

How to ask for **Custody of a child that is not yours** and the parents *do not* agree

IMPORTANT! The current law about nonparental custody, RCW 26.10, will not be in effect after 12/31/2020. If your case is not concluded by that time with final orders entered (either by default or by agreement), you will need to file a Petition for Minor Guardianship under RCW 11.130.185 et seq.

Talk to a lawyer, if you can

These instructions have been developed by the King County Superior Court Family Law Information Center. They are not intended to be a substitute for legal advice. They provide only legal *information*. It's a good idea to talk to a lawyer before you file any forms. If you cannot afford a lawyer, you can:

- Find a lawyer to help you with the *most difficult* parts of your case, such as reviewing your forms, explaining how to get ready for court and confirming this is the best legal action for your case. You can contact the King County Bar Association to ask for a referral.
- Ask the Family Law Facilitator's office for a list of low-cost and free legal resources.

King County Superior Court
516 3rd Ave, Room W-382
Seattle, WA 98104

Maleng Regional Justice Center
401 4th Ave North, Room 3D
Kent, WA 98032

Step 1: Fill out these forms:

These forms can be downloaded at: <http://www.kingcounty.gov/courts/clerk/forms.aspx>

Form Name	Form Number	Notes	Completed
Case Information Cover Sheet			<input type="checkbox"/>
Confidential Information	FL All Family 001	Download this form at: www.courts.wa.gov/forms	<input type="checkbox"/>
Attachment to Confidential Information (Additional Parties or Children)	FL All Family 002		<input type="checkbox"/>

These forms can be downloaded at: www.courts.wa.gov/forms

Form Name	Form Number	Notes	Completed
Order to DSHS to Release CPS Information (Non-Parent Custody)	FL Non-Parent 407	This form orders the Dept. of Children and Family Services to give the Court any information they have about everyone living in your home. See Step 3	<input type="checkbox"/>
Sealed CPS Information (Cover Sheet)	FL Non-Parent 408		<input type="checkbox"/>
Criminal History Record (Cover Sheet) (Non-Parent Custody)	FL Non-Parent 406	Petitioner needs to submit a Washington State Patrol background check for each household member over 16. You can ask for these records for \$12 each request at: http://watch.wsp.wa.gov/ or by mail for \$16 for each request by filling out a Request for Conviction Criminal History Record form and send the completed form with a check or money order to: Washington State Patrol Identification and Criminal History Section P.O. Box 42633 Olympia, WA 98504-2633 Attach Criminal History Record(s) you obtain from Washington State Patrol to this Cover Sheet.	<input type="checkbox"/>
Summons: Notice about Non-Parent Custody Petition	FL Non-Parent 400		<input type="checkbox"/>
Non-Parent Custody Petition	FL Non-Parent 401		<input type="checkbox"/>
Residential Schedule (Non-Parent Custody)	FL Non-Parent 405	Visitation for parents can be requested here.	<input type="checkbox"/>
Notice Re Military Dependent	FL All Family 103		<input type="checkbox"/>

Fill out these forms if the child is – or might be – a member of an Indian tribe:

Indian Child Welfare Act Notice (Non-Parent Custody)	FL Non-Parent 402	If the child is, or may be, a member of an Indian tribe, send this <i>Notice</i> to the Department of the Interior, Bureau of Indian Affairs	<input type="checkbox"/>
Proof of Mailing (Indian Child Welfare Act Notice)	FL Non-Parent 404		<input type="checkbox"/>
ICWA Notice-Attachment for Additional Child	FL Non-Parent 403	If there is more than one child who may be a member of an Indian tribe involved in the Non-Parent case, use this form for any additional children.	<input type="checkbox"/>

Step 2: Make copies of your paperwork.

- **Original set to file with the Clerk’s office**
- Copy **1** is for your records
- Copy **2** is to serve the mother (**DO NOT serve the Confidential Information Form**)
- Copy **3** is to serve the father (**DO NOT serve the Confidential Information Form**)

Note: You will also have to serve anybody that claim to have custody of the child.

Step 3: Take your completed forms to the Clerk’s Office and pay a fee.

The Clerk will ask you to pay a filing fee. If you cannot afford to pay the fee, ask for an application to let you file for free. This application is called a *Motion and Declaration for Waiver of Civil Filing Fees and Surcharges (Kent or Seattle)*.

The Clerk will also ask you to pay the Ex-Parte via the Clerk processing fee to have an **Order Directing DCFS/CPS to Release Information and Order Restricting Access** presented to the Commissioner on your behalf. After the order is signed the Clerk will automatically file the original and return a copy of the order to you via the method you requested.

