



JUVENILE PUBLIC DEFENDER'S OFFICE

PROCESS TO FILE FOR CUSTODY OR VISITATION

Child custody, visitation and child support cases can get complicated. When possible, it is best to be represented by an attorney during this process.

Child custody & visitation cases for parents that were married at the time of the child's birth are handled differently under Tennessee law versus those cases for children who were born to unmarried parents.

For married parents, the mother's husband is automatically acknowledged as the father of the child. Both married parents of the child have rights & obligations regarding the child. And if there was a subsequent divorce, the court order granting the divorce should have also addressed child custody & visitation arrangements.

If the parents were unmarried at the time of the birth of the child, then unless the father was named on the child's birth certificate or the parents formally signed and filed a voluntary acknowledgement of paternity, the father may not have parental rights under Tennessee law- the mother may be the only parent with legal rights.

If the parents were unmarried at the child's birth, the father in order to establish legal rights will need to establish his paternity of the child. Paternity may be established, as mentioned above, by being named on the child's birth certificate or by the parents formally signing and filing a voluntary acknowledgement of paternity. If the neither of those have happened, the father may need to file with the Juvenile Court a petition asking the court to establish paternity.

For unmarried parents once paternity of the father has been established but there is a dispute as to custody and/or visitation arrangements for the child and no current custody and visitation order in place, or the current order is disputed, then what follows is an explanation to assist you in filing for custody or visitation:

1. File a Petition requesting custody or visitation rights by going to the Juvenile Court Building. The filing fee varies, and it is based on income. If you have no income or low income, you will be asked to complete an Indigency Form to determine if you are eligible to file for free. If you are not eligible to file for free, filing a petition may cost around \$100 or more.
2. Once you have filed a Petition, you will be given a date and time for your 1st court appearance. Please keep your court dates in your calendar. If you do not attend, the case may be dismissed. It is important to be organized.

3. During your first court appearance, several things may happen. You might reach a resolution to which both parties agree; or there may be no agreement and your case will be reset for another date for review. The court may also order one or all of the following support services for the parents to complete before the next court date:
 - a. Mediation,
 - b. Parenting Classes,
 - c. Co-Parenting Classes etc.
4. If after completing the support services that the court has recommended the parents still have not found a resolution, then the case may be scheduled for a trial.
5. If the court ordered that the parents attempt to mediate their dispute and during mediation the parents were able to create a **Parenting plan** to which both agree, then during the next scheduled court date that Parenting Plan may be made an order of the court.
6. If the case is a little more complicated and/or there are concerns of neglect or abuse then the Magistrate may appoint a Guardian ad Litem, an attorney to represent the child's best interest in the case. There may also be situations when the Tennessee Department of Children's Services becomes involved.

This document is not presented or offered as legal advice on how your custody or visitation case should be handled. When possible, you are encouraged to arrange to be represented by an attorney for court matters. Contact a Legal Aid Office and ask about whether they can represent you or arrange for a reduced fee Pro Bono attorney to represent you.

Updated 10-13-2022