

## **Responding to Family Actions while Incarcerated**

### **Are You in Jail or Prison? Have You been Served with Legal Papers about your Family?**



#### **Legal Information &**

**Referral:** 206-621-7691

**Toll-Free:** 1-866-259-7720

**TTY:** 206-521-4317

**Web:** [www.legalvoice.org](http://www.legalvoice.org)

This memo provides general information about how to respond to family law actions such as petitions related to divorce, child support, and custody issues. This memo is not intended as a substitute for legal advice. You may be able to get legal advice about your specific needs from a contract attorney or public defender (see **Resources**).

### **Dissolution (Divorce):**

#### **What happens if I do not respond to the dissolution petition?**

The summons is a document announcing that your spouse has filed for dissolution and that you have 20 days to respond. If you do not respond within 20 days the court may enter a default judgment. Default judgment means the court grants your spouse all of his or her demands requested in the petition. Therefore, you must read the documents very carefully and learn what your spouse is asking the court to order regarding your children and property. It is very important to file a written response within 20 days if you disagree with any of the terms of the petition.

#### **What happens if I do respond?**

By filing a response, you have the right to be a part of the proceeding. You can write your own request for a fair decision.

#### **Do I have the right to ask for maintenance (alimony/spousal support)?**

The court will probably not order your spouse to pay you maintenance as long as you are incarcerated. However, you might be able to change this order when you are released. You may ask the court to put off any decision about maintenance until you are released.

### **Are there any forms for responding to the petition?**

There is a Do-It-Yourself packet called “Responding to a Petition for Dissolution (Divorce)” You can get it on [www.WashingtonLawHelp.org](http://www.WashingtonLawHelp.org), or have a friend or a relative print it out and mail it to you. Be sure to read the packet to find out other packets, like for parenting plans and child support, which you will also need.

The court forms are also available through the Court website <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=13> or can be purchased at courthouses.

Court forms are often updated or changed. Try to contact a family law facilitator or check the court website to make sure that the form you are using is the most current version.

### **Parentage (Paternity)**

#### **What if I am an Unmarried Parent?**

You can legally establish the paternity of a child by having both parents sign a paper called an acknowledgment of paternity, or paternity affidavit. If both of you have signed this paper, the other parent can serve you with a Petition to Establish Parenting Plan/Child Support.

Another way to establish a child’s parentage is by filing a case in court. The other parent can ask the court to determine who the child’s father is by filing a Petition to Establish Parentage. The prosecuting attorney can file this action in order to get child support for the child, but the other parent will be the one who files a proposed Parenting Plan or Residential Schedule.. If you do not believe you are the father, you can tell the prosecutor this in your response. See our memo “Options for Unmarried Parents,” which you can get on our website, [www.legalvoice.org](http://www.legalvoice.org),

#### **What happens if I do not respond to a paternity or parenting plan petition?**

You have 20 days to respond. If you do not respond within 20 days the court may enter a default judgment. Default judgment means the court grants all of the demands requested in the petition. Therefore, you must read the documents very carefully and learn what the petitioner is asking the court to order regarding the children. It is very important to file a written response within 20 days if you disagree with any of the terms of the petition.

#### **What happens if I do respond?**

By filing a response, you have the right to be a part of the proceeding. You can write your own request for a fair decision.

### **Are there any forms for responding to the parentage action?**

There is a Do-It-Yourself packet called “Responding to a Petition for Establishment of Parentage (Paternity)”. There is also a packet called “Responding to a Petition for Parenting Plan or Child Support when Parentage has been Established.” You can get your packet on [www.WashingtonLawHelp.org](http://www.WashingtonLawHelp.org), or have a friend or a relative print it out and mail to you.

The court forms are also available through the Court website <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=44>, or can be purchased at courthouses.

Court forms are often updated or changed. Try to contact a family law facilitator or check the courts website to make sure that the form you are using is the most current version.

### **Modification of Parenting Plan**

The other parent has served me with a Petition for Modification/Adjustment of Custody Decree/Parenting Plan while I am incarcerated.

