

SELF HELP INSTRUCTIONS TO ESTABLISH
PATERNITY, CUSTODY AND VISITATION

INTRODUCTION

The following forms are prepared to help people who have difficulty affording a lawyer, to get paternity, custody, and visitation problems before the Family Law Master for resolution, where the parties are not married and they both live within the state of West Virginia. If you can afford a lawyer you should have a lawyer do this for you. Even before using this form, you should contact a lawyer to see if it is a case in which it is appropriate to proceed by yourself, and to get some helpful advise. By Preparing this form we do not represent that this is the right thing for you to do in your case.

You must file a Complaint in the circuit court in the county where the child or children live and have the most contacts with the community, even if you live in another county. If you think there is a good reason why that county is not the proper county, then you need to contact a lawyer.

DIRECTIONS

Paragraphs 1 through 4 and 7 through 9 need to be filled out. Paragraphs 5 through 9 need to have the appropriate words circled. Check and circle the appropriate words and boxes in your requests at the end of the Complaint.

If both parents are fighting for custody, you should contact an attorney.

You will then need to contact the Family Law Master's Office and ask for a hearing to be scheduled. You will also need to fill out financial forms that you can obtain from the Circuit clerk's Office or the Family Law Master's Office.

You have to send a Notice to the other party advising them of the date and time of the hearing. A form for this is attached to the Complaint. They must file an Answer within 20 days of their receipt of the Complaint and have a right to be present at the hearing.

You then need to take the papers and the Notice to the Circuit Clerk's Office and file them. You should sign the Verification and the UCCJA Affidavit in front of the Circuit Clerk and ask them to Notarize your signature. You need to mail a copy of the Notice to the other party, certified mail with return receipt. If you are unable to pay for filing the Complaint, you must file an Affidavit of Indigency at the same time that you file the Complaint. You can obtain a copy of the Affidavit from the Circuit Clerk.

Be sure to go to the hearing and be prepared to tell your story. If you need witnesses they can be subpoenaed. This is a good idea if they have to miss work. As a general rule you cannot say

what someone else told you. That person has to be there themselves. If one of the parties states that the man is not the father of the child, then the Family Law Master may order paternity testing. You should contact a lawyer in this case. The Family Law Master will make a ruling in writing and send it to you. Unless you waive the ten day period, you have the right to appeal that ruling to the Circuit Judge.

If you have further questions, you should see a lawyer.

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

NAME _____
STREET _____
ADDRESS _____
CITY, STATE _____
& ZIP CODE _____

PLAINTIFF

CASE NO. _____

V.

NAME _____
STREET _____
ADDRESS _____
CITY, STATE _____
& ZIP CODE _____

DEFENDANT

COMPLAINT TO ESTABLISH PATERNITY, CUSTODY,
AND OTHER RELIEF

Comes now the plaintiff herein who, upon oath, does swear or affirm as follows:

1. The plaintiff is a resident of _____, _____ COUNTY
CITY COUNTY
County, _____.
STATE

2. The defendant is a resident of _____, _____ COUNTY
CITY COUNTY
County, _____.
STATE

3. The plaintiff is the natural and biological _____
MOTHER/FATHER
of the following infant children:

NAME BIRTHDATE COUNTY STATE

4. The defendant is the natural and biological _____
MOTHER/FATHER
of the aforementioned children.

5. The parties are not married to each other, nor were they married to each other or to any other person at the time of the

infant child/children's birth.

6. The _____ has an obligation to pay support and maintenance for the benefit of the infant children, and the defendant (has failed to meet that obligation)/(wishes to meet that obligation).
DEFENDANT/PLAINTIFF

7. The _____ has been and continues to be the primary caretaker of the infant child/children and is a fit and proper person to assume full, legal custody.
PLAINTIFF/DEFENDANT

8. The _____ has a duty to support the infant child/children.
PLAINTIFF/DEFENDANT

9. It is in the best interests of the child/children and it is beneficial to their general welfare that the _____ have an appropriate schedule of visitation with the child/children.
PLAINTIFF/DEFENDANT

WHEREFORE, your plaintiff prays that: (check and circle)

this Court award to the plaintiff/defendant temporary and permanent legal custody of the parties' infant child/children;

the Court find that the defendant/plaintiff is the natural and biological father of the infant child;

the Court order the defendant/plaintiff to pay support and maintenance to the plaintiff/defendant for the infant child;

the plaintiff and defendant be required to share equally all medical expenses on the minor child/children of the parties;

the defendant/plaintiff be awarded reasonable and appropriate visitation with the parties' infant child/children;

And order such other and further relief as this Court deems appropriate and just.

Plaintiff, Pro Se

VERIFICATION

The undersigned named in the foregoing pleading, after being first duly sworn, says that the facts and allegations therein contained are true, except insofar as they are therein stated to be on information and belief, and that insofar as they are therein stated, they are believed to be true.

Signature

Date

 Taken and subscribed to before me, a Notary Public in and for the County of _____, State of

_____,'

this _____ day of _____, 199__.

NOTARY PUBLIC

My Commission Expires: _____

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

NAME _____
STREET _____
ADDRESS _____
CITY, STATE _____
& ZIP CODE _____

PLAINTIFF

CASE NO. _____

V.

NAME _____
STREET _____
ADDRESS _____
CITY, STATE _____
& ZIP CODE _____

DEFENDANT

UCCJA AFFIDAVIT

STATE OF WEST VIRGINIA
COUNTY OF _____, TO WIT:

This day before the undersigned authority came _____
_____, plaintiff, pursuant to W. Va. Code §48-
10-9, who deposes and says the following:

1.) That the minor children of the parties, namely:

NAME	BIRTHDATE
_____	_____
_____	_____
_____	_____
_____	_____

currently live with _____, at _____
_____;

2.) That within the last five year, the minor children
have lived at the following places:

DATE	ADDRESS	WITH WHOM/RELATIONSHIP

3.) That she/he has not participated as a party,
witness or any other capacity in any other litigation concerning
the custody of the aforementioned children in this or any other
state;

4.) That she/he has no information of any custody
proceeding concerning the children pending in a court of this or
any other state; and

5.) That she/he does not know of any person not a
party to the proceedings who has physical custody of the children
or claims to have custody or visitation rights with respect to
the children.

6.) That she/he understands that she/he has a
continuing duty to inform the court of any custody proceeding
concerning the children in this or any other state of which she
may obtain information during this proceeding.

NAME

Taken, subscribed and sworn to before me this _____
day of _____, 199__.

My commission expires: _____

NOTARY PUBLIC