

Instructions: Getting Non-Parent Custody When One or Both Parent(s) Do Not Agree

1. Obtain the forms listed in this outline. The Skagit County Superior Court Clerk sells a packet for *Non-Parent Custody* which includes the required state and local forms. You may also download the forms for free at www.courts.wa.gov/forms . **Skagit County Local Court Rules** and local forms are available for purchase at the Clerk’s Office or can be downloaded at www.skagitcounty.net (see links to Superior Court).
2. If you need assistance with forms or procedures, the Court Facilitator can review forms you have prepared yourself, answer questions, or help you with procedures. The Facilitator cannot give legal advice and does not represent you. The Facilitator may also assist your spouse. There is a \$20 fee per 30 minute appointment. Make an appointment by calling (360) 416-1200 or (360) 416-1800.
3. Start by filling out:
 - **Non-Parent Custody Petition (FL Non-Parent 401);**
 - **Summons: Notice About Non-Parent Custody Petition (FL Non-Parent 400);**
 - **Declaration of (name): (FL All Family 135)** (see below for more information);
 - **Agreement to Join Petition (Joinder) (FL All Family 119)** (use if one of the parents is in agreement with your **Petition**);
 - **Confidential Information (FL All Family 001);** and
 - **Attachment to Confidential Information (Additional Parties or Children) (FL All Family 002).**

Note that when you are filling out your captions on each form, the person or persons requesting custody are the “Petitioner(s)” and the other parties are the “Respondent(s)”. Both the mother(s) and the father(s) of the children for whom you are requesting custody must be listed as Respondents (unless one of the parents is deceased). If one or both of the parents are in agreement with your **Petition**, then follow the instructions for “**Getting Non-Parent Custody When One or Both Parent(s) Agree**” for that parent.

In your **Declaration** and your **Petition** (section # 5), you must explain in detail specific facts, incidents and dates that establish the following information:

- (a) That the child is not in the physical custody of one of its parents **and/or** that neither parent is a suitable custodian for the child; **and also:**
- (b) That the parents are unfit or that placement with either parent would result in actual detriment (harm) to the child’s growth and development.

If these facts are not set forth in the Declaration with sufficient information and completeness, the court will deny your Petition for lack of adequate cause and will dismiss your Petition. Even if one of the parents joins in your Petition, you must still establish the required information.

Make sure that in your **Declaration** you give the Judge the complete story since this is crucial information that the Judge must have in order to grant your **Petition**. You might also want to file **Declarations** written by other people who have information which supports your case. Use the **Declaration of (name) (FL All Family 135)** form. Remember that it is your burden of proof to show why the child or children should be with you and not with their parents. You may also file reports or other documents (such as police, CPS or

school reports) that support your case. If you want to address visitation, you can do that in section # 7 of the **Non-Parent Custody Petition** or you can fill out a separate **Residential Schedule (Non-Parent Custody) (FL Non-Parent 405)** filled out as a “Proposal”. In addition, if you want to address child support, you should file proposed **Child Support Worksheets (WSCSS Worksheets)**.

Make 3 copies of all the documents except for the **Confidential Information** and the **Attachment to Confidential Information**.

4. File the **Non-Parent Custody Petition, Summons, Declarations, Confidential Information and Attachment to Confidential Information Form** with the Skagit County Superior Court Clerk. If you have prepared a **Residential Schedule**, and/or **Child Support Worksheets**, file those as well. The filing fee is \$260 payable only in cash, money order, Cashiers’ Check, MasterCard, Visa, Discovery or American Express. There is a process by which you can waive the filing fee if you qualify. The Clerk’s office has a **“Fee Waiver Packet”** for this process.
5. Have both parents/Respondents (unless one is deceased or has signed the **Agreement to Join/Joinder**) served with copies of all the documents that you filed except for the **Confidential Information** and the **Attachment to Confidential Information**. Someone, who is over 18 years old, must personally hand the other parties copies of the documents. *You cannot give the documents to the other parties.* The person serving the documents must fill out and sign a **Proof of Personal Service (FL All Family 101)**. Make sure that all the documents that were served are listed on the **Proof of Personal Service** and that the date, time and place of service are filled in because that is your proof that the other parties were properly served. File the **Proof of Personal Service** at the Clerk’s Office. The other parties have 20 days (if served within the state of Washington) or 60 days (if served outside of the state) in which to file a **Response** to your **Petition**.
6. Fill out an **Order to DSHS to Release CPS Information (Non-Parent Custody) (FL Non-Parent 407)**. You must include the required information **for every person in your household who is 16 years or older**. Give that **Order** to the Clerk between 8:30am and 12:00pm on the day you want to be seen. Then go to the courtroom assigned for the Ex Parte Calendar at 1:15pm and wait for the Judge or Commissioner to call your case and sign your **Order**.
7. Get a **Washington State Patrol Criminal History Record Information (CHRI)** for each Petitioner and for each adult member of the Petitioners’ household. The two ways to get the required records are explained below. Attach the WSP Criminal History Records to the **Criminal History Record (Cover Sheet) (Non-Parent Custody) (FL Non-Parent 406)**, and file it.

Get criminal history immediately online at <http://watch.wsp.wa.gov/>. There is a \$12 fee for each **CHRI** search. A credit card is required to complete the search.

OR

Follow the instructions on the website for mailing in a request and include the required payment of \$38 per **CHRI** search.

8. If either or both parties do not file a **Response** to your **Petition** within the allowed time, and have not made an appearance in your case, then you may appear on the Ex Parte Calendar with a **Motion for Default (FL All Family 161)**, and an **Order on Motion for Default (FL All Family 162)**. Fill out and hand the documents to the Clerk anytime between 8:30am and 12:00pm and return that same day at 1:15pm to see the Judge for the default. Note that obtaining an **Order on Motion for Default** does not finish your case.

