

**CAO P INSTRUCTION 1-2
PETITION FOR PATERNITY, CUSTODY, VISITATION OR SUPPORT
ADA COUNTY**

Talk to an attorney, if possible.

WARNING: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial half-hour consultation for \$35. Contact the Court Assistance Office for information about resources for low-income people, or visit the Idaho Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>.

You will be signing a sworn statement that you have read the Petition, know what it says, and believe it's true. To guarantee the truthfulness of that statement, be sure to read the entire completed form.

Instructions

Fill in the forms by typing or by printing neatly and legibly in **black ink**. Always keep a copy of the completed form for your records.

At the top left-hand corner of page 1, fill in your full legal name, mailing address, telephone number, and email address (if you have one).

The Court Heading. Fill in the county and judicial district in capital letters (for example, "IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT, IN AND FOR THE COUNTY OF ADA").

The Caption. Fill in your full legal name on the line above Petitioner and the other parent's full legal name on the line above Respondent.

The Case No. The case number will be assigned by court personnel when you file the Petition. You should write in the case number on all other documents.

The **Court Heading**, **Caption** and **Case Number** will be the same on all other documents you prepare for this case.

The Name of the Document. Check the boxes to indicate the orders you want.

1. Minor Child/ren of the Parties.

Fill in the name and date of birth for each minor child and the current address where each child lives.

- Check the first box if paternity has NOT been established. **or**
- Check the second box if an Order of Filiation (a court order stating the name of the father) has been signed by a judge in some other court case (this may be a Child Support Order filed by the Department of Health & Welfare).
 - Fill in the state, county and case number of that order and fill in the name of the father.
 - Make a copy of that order, mark the copy as **Exhibit C** at the bottom of the first page of

the order and staple it to the back of your Petition, **or**

- Check the third box if both parents have signed a verified Voluntary Acknowledgement of Paternity for the child/ren. A Voluntary Acknowledgement of Paternity cannot be rescinded after the Petition is filed.
- Make a copy of the Voluntary Acknowledgement for each child.
- Mark the copy as **Exhibit C** at the bottom of the first page of the Acknowledgment and staple it to the back of your Petition.

2. The Parties.

Fill in the city, county and state where each parent lives and check the box to indicate if you, the Petitioner, are the mother or father and if the Respondent is the mother or father.

3. Jurisdiction to Establish Paternity.

If you did not check either the second or third box in paragraph 1, you need to obtain a court order to establish the paternity (father) of your child/ren.

- Check the box(es) that apply to your situation. **Warning:** If none of the statements apply to your situation, the Idaho court may lack authority (“jurisdiction”) to determine paternity of the child/ren. In that event you should talk to an attorney to determine if there may be other grounds for jurisdiction and venue under Idaho’s laws. The court cannot order custody or support for the child/ren until paternity has been established.

4. Venue.

This is your statement that this county is the correct place to file the Petition.

5. UCCJEA Jurisdiction.

This is your statement that each child has resided in Idaho for at least the past 6 uninterrupted months. Additionally, you are required to inform the court if there have been any other cases involving your child/ren in any court or if there are any other people claiming custody or visitation rights with the child/ren.

Paragraph 5a: Fill in the persons’ name and the city and state where each child has lived with for the last five years.

You are required to let the court know if there have been any other cases involving your child/ren in any other court or if there are any other people claiming custody or visitation rights with the child/ren.

In **paragraphs 5b, c and d**, check the appropriate box and fill in all requested information. Case information for most Idaho cases is available online at: mycourts.idaho.gov

Warning: If any of your children have not resided in Idaho for at least six uninterrupted months before the filing of the Petition (or for their entire lives if they are less than six months of age), the Idaho court may lack authority (“jurisdiction”) to determine custody of that child. In that event you should consult an attorney to determine if there may be other grounds for jurisdiction and venue under Idaho’s laws.

6. Paternity.

If you want the court to enter a paternity order, check the box and fill in the father’s name.

7. Legal Custody.

"Joint legal custody" means the parents are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. The court will award joint legal custody unless you can prove it would not be in the best interest of the minor child/ren for the other parent to share decision-making rights.

- Check the first box if both parents are fit persons to share decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren, **or**
- Check the second box if you are declaring that one parent should have sole legal custody of the child/ren, **and**
 - Write in the name of the parent who should be awarded sole legal custody and
 - State why the other parent should NOT be allowed to share decision-making.

8. Physical Custody.

"Joint physical custody" means each parent has significant periods of time in which a child resides with or is under his/her care and supervision. Joint physical custody assures the child/ren frequent and continuing contact with both parents but does not necessarily mean the child spends exactly the same amount of time with each parent. The court will award joint physical custody unless you can prove it would not be in the best interest of the minor child/ren.

