

# Guide to Representing Yourself in a Child Custody and Visitation Case (Parents not Married)

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## Introduction











In this Guide, three symbols are used to indicate whether information is specific to electronic filing, specific to paper filing, or applies to all cases whether electronic or in paper:

 Electronic filers

 Paper filers








 All filers

 **Important: Read all information marked with this arrow, whether you file electronically or in paper.**






-  **If you do not understand how to use these forms, or do not know if you should use these forms, talk to an attorney.**
-  These forms must be used whether the filings in your case will be electronic or in paper.
-  You must file electronically unless you get permission from the court to file in paper. Contact the clerk of court if you are unable to file electronically.
-  **Read this Guide carefully.** This Guide will help you through each step, but **many issues in a child custody and visitation case are complicated, and you may need to talk to an attorney.**
-  Submission of these forms does not guarantee your child custody and visitation case will be completed without a trial or further questions from the judge.
-  Even if you both agree on terms of custody and visitation of your children, **you must have a judge approve the terms of your child custody and visitation Decree** and go through many steps in the court process to complete your custody case.
-  If you are still uncertain what to do after reading this Guide, you should talk with an attorney. A family law attorney can help you with all or just some of the steps in a child custody case.
-  Before you file a child custody and visitation case on your own, you may want to consult an attorney about custody, child support, and visitation in your current situation and how that might change in a custody case.
-  **Important!** An Iowa court cannot decide custody or visitation if it does not have jurisdiction. Jurisdiction is very complicated. Generally, the court will have jurisdiction if the children have lived in Iowa for at least six months. But there are exceptions. If there is an order for custody or visitation of the children in another state, Iowa may not be able to enter a custody and visitation order. If the children have not lived in Iowa for six months, Iowa may not have jurisdiction. It is important to fill out the part of the Petition about where the children have lived and what custody and visitation orders are already in place. The court needs that information to decide jurisdiction. If Iowa does not have jurisdiction to enter an order, the order may not be good.
-  **“Petitioner”** is the parent who files the Petition to start a child custody and visitation case. The other parent is **“Respondent.”** You keep these titles for the rest of your custody and visitation case. Petitioner and Respondent are also called the **“parties”** in the case. Part **IX** of this Guide defines many other legal terms you should know.

- Carefully read the specific instructions on each child custody and visitation case form. You should read part **X** of this Guide: *Iowa Court Expectations of Parents in a Custody and Visitation Case (Parents not Married)*. You should also read part **XI** of this Guide: *Tips on Handling Your Own Case in Iowa's Courts*.
- You must determine issues of child custody, child support, and visitation *during the court case process*. These things can be very difficult to change after a judge signs your final custody and visitation Decree.
- It is illegal to sign another person's signature on any court form or other legal paper.
- **Important: Clerks of court and court staff cannot give you legal advice.**
- Child custody and visitation laws in Iowa are in chapters 598, 598B, and 598C of the *Iowa Code*. You can find the *Iowa Code* in public libraries, or on the Iowa legislature's website: [www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx](http://www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx).

## **Electronic Filing (EDMS)**

-  You are required to register and electronically file your documents using the Electronic Document Management System (EDMS). In exceptional circumstances, you may apply to the court for an exemption (to be excused), from electronic filing requirements.
-  Because your child custody and visitation case will become a public case when the judge signs the final custody and visitation Decree, it is critical that you understand and know your responsibility for these two things:
  - **What information is protected (or may or should be kept private);** and
  - **How to redact (or remove) protected information** from the papers (or legal documents) that you file in your case.
-  See the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at: <http://www.iowacourts.gov/eFiling/Overview/>. Refer to Division VI of Chapter 16 for rules on protecting private information.
-  You must still personally serve the other parent with a copy of your Petition and Original Notice, even if you are filing electronically. After the Petition and Original Notice documents are personally served, whenever you electronically file an additional document in your case, EDMS will serve a copy of that document on the other parent or the other parent's attorney if there is one.
-  The Notice of Electronic Filing will indicate if the other parent is excused from electronic filing requirements, in which case, you must mail a copy or serve in paper a copy of the document on other parent if he or she does not have an attorney.
-  Even if you are filing electronically, most custody and visitation forms require you to certify the information you are providing by handwriting your signature on the form. These forms must then be scanned in and electronically filed.
-  To view the custody and visitation forms, you must have Adobe Acrobat Reader installed. Go to: <http://get.adobe.com/reader/>.

## Paper Filing

-  You must receive permission from the court before you can file in paper.
-  Some instructions, and some forms, are different if you are filing in paper rather than electronically.
-  Whenever you file a paper at the clerk of court office, you must deliver a copy of that paper to the other party or the other party's attorney. You should also keep a copy for yourself. The only **exception** is the Confidential Information Form (403): *Do not give a copy of that form to the other party.*
-  Because your child custody and visitation case will become a public case when the judge signs the final Decree, it is critical that you understand and know your responsibility for these two things:
  - **What information is protected (or may or should be kept private);** and
  - **How to redact (or remove) protected information** from the papers (or legal documents) that you file in your case.
-  Be sure to print clearly when filling in paper forms.