### **What happens if I do not respond?**

You have 20 days to respond to the petition. If you do not respond on time, the other party will win the change they are requesting.

### **What happens if I do respond?**

By filing a response, you have the right to be a part of the proceeding. You can ask the court to deny the modification or you can propose your own changes for the time you are incarcerated and for when you are released.

### **Are there any forms for responding to a Petition for Modification of Parenting Plan?**

If you must represent yourself, there is a Do-It-Yourself packet called “Responding to a Petition to Modify/Adjust a Parenting Plan or Custody Decree in a Dissolution Case” on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) (see **Resources**).

The court forms are also available through the Court website <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=32>, or can be purchased at courthouses.

Court forms are often updated or changed. Try to contact a family law facilitator or check the court website to make sure that form you are using is the most current version.

## Child Support

### Do I have the right to ask for child support payments for my child?

If you are in prison, you cannot get child support because you do not have physical custody of your child. Only the person with physical custody of the child is entitled to request and receive child support, and only the non-custodial parent can be required to make support payments.

### Do I have a responsibility to pay child support while I am incarcerated?

Yes. You are responsible for child support payments every month even if you are in prison or jail. If you do not pay, your child support debt will increase. You may want to change your child support order.

If neither you nor your spouse gets physical custody of your children, both of you will be liable for making support payments for the children. You will need to request that the court not order you to pay child support as long as you are in jail or prison.

### What can I do to change the child support order?

You can send a request for review to the Division of Child Support (DCS). Once DCS receives your request, they will determine if your case meets the DCS criteria for a modification action to change the amount you must pay from then on. To find instructions and forms for the DCS review, call 1-800-442-5437 or see the packet “How to Ask DCS to Review Your Child Support Order for Modification” on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

DCS can also reduce or write off your support debt owed to Washington State (see <http://www.dshs.wa.gov/pdf/publications/22-386.pdf>). This process is called a Conference Board, WAC 388-14A-6410. DCS will send you an application for services if you contact the DCS office. Regional DCS office phone numbers are listed below (see **Resources**).

If DCS cannot change your child support, you can still file a Modification of Child Support Petition with the court. There is a Do-It-Yourself packet called “Filing a Petition to Modify Your Child Support Court Order” for people who represent themselves (see **Reference**). You can get it on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or have your friend or relative print it out and mail it to you.

The court forms are also available through the Court website <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=8>, or can be purchased at courthouses.

Court forms are often updated or changed. Try to contact a family law facilitator or check the court website to make sure that form you are using is the most current version.

### **What do I do if I am served with a Child Support notice or proposed order while I am in prison?**

If you are served with a “Notice and Finding of Financial Responsibility (NFFR)” from the Department of Child Support, you have 20 days to appeal the amount.. You will need to inform DCS that you are in jail or prison and have no source of income. If you are not the father of the child, this is your chance to contest paternity (see **Parentage**).

If you were served with a proposed child support order from the person who is caring for your child, you should file a response within 20 days from the date you were served. If you are the parent of the child, you will need to inform the court that you are in jail or prison and have no source of income. It is very important that you do not ignore the proposed order. If you don't file a response, the court can enter a default judgment against you. If you need assistance you can contact the Family Law Facilitator in the county in which the petition was filed (see **Resources**).

See “Do You Owe Child Support?” and “Understanding the WA State Child Support Schedule and How Child Support is Set in Washington” on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

### **Are there any forms for responding to the petition?**

If you received a Notice from DCS, you probably also received a form "Objection - request for Blood Test or Adjudicative Proceeding" that you can send back to DCS.

If you were served with a proposed order of child support as part of a divorce or parentage action in court, you can find forms and instructions to respond on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or have a friend or relative print it out and mail it to you. “Parenting Plans, Residential Schedules and Child Support for Parentage (Paternity) Cases and Modifications of Parentage Cases” is for unmarried parents and “Parenting Plans and Child Support for Dissolution (Divorce) Cases and Modifications of Dissolution Cases” is for divorcing parents..