- Check the first box if both parents should be given physical custody of the child/ren **and either**
 - Mark the second box and complete the **Parenting Plan**.
 - If needed, write **Schedule A** on the bottom of the first page of the Parenting Plan and attach (staple) it to the back of the Petition. **IMPORTANT: A copy of the Parenting Plan must be attached to make it a part of the Petition.** (A copy of the Parenting Plan will also be attached (stapled) to the Decree of Custody, Visitation or Support) **or**
- Check the fourth box if you are asking the court to award sole physical custody of the child/ren to only one parent **and**
- Write in the name of the parent who should be awarded sole physical custody and
- State why the other parent should NOT be given periods of time when the child/ren resides with or is under his/her care and supervision.
 - If you want the court's order to give the other parent restricted or conditional time with the child/ren, write in the parent's name **and** write in the terms and conditions of the other parent's time with the child/ren.

9. Child Support. Existing Child Support Orders.

9a. Existing Child Support Orders:

If there is **NOT** a child support order, check the first box and skip ahead to section 10.

Or

If there is already an order signed by a judge, for example in a different case filed by the Department of Health & Welfare, that sets child support, check the second box then fill in all requested information, **and**

9b. Change in Child Support:

- If you want that order to continue and control child support instead of getting a new order, check the first box. Then make a copy of that Order, Judgment or Decree, mark it as **Schedule B** and attach (staple) it to the back of the Petition. Then proceed directly to Section **11** of the Petition.

Or

- If you believe there are substantial and material reasons why the child support set in the other case should be changed by an order issued in this case which would control future child support payments, check the second box, **and** under **9c** check any boxes that apply.

WARNING: You should be aware that jurisdiction as to child support is a complicated issue and having a child support order in a separate case can create problems for enforcement and future modifications of the order. If the child support order is in a different case and you want to change it, your case must be consolidated. Even if you want child support to be controlled by the separate order, your judge may require you to consolidate that case with your custody case and serve the Petition for Custody and the Summons to the Department of Health and Welfare. Also, your judge may require you to join the Department of Health and Welfare as a party in this case, or consolidate the two cases, before a new child support order can be issued in this case.

10. Child Support. New Child Support Amount.

Note: You will first need to complete an **Affidavit Verifying Income and a Child Support Worksheet**. In Ada County, Family Court Services (phone: (208) 287-7600; email: fcs@adacounty.id.gov) may help you generate these documents if you provide the required information. The Child Support Worksheet will be used to complete this section. If you want the court to enter a support amount that is different from the Idaho Child Support Guidelines amount, you may need to come to court for a court hearing and persuade a judge why that is in the best interests of your children and meets their financial needs.

- In paragraph **10a**, write in the name of the parent who will pay child support and from the child support worksheet, insert the adjusted child support total. **Or**, if you want to request a different child support amount fill in the next section and explain why the judge should order it.
- In paragraph **10b**, select the month you want the payments to start.
- In paragraph **10c**, if you have more than one minor child, check the box. You will need to have a separate calculation to reflect the changed amount of support as each child is no longer eligible for support under Idaho law. These calculations are provided if you have used a computer program to calculate child support. In Ada County, Family Court Services may help you with these calculations if you do not have them.
- If needed, write **Schedule B** on the bottom of the first page of the **Affidavit Verifying Income and Child Support Worksheet** and attach (staple) it to the back of the Petition, behind the Parenting Plan (if applicable). **IMPORTANT: A copy of the Affidavit Verifying Income and Child Support Worksheet must be attached to make it part of the Petition.**

WARNING: If you are the parent paying child support (the “obligor”) you should be aware the Decree will provide for collection of child support from your wages and from your real estate or personal property. The Decree will also provide that if you move to another state, the child support can be enforced directly by courts in other states. Additionally, you should be aware that, according to Idaho law, if unpaid child support equals or exceeds the total support owing for ninety (90) days or the sum of \$2,000, whichever is less, you are subject to suspension of any license to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing. Further, the State Tax Commission will withhold and set-off any state tax refund to collect any unpaid child support, or unpaid spousal support, and the Idaho State Lottery will likewise withhold and set-off a prize of a lottery prize-winner.

10d. Extended Visits:

In paragraph **10d**, check the first box if the child/ren will be living in the home of one parent at least 75% of the time under your proposed parenting plan. If you do not check this box, go directly to paragraph **10e**.