9. **Local Court Rules require that the Court Facilitator review your final orders.** If you obtained an **Order on Motion for Default**, or if you and the other parties have reached an agreement, then make an appointment with the Facilitator. Fill out and bring all the documents listed below in #10 with you to the appointment. If you are finishing your case by default, then make sure all your final orders are filled out **exactly the same** as the documents that the other parties were served with. If you and the other parties agree on the final documents, then both parties must sign the final documents. The Facilitator will review your orders and help you set a hearing to finalize your case.

10. The final orders needed to finalize a Non-Parent Custody Case are:

- **Findings and Conclusions on Non-Parent Custody Petition (FL Non-Parent 430);**
- **Final Non-Parent Custody Order (FL Non-Parent 431);** and
- **Order on Adequate Cause for Non-parent Custody (FL Non-Parent 417).**

If you asked for a Residential Schedule then you will also need:

- **Residential Schedule (Non-Parent Custody) (FL Non-Parent 405).**

If you asked for child support then you will also need:

- **Child Support Worksheets (WSCSS Worksheets);** and
- **Child Support Order (FL All Family 130).**

11. If either of the Respondents has filed **Response**, then you must schedule an adequate cause hearing. Fill out and file a **Motion for Adequate Cause Decision (Non-parent Custody) (FL Non-Parent 416)** and a **Note for Calendar** (a local court form). Pick a Monday at 10am for the hearing that is at least 9 court days away. Mail a copy of the **Note for Calendar** and the **Motion for Adequate Cause Decision (Non-parent Custody) (FL Non-Parent 416)** to the other parties. At the adequate cause hearing the Judge or Commissioner will decide whether or not adequate cause exists to go forward with the case or whether the case should be dismissed. Bring an **Order on Adequate Cause for Non-parent Custody (FL Non-Parent 417)** with you to the adequate cause hearing. If the Commissioner or Judge finds that adequate cause exists, then you and the other party can proceed with finishing your contested case.

12. Once adequate cause has been established, then you and the other parties should try and reach an agreement. If you cannot work out an agreement with the other parties, then you must schedule Mediation. **Mediation is required by Local Court Rule.** A list of approved mediators is available from Court Administration.

13. If you reach an agreement either on your own or through mediation, then follow steps #9 and #10 to finish your case.

14. If Mediation does not resolve your contested issues, then fill out and file a **Note for Trial Assignment** (a local court form). Write in a Monday date on the line that states “Trial Assignment Date (any Monday no personal appearance required)”. The Monday date picked for the Trial Assignment must be at least 9 court days away from the day the **Note for Trial Assignment** is mailed to the other parties. On the **Note for Trial Assignment** you will need to estimate how long the trial will take.

15. ***A copy of the Note for Trial Assignment must be sent to the other parties.*** The party who fills out the **Note for Trial Assignment** must sign and date the certification of mailing at the bottom of the page. Neither party is required to appear on the date of the trial assignment. On the date of the trial assignment, the court file is transferred to the Court Administrator who then picks a trial date for you. If there are dates that you know you will not be available for a Trial, then fill out, file and serve a **“Notice of Conflict Dates”** (a local court form). The Court Administrator will consider your conflicts when setting the Trial Date.
16. Once the Court Administrator picks a trial date, both parties will receive a letter stating the date and time of the trial. ***You must confirm your trial with the Court Administrator by no later than 12 noon two court days prior to the Trial or it will be stricken.*** Call (360) 416-1200 to confirm your trial.
17. To prepare for your trial you must follow the **Local Court Rules** for Skagit County Superior Court related to trials. Find the rules online at www.skagitcounty.net (follow links to Superior Court). You may also want to do some legal research at the Skagit County Law Library which is open to the public and located in the Mount Vernon Courthouse or visit www.washingtonlawhelp.org.
18. ***Local Court Rules require that the Court Facilitator review your final orders prior to your trial.*** Make an appointment with the Facilitator and bring all the documents listed above in #10 with you to the appointment.
19. At your trial you can present documentary evidence and provide witnesses that support your position. After both sides have presented all their evidence, then the Judge will make a decision on your case. You may be requested to prepare final orders in compliance with the Judge’s decision. ***This outline does not cover trial preparation. You may want to seek legal advice from an attorney***

Helpful Phone Numbers and Websites

Skagit County Superior Court Clerk’s Office (360) 416-1800

Skagit County Superior Court Administration (360) 416-1200

Skagit County Law Library (360) 416-1290

Volunteer Lawyer Program of Skagit County (360) 416-7585

CLEAR line for a referral to the VLP (888) 201-1014

State Prosecuting Attorney – Family Support Division (360) 336-9461

www.courts.wa.gov/forms to download standard family law forms.

www.washingtonlawhelp.org for general information on a variety of legal topics.

www.nwjustice.org for general information and resources.

www.skagitcounty.net county website (follow links to Superior Court).

www.dshs.wa.gov/dcs Washington Division of Child Support (forms and information).

<https://fortress.wa.gov/dshs/dcs/SSGen/Home> DCS Support Calculator (use to create a child support worksheet).

This list of instructions is not a substitute for legal advice. Before starting any legal action, it is always wise to consult an attorney regarding your rights and responsibilities. Many attorneys offer consultations. Your specific situation may require additional forms and procedures which may not be listed on this outline. The Family Law Facilitator and the Clerks Office cannot give legal advice. Only an attorney can give legal advice.