The court forms are also available through the Court website <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=8>, or can be purchased at courthouses.

### **The other parent of my child filed a Petition to Modify Child Support Court Order. What happens if I do not respond?**

You have 20 days to respond to the petition. If you do not respond on time, the other party will win the amount they are requesting.

## **What happens if I do respond?**

By filing a response, you have the right to be a part of the proceeding. You can ask the court to deny the modification or you can propose your own changes for the time you are incarcerated and for when you are released.

## **Are there any forms for responding the petition of Child Support Modification?**

There is a Do-It-Yourself packet called “Responding to a Petition for Modification of Your Child Support Court Order”. You can get this packet on the website, [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or have a friend or relative print it out and mail it to you.

## **Attend Hearings**

### **Can I attend the hearings?**

Unfortunately, you have no automatic right to attend family law proceedings, such as divorce, child support, paternity, or third-party custody. You can, however, ask the court to order your presence at the hearing. You need to file a motion stating the reason that your presence at the hearing is necessary, but it is up to the court to decide whether your presence is necessary. If you have children and you are concerned about custody and visitation rights, you should ask to attend as soon as you find out about the proceeding. If your request is denied, you may be able to arrange for telephone attendance at hearings. We do not know of any forms that you can use to write this motion; you may need to find an attorney to draft it for you.

If you have served the minimum amount of time required for a furlough (a release without restrictions), you may ask to be released temporarily from a prison or jail to attend a hearing. You can ask the secretary or superintendent of your correction center for release, transportation, and appropriate clothes if necessary.

An incarcerated parent **does** have a right to be present at any court proceeding in an action that may terminate his or her parental rights or declare the child a dependent of the court. See Dependency Actions, below. If you ask to attend the hearing, they cannot proceed without you and your lawyer. For these cases, the court will send you notice and you must respond, saying that you want to be present at the hearing. See the Legal Voice memo “Child Protective Services and Dependency Actions” for more information about these court actions.

### **Can I change my court hearing schedule?**

If you are not able to prepare the forms and materials in time for a scheduled court hearing, you may be able to get the hearing postponed. If you have an attorney, ask your attorney to do this. If your case is in King County, see the Legal Voice case schedule packet. (see **Resources**).

## **Custody**

### **Can I get custody of my children while I am incarcerated?**

No. You cannot get physical custody while you are incarcerated. The court may order a parenting plan while you are in prison or jail. If you already have primary care of your children through a parenting plan, you can place your children in a safe place that you choose while you are in prison or jail.

The Residential Parenting Program (RPP) at Washington Corrections Center for Woman has a place where women who are pregnant when they enter prison can live with and raise their newborn infants while serving out their sentences. Inmates entering the institution can apply to the program and are chosen to participate based on a screening and selection process.

### **Can I get custody of my child when I am released?**

A parenting plan can be changed, but it is not easy to change the order once the court has entered a final parenting plan. You have to show very good reasons and/or substantial changes in circumstances to modify the order. In order to increase your chances of getting physical custody, you need to have a job and a home. If you want to win back legal or physical custody, keep in contact with your children; write and visit often and keep copies of letters, phone calls, and visits. You would have a better chance if you attend parenting trainings even while you are in prison.

### **How can I get visitation with my children?**

If the petition does not specify that you will be allowed visitation with your children, you may ask for it in your proposed parenting plan when you respond. For example, you can ask the court for a specific and realistic plan for your children to visit you during your incarceration. You can give the names and addresses of your children's grandparents, your relatives, or your friends who are able to pick up your children to visit you and return them to the other parent after each visit. However, the court may decide not to allow your children to visit you at the prison if the court decides such visits are harmful to your children.

## **Dependency Actions**

### **What happens if the state filed a Dependency Petition?**

Child Protective Services (CPS), which is a government agency, is allowed to step in and to protect a child from a harmful situation within the family. Then a prosecutor may file a petition in juvenile court and claim that your child is "dependent." This court proceeding is called a Dependency Action. You have the right to attend dependency hearings and to have an attorney represent you. If you cannot pay an attorney, contact or ask for a public defender. The court, however, may decide to terminate your parental rights even if you are not present.