Otherwise,

- Check the second box in paragraph **10d** if you want the court to order a reduction in child support when the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row. Next, check the appropriate box to indicate if the reduction should be 50% or some other percentage.
- Check the next box if you have more than one child, but the parent paying child support will have some, but not all of the children for a period of 14 overnights in a row. If this box is selected, the reduction of support will be applied only to the child/ren who are actually with the parent paying child support during those 14 overnights in a row.

Note: If the child/ren reside with each parent more than 25% of the time (overnights), this is considered shared physical custody and certain adjustments are made in the calculation of child support. Section J(5) of the Idaho Child Support Guidelines, Rule 126 of the Idaho Rules of Civil Procedure, describe “Shared Physical Custody” and computation of child support with that parenting arrangement. The reduction of child support for extended visits is not permitted if child support has been calculated with a shared physical custody adjustment. You can get a copy of the Child Support Guidelines from a Court Assistance Office or the Internet at <http://www.isc.idaho.gov/irflp126>.

10e. Work-Related Child Care Costs:

Work related child care costs are separate from the basic monthly child support amount. The cost is prorated between the parents in proportion to their Guidelines income.

- Fill in the percentages each parent will pay from your Child Support Worksheet.
- **Or**, if you want to request a different cost sharing percentage fill in the next section and explain why the judge should order it.
- Note: Under this section you are asking the court to require each parent to pay their share directly to the care provider if permitted by the provider, otherwise, the parent who pays the costs must be reimbursed within ten days after the other parent receives a copy of the bill and proof of payment.

10f. Medical Insurance:

The cost of medical, dental and/or optical insurance for the child/ren is separate from the basic monthly child support amount. The cost is prorated between the parents in proportion to their Guidelines income.

A. Pro Rata Share:

- Fill in the percentages each parent will pay from your Child Support Worksheet.
- **Or**, if you want to request a different cost sharing percentage, fill in the next section and explain why the judge should order it.

B. Insurance Currently Provided:

- Check the first, second or third box to indicate how health insurance for the child/ren is now being provided. If you select the first paragraph, write in the name of the parent(s) currently

providing health insurance.

C. In Addition to or Included in Monthly Child Support:

- Check the appropriate box indicating how insurance costs should be paid.

WARNING: The Decree will provide: Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

10g. Out-of-Pocket Health Care Costs:

The actual cost incurred for health care expenses for the child/ren not paid in full by insurance is separate from the basic monthly child support amount and is also prorated between the parents in proportion to their Guidelines income.

- Fill in the percentages each parent will pay from your Child Support Worksheet.
- **Or**, if you want to request a different cost sharing percentage, fill in the next section and explain why the judge should order it.

10h. Income Tax Exemption:

Both parents are entitled to share in the benefits of income tax credits and exemptions for the child/ren regardless of which parent actually claims those benefits in a tax return. (If you do not agree otherwise, the parent with the most income will claim the children.)

Note: The child support calculation must reflect the same designation.

- Check the first box; **and**
- Check the second box if the Petitioner will claim some or all of the child/ren as dependent/s on their income tax return(s).
- Check the third box if the Respondent will claim some or all of the child/ren as dependent/s on their income tax return(s).

11. Name Change.

If you want to change the legal last name of the child/ren, mark the box and write in the last name as it should be. (Accurate spelling is very important.)

12. Amend Birth Certificate.

If your child/ren's birth certificate(s) do/does not include the name of the father, the Bureau of Vital Statistics in the state where your child/ren was/were born will add the father's name to the birth certificate(s).

Date and Signature: Sign and date where indicated certifying that the information is true and accurate, subject to the penalty of perjury if it is not.

Schedules and Exhibits (attachments):

- Complete the Parenting Plan. Mark it as **Schedule A**.
- **Schedule B** will be either a copy of the Child Support Order already in effect **or** the Affidavit Verifying Income and Child Support Worksheet(s).

- If paternity has already been established, **Exhibit C** will be either a copy of the Order of Filiation entered in another court case (if this is the same order as the Child Support Order – **Schedule B** – just mark it as **Schedule B** and **Exhibit C**, you don't need to attach two copies) **or** a copy of the Voluntary Acknowledgement(s) of Paternity-mark it as **Exhibit C**.

The schedules and exhibit must be stapled to the back of the Petition.

Make two more copies of the Petition with Schedules and Exhibit attached, one copy for each party.

The Decree you will be preparing will have the same Parenting Plan, Child Support Order and Order of Filiation. **Make an extra copy** of these Schedules so you will have them to attach to the Decree.

Continue referring to CAO Instruction P-1, “Filing for Paternity, Custody, Visitation & Support,” for complete instructions to file your Petition.