When you file your forms, the Clerk will give you two copies of your *Case Schedule*. Each party will need to be served with one copy. Keep one copy for your records and follow the deadlines that are listed in the Case Schedule.

Step 4: Serve child’s parents (and anyone else with claims to custody of the child).

You must have the parents served with copies of:

- The Case Schedule that the Clerk gave you when you filed, **and**
- All of the forms in Step 1, except the Confidential Information Form.

How to serve

Someone over the age of 18 – **not you** - must serve (give) the other party copies of your court papers.

After serving, the server fills out a **Proof of Personal Service (FL All Family 101)** form and gives it to you. Keep a copy for your own records and file the original with the Clerk’s Office.

If any party is served outside the state of Washington, you will also fill out and file the **Declaration: Personal Service Could Not be Made in Washington (FL All Family Law 102)** form.

Note: For personal service outside of Washington State, the signature of the server must be notarized or sworn before a court clerk on the ***Proof of Personal Service Form (FL All Family 101)***.

Step 5: Schedule your Adequate Cause Hearing

You must have a special hearing, called an “Adequate Cause Hearing.” At that hearing, a Commissioner will decide if there is a valid reason for your case to move forward, or not.

Note: This hearing cannot happen before the deadline for Responding to the Petition has passed. See “**Set a court date**” below for response times.

Fill out these forms, which can be downloaded at www.courts.wa.gov/forms

Motion for Adequate Cause Decision (Non-parent Custody)	FL Non-Parent 416	
Declaration of (name):	FL All Family 135	
Order on Adequate Cause for Non-parent Custody	FL Non-Parent 417	Fill this out the way you would like the Commissioner to decide; do not file with the Clerk’s Office.

Fill out this form, which can be downloaded at www.kingcounty.gov/courts/scforms.aspx

Family Law Notice of Court Date (Commissioners)	Kent or Seattle	
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Fill out these forms if you are asking for a temporary custody order at the Adequate Cause hearing, which can be downloaded at www.courts.wa.gov/forms:

Motion for Temporary Non-Parent Custody Order [] and Restraining Order	FL Non-Parent 423		<input type="checkbox"/>
Temporary Non-Parent Custody Order	FL Non-Parent 424	Fill this out the way you would like the Commissioner to decide; do not file with the Clerk’s Office.	<input type="checkbox"/>

Fill out these forms if you are asking for a temporary child support order at the Adequate Cause hearing, which can be downloaded at www.courts.wa.gov/forms:

Child Support Worksheets	WCSSS-Worksheets	Online Child Support Calculation software is available at https://fortress.wa.gov/dshs/dcs/SSGen/Home	<input type="checkbox"/>
Child Support Schedule & Instructions	Use this information to calculate Child Support Worksheets.		
Child Support Order	FL All Family 130	Fill this out the way that you would like the Commissioner to decide. One for each parent. Do not file with the Clerk’s Office.	<input type="checkbox"/>
Financial Declaration of (name):	FL All Family 131		<input type="checkbox"/>

- **Set a court date**

To set your court date, you must fill out and file the **Family Law Notice of Court Date (Commissioners)**, **Kent** or **Seattle**. That form lets you choose a date for your court hearing. The date you choose **must** be at least **14 days** after the day you file the Notice of Court Date (Commissioners) **and**:

If served **in person in Washington**, your date must be at least **20 days** from the date of service;

If served **in person outside of Washington** state or by publication (with advance court permission), your date must be at least **60 days** from date the of service;

If served **by mail** (with advance court permission), your date must be at least **90 days** from the date of service.

- **Time:** All Adequate Cause hearings are at 1:30pm every weekday (except Wednesdays in Kent)
- **Place:** Seattle Courthouse, 516 3rd Ave, Seattle WA 98104 (Seattle cases)
Maleng Regional Justice Center, 401 4th Ave N, Kent, WA 98032 (Kent cases)
- **Room:** W-291 (Seattle cases)
1F (Kent cases)

Step 6: File forms with the Clerk’s Office.

File with the Clerk (2C in Kent and E-609 in Seattle) the originals of all papers from Step 5, **except** the following forms: Order on Adequate Cause for Non-parent Custody, Temporary Non-Parent Custody Order, and Child Support Order.

Step 7: Deliver Commissioner’s copy for Adequate Cause hearing.

The Commissioner’s copy is a set of all forms served to the other parties in Step 4 and all the forms completed in Step 5, including the proposed orders that you would like the court to sign at your hearing.