In a termination of parental rights proceeding, there is a fact-finding and a dispositional hearing. At the dispositional hearing, the court may decide the termination is not in the best interests of your children. The court may give you a final chance to comply with services necessary so that your child can return to you when you are released from a prison or jail.

Talk to your attorney if you are asked to sign a surrender agreement. You may be able to put some conditions on the contract; for example, you can request that your child be adopted by a particular person or that you maintain contact with your child. However, not all judges will enforce these agreements.

For more information, see the Legal Voice memo “Child Protective Services (CPS) and Dependency Actions” available on our website, [www.legalvoice.org](http://www.legalvoice.org) (see **Resources**).

## **Where Can I Get Help?**

### **Can I Get a Pro Bono Attorney?**

Unfortunately, not all prisoners can get free legal advice. You do not have a right to an attorney in Washington unless the state is trying to terminate your parental rights. The DOC (Department of Corrections) contracts with attorneys who come to some corrections centers (see **Resources**). If you are in an institution where contract attorneys are not available, then you may ask your family, relatives, or friends to help you with preparing and filing legal documents.

### **Can I Do the Paperwork Myself?**

If you would like to research on your own, you can get resources from a Law Library at the following facilities:

- Airway heights Corrections Center
- Clallam Bay Corrections Center
- Coyote Ridge Corrections Center
- McNeil Island Corrections Center
- Monroe Correctional Complex
- Stafford Creek Corrections Center
- Washington Corrections Center (Shelton)
- Washington Corrections Center for Women (Purdy)
- Washington State Penitentiary (Walla Walla)

If you are not in the prisons or jails listed above, you may be able to get a temporary transfer to use the library or to get materials on loan.

### **Can I Hire an Attorney?**

You can get limited legal services from a private attorney to prepare a document and to receive legal advice. These attorneys charge about \$200 per hour. If friends or family will pay for some attorney time for you and you need attorney referrals, contact Legal Voice toll free at 866-259-7720 or by mail, 907 Pine Street, Suite 500, Seattle, WA 98101.

### **Will the Family Law Facilitators Help Me?**

Family Law Courthouse Facilitators are located in the Superior Courts. Some facilitators will accept calls or letters from prisoners. They can help people find the correct forms and learn how and where to file them. A complete list of the Facilitators is provided in **Resources**. The Courthouse Facilitator program is not always a free service; the cost varies by county.

## **RESOURCES**

**Legal Access for Offenders – Department of Corrections Policy**  
[www.doc.wa.gov/policies/showFile.aspx?name=590500](http://www.doc.wa.gov/policies/showFile.aspx?name=590500)

### **Contract Attorneys**

#### **Airway Heights Corrections Center**

Jordan Law Office

921 W Broadway, Suite 201  
Spokane, WA 99201  
(509) 325-8274

Donald Miller

422 W. Riverside, Suite 518  
Spokane, WA 99201  
(509) 624-5338

#### **Clallam Bay Corrections Center**

Law Office of Jean Schiedler-Brown & Associates

606 Post Avenue, Suite 101  
Seattle, WA 98104  
(206) 223-1888

#### **McNeil Island Corrections Center**

Law Offices of George Marlton

P.O. Box 513  
Walla Walla, WA 99362-0218  
(509) 993-9946

**Monroe Correctional Complex (Washington State Reformatory, Twin Rivers, Special Offender Unit, Minimum Security Unit)**

Law Office of Richard Linn  
12501 Bel Red Road, Suite 209  
Bellevue, WA 98005-2509  
425-646-6017

**Stafford Creek Corrections Center**

Law Offices of George Marlton  
P.O. Box 513  
Walla Walla, WA 99362-0218  
(509) 993-9946

