / PETITION.**

- D. General information:**
1. Fill in your name, address (if not protected) and date of birth. This is basic information about YOU and your relationship to the child(ren) for whom you want the custody and/or parenting time order.
  2. Fill in the name of the other party, his or her address and date of birth. This is basic information about the other party.
  3. **VENUE:** This tells the court that one parent or the child(ren) lives in Maricopa County, so the court can decide your case.
  4. Decide why you can pursue a court case against the other Party in Arizona. Check the boxes that apply.
- E. Statements about paternity AND child support:** Tell the court what your current situation is:
- 5.A. **How was paternity established in your case?** Check the box that describes how paternity was established. If none of these apply, STOP! Do not proceed with these forms unless advised to do so by an attorney. Paternity must already be established to use these forms.

5.B. **What is your current situation as to child support?** Check the box that describes your case.

If there is an order for child support provide the date of the order and the name of the court where it was filed. Then check one of the following boxes. **ONLY IF THERE HAS BEEN A FINAL ORDER MADE BY THE COURT.**

**ORDER DOES NOT NEED TO BE CHANGED:** Check here if you think that the child support order you have does not need to be changed because of the legal decision-making and parenting time order you want. **WARNING: The judge can decide whether to change the child support order even if you do not want this.**

**ORDER NEEDS TO BE CHANGED:** Check here if the child support order you have needs to be changed.

**THERE IS A PENDING PETITION OR MODIFICATION:** Check here if you know that there is currently an active case involving you, the other party and the same children that is before the court already. This includes petitions that have gone through DES.

**NO CHILD SUPPORT ORDER:** If you have a paternity order only, without a child support order, the judge will make an order on the issues of legal decision-making, parenting time, and child support.

**VOLUNTARY OR DIRECT SUPPORT PAYMENTS:** Check this box and designate the paying party if there have been direct payments made to the receiving party without a court order to do so. These payments need to be accounted for if a party asks for past support.

**PAST SUPPORT:** Check box to designate the party who owes past support. Choose the starting date of when the calculation of past support should begin. The first option elects that child support should be claimed at the starting point of when this petition was filed. The second option chooses the starting point to begin from the date the parties started living apart, if that date falls **within three years** of the petition being filed.

F. **Other information about the children:** If you are aware of court cases about the children, you need to tell the court. Attach a copy of any order about legal decision-making (legal custody), parenting time, or child support to the petition, unless the order is from the Superior Court in Maricopa County.

6. Fill out where the children in this case have been living **for the past 5 years**. If any children are under age 5, simply put the information about where they have been living since birth. Write each child's name; the address where the child lived; the dates the child lived at each address; whom the child lived with; and, the relationship of that person to the child. While you may not remember exact dates and address, fill this information out as completely as possible.
7. You must tell the court if you participated as a party or witness in any court case involving issues OTHER THAN legal decision-making (legal custody) or parenting time of the child(ren). If your answer is "**no**," check the first box and GO ON. If there is another case, check the second box and give as much information as possible. This information could affect you or your child(ren)'s rights.
8. The court **MUST** know if there have been other cases involving legal decision-making (legal custody), parenting time or child support of the child(ren) of this case, even if you were not a party. If there are no other legal decision-making (legal custody) or parenting time cases, or you do not know of any, check the first box and GO ON. If you have been involved in any way with this type of court case, check the second box and give the requested information. Tell the court what happened and what is going on in the other case(s).
9. If you do not know of another person OTHER THAN THE OTHER PARTY who has physical custody of the child(ren) or is claiming legal decision-making (legal custody) or parenting time rights to any of the children, check the first box and GO ON. If you know of such a person, put the child's name and the person who believes they have legal decision-making (legal custody) or parenting time claim. You must also include the person as a respondent in this court case.

**G. Other statements to the court:**

10. **OTHER EXPENSES:** This asks for a fair division of all expenses about the children.
11. **DOMESTIC VIOLENCE:** This tells the court if there was domestic violence in the relationship, and relates to a request for joint legal decision-making (legal custody). If you are not sure what this means, see the paragraph on **DOMESTIC VIOLENCE** on the first page of these instructions. Check the box that best describes your situation. If there has been **no** domestic violence, **GO ON**.
12. **THE PARENT INFORMATION PROGRAM:** This tells the court if you have already completed the Parent Information Program.
13. **DRUG/ALCOHOL CONVICTIONS WITH IN THE LAST TWELVE MONTHS:** Inform the court of any instances of drug or DUI offenses that have occurred from either parent in the last twelve (12) months. Check the appropriate box to choose whether either parent has or has not been convicted. Provide the details of which party was convicted and how the proposed legal decision-making and parenting time arrangement protects the children considering this history of behavior.

**H. Requests to the court for legal decision-making (legal custody), parenting time and/or child support.** This section of the Complaint/Petition formally requests that the court make Orders relating to issues such as custody, parenting time and support.