Take this copy to the Family Law window and turn it in at least **3 court days by 12 noon** before your hearing.

Copy the words below in the upper right hand corner on the first page of each form you are delivering to the Commissioner:

Commissioner’s Working Papers

Family Law Motions

Hearing Date: _____

Hearing Time: _____

Presented By: (your name): _____

Step 8: Serve the child’s parents (and anyone else with claims to custody of the child).

What to serve

Serve the other parties with a copy of all forms in Step 5.

How to serve

As long as no order restrains you from having contact with the other party, you may deliver or mail the forms yourself at least 14 court days before the hearing (add 3 more days for mailing).

If the other party has an attorney, deliver or mail the forms to the attorney instead. After you have delivered or mailed the forms to the other party or attorney, fill out the **Proof of Mailing or Hand Delivery** form. File the original with the Clerk’s Office, keep a copy for your records, and bring it with you to the hearing.

You may also have someone else serve the other party or his/her attorney for you. The server must be over 18. After serving, the server fills out the **Proof of Personal Service** and returns it to you. File the original with the Clerk’s Office, keep a copy for your records, and bring it with you to the hearing.

Step 9: Confirm your Adequate Cause hearing



Your hearing will be cancelled if you don’t confirm your hearing and deliver the copies to the Commissioner on time.

You can confirm by phone, in person, or online. Here is how:

<p>Call or in person</p> <p>206-477-1523 (Seattle) Room W-292</p> <p>206-477-2750 (Kent) Room A1222</p>	<p>3 court days before your hearing between 2:30pm and 4:15pm.</p> <p>or</p> <p>2 court days before your hearing between 8:30am and noon.</p> <p>When you call, give your case number, date, and time of hearing. The Clerk will give you a confirmation number.</p>
<p>Online:</p> <p>https://blue.kingcounty.gov/courts/superiorcourt/confirmations/default.aspx</p>	<p>You can confirm your hearing online starting at:</p> <p>Noon 3 court days before the hearing until noon of the 2nd court day before your hearing.</p> <p>You must give your email address, phone number, and information to identify your case. If you do not get a confirmation email, you must contact the confirmation phone number above before the deadline.</p>

Step 10: Go to your Adequate Cause hearing.

- Arrive at least 30 minutes early! You will need time to go through security.
- Go to the Family Law window at the courthouse to check in.
- Take your original orders and all copies of the forms you filed.
- You must give the Court your original orders if asked. If you want copies of the signed orders the day of your hearing, tell the Clerk.

Step 11: Wait for a Response to Your Petition.

You must wait:

20 days	If the other party was served in person in Washington state.
60 days	If the other party was served in person outside of Washington state, or by publication because of a court order.

90 days	If the other party was served by mail because of a court order.
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If the other parties **DO** serve and file a Response, follow your Case Schedule. Your trial will be in about 11 months.

If other parties **DO NOT** serve and file a Response by the deadline you can finish your case by default. Ask the Family Law Facilitator how to finish by default or agreement.

Step 12: Go to the Case Review Hearing.

The date, time, and place for this hearing are listed on your *Case Schedule*. You and all other Petitioners must go to this hearing. The court may dismiss your case if you fail to follow your Case Schedule and fail to appear at this hearing. You can request to have your final documents be granted at this hearing if all parties agree.

Step 13: Try to reach an agreement.

You must participate in *Alternative Dispute Resolution (ADR)* by the deadline in your *Case Schedule*. You and the parent(s) must try to reach an agreement with the help of a professional, such as an attorney or social worker.

The *Legal Resource List* available in the Facilitator’s office contains information on programs that offer ADR.

Step 14: Get ready for your trial.

If you and the other parties cannot come to an agreement about your case you will have a trial before a Judge.

You will need these forms:

Findings and Conclusions on Non-Parent Custody Petition	FL Non-Parent 430		<input type="checkbox"/>
Final Non-Parent Custody Order	FL Non-Parent 431		<input type="checkbox"/>
Residential Schedule (Non-Parent Custody)	FL Non-Parent 405		<input type="checkbox"/>

Also fill out these forms if you are asking for child support:

Child Support Worksheets (CSW)	WSCSS-Worksheets		<input type="checkbox"/>
Child Support Order	FL All Family 130	One order for each parent who must pay support.	<input type="checkbox"/>
Financial Declaration of (name): _____	FL All Family 131		<input type="checkbox"/>

You may also need this form:

Law Enforcement Information Sheet	WPF All Cases 01.0400	This form is necessary only if you are requesting restraining orders.	<input type="checkbox"/>
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