**Washington Corrections Center**

Jordan Law Office  
921 W Broadway, Suite 201  
Spokane, WA 99201  
(509) 325-8274

Donald Miller

422 W. Riverside, Suite 518  
Spokane, WA 99201  
(509) 624-5338

**Washington Corrections Center for Women**

Law Office of Jean Schiedler-Brown & Associates  
606 Post Avenue, Suite 101  
Seattle, WA 98104  
(206) 223-1888

**Washington State Penitentiary**

Law Office of Jean Schiedler-Brown & Associates  
606 Post Avenue, Suite 101  
Seattle, WA 98104  
(206) 223-1888

**Washington Law Help** website [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)

Responding to a Petition for Dissolution (Divorce)

~ <http://www.lawhelp.org/documents/1871013203EN.pdf?stateabbrev=/WA/>

Responding to a Petition for Establishment of Parentage (Paternity)

~ <http://www.lawhelp.org/documents/2041613621EN.pdf?stateabbrev=/WA/>

Responding to a Petition to Modify/Adjust a Parenting Plan or Custody Decree in a Dissolution Case

~ <http://www.lawhelp.org/documents/2900613261EN.pdf?stateabbrev=/WA/>

Responding to a Petition for Parenting Plan (Custody) or Child Support When Parentage Has Been Established

~ <http://www.lawhelp.org/documents/1989813605EN.pdf?stateabbrev=/WA/>

Responding to a Petition to Modify/Adjust Your Parenting Plan, Residential Schedule, or Custody Decree in a Parentage Case

~ <http://www.lawhelp.org/documents/3024013623EN.pdf?stateabbrev=/WA/>

Responding to a Petition for Modification of Your Child Support Court Order

~ <http://www.lawhelp.org/documents/2105513228EN.pdf?stateabbrev=/WA/>

## **Legal Voice**

Legal Information & Referral Telephone Line

Phone: 206-621-7691

Toll Free: 866-259-7720

TTY: 206-521-4317

Mail Address: 907 Pine Street, Suite 500 Seattle, WA 98101

Self Help Materials: call or write for free copies, or download from our website

[www.LegalVoice.org](http://www.LegalVoice.org)

Options for Unmarried Parents

~ [http://legalvoice.org/pdf/self\\_help/Options\\_for\\_Unmarried\\_Parents.pdf](http://legalvoice.org/pdf/self_help/Options_for_Unmarried_Parents.pdf)

Child Protective Services (CPS) and Dependency Actions

~ [http://legalvoice.org/pdf/self\\_help/Child\\_Protective\\_Services\\_and\\_Dependency\\_Actions.pdf](http://legalvoice.org/pdf/self_help/Child_Protective_Services_and_Dependency_Actions.pdf)

King County Case Schedule – Dissolution

~ [http://www.legalvoice.org/pdf/self\\_help/KCCaseSched\\_Disso\\_5\\_07.pdf](http://www.legalvoice.org/pdf/self_help/KCCaseSched_Disso_5_07.pdf)

King County Case Schedule for Parentage Actions or Modification of Parenting Plan or Modification of Child Support. Call or write to Legal Voice.

## **Division of Child Support Offices**

Everett: 1-800-729-7580; 425-438-4800

Fife: 1-866-243-4449; 253-922-0454

Kennewick: 1-800-345-9981; 509-374-2000

Olympia: 1-800-345-9964; 360-664-6900

Seattle: 1-800-526-8658; 206-341-7000

Spokane: 1-800-345-9982; 509-363-5000

Tacoma: 1-800-345-9976; 253-597-3700  
Vancouver: 1-800-345-9984; 360-696-6100  
Wenatchee: 1-800-535-1113; 509-886-6800  
Yakima: 1-800-441-0859; 509-249-6000  
Headquarters: 1-800-457-6202; 360-664-500

### **Courthouse Facilitators**

#### **Benton County Courthouse Facilitator**

509-735-8388

[http://www.co.benton.wa.us/courthouse\\_facilitator.htm](http://www.co.benton.wa.us/courthouse_facilitator.htm)