**PRIMARY RESIDENTIAL PARENT, PARENTING TIME AND AUTHORITY FOR LEGAL DECISION-MAKING (LEGAL CUSTODY).**

1. **PRIMARY RESIDENCE:** Check which party's home will be the primary residence for the minor child(ren).
2. **PARENTING TIME:** Check only one box. You can ask that the non-primary residential parent (the parent having physical custody of the child(ren) less than 50% of the time) have one of the following types of parenting time:
  - A. **Reasonable Parenting time.** This suggests an amount of parenting time appropriate to the age of the child(ren). The court offers suggested amounts of parenting time, but the amount can vary by agreement of both parents. If you and the other party agree, complete the Parenting Plan before you go to the judge for your final order.
  - B. **Supervised or No Parenting time.** You may request supervised or no parenting time if a party cannot adequately care for the child(ren) or cannot do so without another person present. You may request this if the party to be supervised abuses drugs or alcohol; is violent or abusive; or, does not have the parenting skills to care for the child(ren) without another person present. Remember, supervised or no parenting time is not intended to punish the parent, but to protect the child. You must tell the court in the space provided why you say the parenting time should be supervised or no parenting time allowed.
    1. **Supervised Parenting time:** Describe how you think supervised parenting time should be handled.
    2. **No Parenting time.** You should check this option only if the parent has seriously harmed, abused, or otherwise is a serious danger to the child(ren)'s physical and emotional health, or if there is a criminal Court Order stating there is to be no contact between the child(ren) and the parent. This is used only as a last resort to protect the child(ren).

3. **AUTHORITY FOR LEGAL DECISION-MAKING (LEGAL CUSTODY):**
    - A. **SOLE LEGAL DECISION-MAKING (SOLE LEGAL CUSTODY):** If you want sole authority for legal decision-making, check the boxes that apply.
    - B. **JOINT LEGAL DECISION-MAKING (JOINT LEGAL CUSTODY):** If you are asking for joint legal decision-making (legal custody), you must file a Joint Legal Decision-Making Agreement that is signed by both parents and approved by the court later in the process. The Joint Legal Decision-Making Agreement is part of the Parenting Plan contained in packet 4, "The Court Order."
  4. **CHILD SUPPORT:** Check which party should pay child support. (The box you check should match what you asked for in the petition). Indicate whether you would like past child support be paid using a retroactive calculation and which parent should pay.
  5. **HEALTH, MEDICAL, DENTAL INSURANCE AND HEALTH CARE EXPENSES:** Check which party should be responsible for health, medical and dental insurance.
  6. **TAX EXEMPTION:** It is your responsibility to understand the information regarding tax exemption and how the Affordable Care Act can impact one or both parties if they are required to provide medical insurance.
  7. **OTHER ORDERS:** Check this box only if you have made other requests to the court. If you check this box, write the additional orders you are requesting the court to make that were not covered elsewhere in your Petition.
- I. **DECLARATION OF PARTY FILING THE PETITION:** Sign the form. By doing so you are telling the court that everything contained in your Petition is true under penalty of perjury.

## **NOTICE REGARDING THE PARENT INFORMATION PROGRAM**

This is an important document. You and the other parent must attend and complete a class in the Parent Information Program. The purpose of the Parent Information Program is to give parents information about the impact that divorce, the changes in the family unit, and/or court involvement have on children involved in a divorce, paternity, or legal decision-making case. This Notice applies to all parents who file an action for dissolution of marriage or legal separation, or any paternity proceeding, in which a party has requested that the court determine legal decision-making or parenting time on or after January 1, 1997, and to all other domestic relations cases if ordered by the court.

**Make sure you read this notice, do what it says, and serve this notice on the other party.**

## **OTHER IMPORTANT PAPERS IN THIS PACKET**

### **PARENTING PLAN**

Fill out the Parenting Plan to let the Court know details about what you want for legal decision-making authority and parenting time. It is important to be specific when filling out the Parenting Plan. You may refer to the "Planning for Parenting Time: Arizona's Guide for Parents Living Apart" to help make your parenting plan. The Guide is available for purchase at all Superior Court Law Library Resource Center locations, or may be viewed online and downloaded for free from the State Courts' webpage.

After completing the Parenting Plan, file it with your Petition.

## OTHER IMPORTANT PAPERS TO BE COMPLETED NOT IN THIS PACKET

### CHILD SUPPORT WORKSHEET

You can use the free Online Child Support Calculators at the websites listed below to complete a child support worksheet.

ezCourtForms (<https://www.superiorcourt.maricopa.gov/ezCourtForms/index.asp>)

Arizona Supreme Court (<http://www.azcourts.gov/familylaw/Child-Support-Calculator-Information>)

To complete the child support worksheet you will need to know:

- Your case number.
- Your monthly gross income and that of the other parent.
- The monthly cost of medical insurance for the minor children who are the subject of this action.
- Monthly childcare amounts paid to others.
- The number of days the minor child(ren) spend with the non-primary residential (custodial) parent.
- Monthly obligations of yourself and the other parent for child support or court-ordered spousal maintenance/support

**After completing the child support worksheet, print out the child support worksheet and file it with your Petition.**