

PETITION TO MODIFY CUSTODY FORM PACKET

INSTRUCTIONS

SELF-HELP RESOURCE CENTER

The Self-Help Resource Center's hours of operation are from 10:00AM - 2:00PM on Tuesdays and Thursdays.

If you have questions or need assistance, complete an intake form with the Baton Rouge Bar Association online at www.familycourt.org.

These instructions are to help you through the process of changing an existing custody order. The law allows a court to change custody if there has been a material change in circumstance since the last order. In many cases, a change of custody is difficult, and the law may require you to meet a higher burden of proof known as the *Bergeron* standard.

These forms are not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action.

If you represent yourself in court, you must follow all of the proper procedures and the law. It is your responsibility to see your case through the whole process.

STEP ONE: THE PETITION

This will guide you through the Petition paragraph by paragraph. Read everything carefully, double check the information you fill in, and make sure you fill out the forms clearly and completely.

- The top part of this form is for your case information. Fill in your name in the first blank on the left because you are the petitioner. Your spouse is the defendant, so write their name underneath. For now, leave the blanks on the right empty. When you file this form in the Clerk of Court's office, they will give you the docket number and the division that is assigned to you.
- The beginning paragraph asks you to fill in your name and domicile. Your domicile is the parish/county and state where your permanent address is currently.
- Paragraph 1 asks you to fill in the other parent's name and domicile. The other parent's domicile is the parish/county and state where their permanent address is currently.
- Paragraph 2 asks you to fill in the names and dates of birth of all your minor children that you have with the other parent.
- Paragraph 3 is about your current custody order that is in effect. To fill this part out, it is a good idea to have a copy of the order with you. If you do not have a copy, you can get one from the Clerk of Court's office in the parish where the judgment was done.
 - Write the date of the order in the first blank space, then the case title in the next two blank spaces. This is usually listed at the top of your order and looks something like "John Doe v. Jane Roe."
 - In the next blank space, write the docket number of the order or injunction. Finally, write in the name of the court that gave the order and the city where the court gave the order.
- Paragraph 4 asks you to give details about the custody order currently in effect. Describe the custody order in as much detail as you can, including who has custody and the custodial periods for both you and your spouse.

STEP ONE *CONTINUED*

- Paragraph 5 asks you to give the court all your reasons for changing the custody order. Remember, the court can only change custody if there has been a material change in circumstance since the last order. Make sure you explain these changes fully.
- Paragraph 6 asks you to select the custody arrangement that you are requesting from the court. Select the custody arrangement that you are requesting and provide as many details as possible.
- The two paragraphs after are a summary of everything you're asking the court to do. After that, sign and print your name along with your address and telephone number under where it says "respectfully submitted" so the court knows who filed it and how to contact you.

Along with your rule, you will also have to sign the Verification form, which states that you are swearing that everything in your petition is true. This step requires you to go to a notary. Make sure you fill out this form in the presence of the notary.

STEP TWO: SERVICE

To have the Sheriff's office make service, you must request it by asking for it on the Order page of the packet. Make sure that you have the service information filled out correctly on that page. NOTE: If your spouse lives outside of Louisiana, you will have to get "long arm" service.

STEP THREE: FILING

To file your papers, you must go to Clerk of Court's Suit Accounting office, located on the Third Floor of the Nineteenth Judicial District Courthouse, 300 North Boulevard, Baton Rouge, Louisiana. If you want to make other arrangements for filing, you should contact that office at (225) 389-3982.

You must file the original forms that you filled out. It's also a good idea to make 2 copies of your forms and bring them with you. When you file the originals, ask the Clerk of Court's office to stamp your copies for your records.

- If you have come to court before with your spouse, let the Clerk of Court's office know so they can look up your information and put the right case number on your paperwork.
- If this is the first time coming to court with your spouse, the Clerk of Court's office will assign a case number to you and write it at the top of your filed pleadings. They will also assign you to one of the court divisions (A, B, C, or D). Make sure you keep this information because you will need it to check the status of your case.

Anytime you file something with the Clerk of Court's office, you will have to pay a filing fee. There are different fees for different documents. The Clerk of Court's office can tell you how much the fees are. If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the second box. You also must fill out and file a separate pauper form.

*IMPORTANT- Pauper status does not make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

STEP FOUR: CHECK ON YOUR CASE

To check on your case status, you will have to call the Clerk of Court's office at (225) 389-3936 or visit in person on the Third Floor of the courthouse.

If you asked the Sheriff's office to serve your spouse, you need to make sure the service return from the Sheriff's office is in the record and that it states that the Sheriff was able to serve your spouse either domiciliary or personally. If the service was "due and diligent", it means that the Sheriff's office was not able to make service on your spouse. You will have to request service again or visit the Self-Help Resource Center for more information on what to do. Also, check to see if your spouse filed a written answer into the record about your divorce. You will need this information for the next step.

Once you file your documents with the Clerk of Court's office, it will take a little time for it to get to the judge's office. Once the judge signs it, the judge's office will send the documents back to the Clerk of Court's office. Check with the judge's office 7 to 10 days after you file to find out what your court date will be. Please be patient because the court deals with a lot of matters. When you call, have your case number and information ready. The Family Court divisions and their telephone numbers are listed below:

Division A, Judge Baker's office, (225) 389-4676

Division B, Judge Green's office, (225) 389-7657

Division C, Judge Day's office, (225) 389-4673

Division D, Judge Russ's office, (225) 389-4678

STEP FIVE: COMING TO COURT

Be sure to bring any evidence or witnesses that will help you prove your case. Remember, it is your responsibility to show the court how the other parent has disobeyed the court's custody order. You must prove this in court using testimony from the witnesses and any evidence that you have that is relevant.

Make sure you are present in the courtroom on the day and time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, and getting through security.

Go to the courtroom and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will allow you to call your witnesses and testify. The judge will also allow the other side to question you and your witnesses. Make sure to introduce any evidence that you brought with you when it's your turn.

The first court date that you will be assigned will probably be on a Rule Day. On Rule Days, the court generally allows 30 minutes per case, with 15 minutes given to each side. If you cannot prove your case in that time, the court *may* schedule another trial date where you will have more time.