#### **Chelan County Courthouse Facilitator**

509-667-6380

[http://www.co.chelan.wa.us/scc/scc\\_court\\_facilitator.htm](http://www.co.chelan.wa.us/scc/scc_court_facilitator.htm)

#### **Clallam County Family Court Facilitator**

360-417-2588

[http://www.clallam.net/Courts/assets/applets/family\\_court\\_facilitator.pdf](http://www.clallam.net/Courts/assets/applets/family_court_facilitator.pdf)

#### **Clark County Family Court Facilitator**

360-397-2292

<http://www.clark.wa.gov/courts/clerk/family-court.html>

#### **Columbia County Family Court Facilitator**

509-520-8679

#### **Cowlitz County Courthouse Facilitator**

360-577-3016

[http://www.co.cowlitz.wa.us/clerk/files/resources/Facilitator\\_job\\_duties.pdf](http://www.co.cowlitz.wa.us/clerk/files/resources/Facilitator_job_duties.pdf)

#### **Douglas County Court Facilitator**

509-662-6156

#### **Franklin County Courthouse Facilitator**

509-545-3525

<http://www.co.franklin.wa.us/clerk/pdf/facweb.pdf>

#### **Grant County Family Law Facilitator**

509-754-2011 ext 401

#### **Grays Harbor County Family Law Facilitator**

360-249-4472

#### **Island County Court Facilitator**

360-675-5415

**Jefferson County Family Law Facilitator**  
360-385-9125

**King County Family Law Facilitator – Seattle**  
206-296-9092  
<http://www.kingcounty.gov/courts/FamilyCourt/facilitator.aspx>

**King County Family Law Facilitator – Kent**  
206-205-2526  
<http://www.kingcounty.gov/courts/FamilyCourt/facilitator.aspx>

**Kitsap County Courthouse Facilitator**  
360-337-7164  
<http://www.kitsapgov.com/clerk/FamilyLaw/facilitat.htm>

**Klickitat County Family Law Facilitator**  
509-773-5744

**Lewis County Court Facilitator**  
360-748-0430

**Lincoln County Courthouse Facilitator**  
509-725-1401

**Mason County Family Law Facilitator**  
360-427-7775

**Okanogan County Family Law Facilitator**  
509-422-7132

**Pierce County Family Law Facilitator**  
253-798-3627

**San Juan County Courthouse Facilitator**  
360-378-2163  
<http://www.sanjuanco.com/suprCourt/facilitator.aspx>

**Skagit County Courthouse Facilitator**  
360-336-9440  
<http://www.skagitcounty.net/Common/Asp/Default.asp?d=SuperiorCourt&c=General&p=familylaw.htm>

**Skamania County Courthouse Facilitator**  
509-427-3765

**Snohomish County Family Law Facilitator**

425-388-3795

[http://www1.co.snohomish.wa.us/Departments/Clerk/Services/Family\\_Law\\_Facilitator.htm](http://www1.co.snohomish.wa.us/Departments/Clerk/Services/Family_Law_Facilitator.htm)

**Spokane County Court Facilitator**

509-477-7612

<http://www.spokanecounty.org/superiorcourt/content.aspx?c=1100>

**Stevens County Family Law Facilitator**

509-684-7576

**Thurston County Family Court Facilitator**

360-709-3269

[http://www.co.thurston.wa.us/clerk/Facilitator/Facilitator\\_services.htm](http://www.co.thurston.wa.us/clerk/Facilitator/Facilitator_services.htm)

**Walla Walla County Court Facilitator**

509-529-4980 ext 122

**Whatcom County Family Law Facilitator**

360-676-6777, ext 52459

<http://www.co.whatcom.wa.us/superior/resources/familylaw.jsp>

**Yakima County Family Court Facilitator**

509-574-2695

<http://www.yakimacounty.us/superiorcourt/Facilitator/default.htm>

*Prepared by Yoshie Takaoka Adams 12//09, Reviewed Maureen Janega and Beth Colgan 04/10.*