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## I. Iowa Child Custody and Visitation Forms for Unmarried Self- Represented Parties with Children

Before using any Iowa court forms listed below, read this Guide, including part IX: “Iowa Court Expectations of Parents in a Child Custody and Visitation Case” and part X “Tips on Handling Your Own Case in Iowa’s Courts.”

Forms a **Petitioner** can use to start the child custody and visitation process:

|        |  |
|--------|--|
| ➤ 401  | Petition for Custody and Visitation (Parents not Married).   |
| 📄 402  | Coversheet for a Petition for Custody and Visitation (Parents not Married). <b>Use only if filing in paper; not for electronic filing.</b>   |
| 📄 403  | Confidential Information Form. <b>Use only if filing in paper; not for electronic filing.</b> Each party filing in paper must provide the clerk of court personal identifying information on this form, which will be kept confidential.   |
| 🖨 404  | Original Notice for Personal Service. <b>Use only if filing electronically; not for paper filing. Note:</b> For electronic filing, a clerk of court signature page will be added to the Original Notice form when the clerk approves the Original Notice. Page numbering on the form has been adjusted to account for the addition of this page in electronic filing.  |
| 📄 404a | Original Notice for Personal Service. <b>Use only if filing in paper; not for electronic filing.</b>   |
| ➤ 405  | Acceptance of Service of Original Notice. <i>Petitioner completes the top part of this form; Respondent completes the bottom part and returns the form to Petitioner for filing.</i>   |
| ➤ 406  | Directions for Service of Original Notice  |
| ➤ 407  | Motion and Affidavit to Serve by Publication. <i>Use this form if you cannot find the other parent to serve a copy of the Petition (401) and Original Notice (404) by mail or in-person.</i>   |
| ➤ 408  | Original Notice by Publication. <i>Use this form if you cannot find the other parent to serve a copy of the Petition (401) and Original Notice (404 or 404a if filing in paper) and a judge has signed an Order allowing you to publish the Notice in a newspaper. Note:</i> For electronic filing, a clerk of court signature page will be added to the Original Notice form when the clerk approves the Original Notice. Page numbering on the form has been adjusted to account for the addition of this page in electronic filing. |
| ➤ 408a | Proof of Service by Publication. <i>Use this form only if you also used forms 407 and 408.</i>   |
| ➤ 409  | Application and Affidavit to Defer Payment of Costs. <i>Optional: Use this form if you cannot afford to pay the court filing fees. Note:</i> If using this form, it must be filed <b>before</b> the Petition and Original Notice can be filed. If the judge approves the Application and Affidavit to Defer Payment of Costs (409), then Petitioner can file the Petition (401) and Original Notice (404 or 404a).   |
| ➤ 410  | Affidavit of Service of Original Notice and Petition for Custody and Visitation. <i>Use if someone other than Petitioner, a sheriff, or process server delivers a copy of the Petition (401) and Original Notice (404 if filing electronically; 404a if filing in paper) to Respondent.</i>  |
| ➤ 411  | Protected Information Form. <i>Electronic filers use this form to identify the complete version of any protected information or other information redacted in documents filed. It is recommended that paper filers do the same.</i>  |
| ➤ 425  | Affidavit of Mailing Notice. <i>Petitioner must file this if he or she served Notice by Publication in a newspaper and asks the court for a child custody and visitation Decree by default.</i>  |

**Continued on next page**

Chapter 17 forms a **Respondent** can use to file an Answer to the Petition:

|       |   |
|-------|---|
| ➤ 411 | Protected Information Form. <i>Electronic filers use this form to identify the complete version of any protected information or other information redacted in documents filed. It is recommended that paper filers do the same.</i> |
| ➤ 415 | Answer to Petition for Custody and Visitation (Parents not Married). <i>Use this if Petitioner uses form 401.</i>   |
| ➤ 416 | General Answer. <i>Use this if Petitioner does <b>not</b> use form 401.</i>   |

Chapter 17 forms either **Petitioner** or **Respondent** can use to get a final child custody and visitation Decree:

|       |  |
|-------|--|
| ➤ 421 | Affidavit for Temporary Custody and Visitation. <i>Use this form if you are a parent and you want to tell the court about custody and visitation. Use this form if one of the parents asked you to tell the court about custody and visitation before the case is finished.</i>                            |
| ➤ 422 | Motion. <i>Optional: use this to ask a judge to take some action in your case.</i>   |
| ➤ 423 | Response to a Motion. <i>Use this if the other parent files a Motion (422) and you disagree with something the other parent is asking for in the Motion.</i>   |
| ➤ 424 | Financial Affidavit. <i>Each party (Petitioner and Respondent) must fill in and file one of these. If Respondent does not fill one in, Petitioner can get a final Decree by default.</i>   |
| ➤ 426 | Notice of Intent to File a Written Application for Default Decree. <i>Petitioner uses this if Respondent has not filed an Answer to the Petition and the Petitioner wants to ask the court for a final Decree.</i>   |
| ➤ 427 | Request for Relief in a Custody and Visitation Case. <i>If Petitioner is getting a final Decree by default, only Petitioner fills this in and files it. If the parties will be going to trial to get a final Decree, each party should fill in and file one of these.</i>                                  |
| ➤ 428 | Settlement Agreement for Custody and Visitation. <i>Use this if both parties agree on child custody, child support, and terms of visitation.</i>   |
| ➤ 429 | Agreed Parenting Plan. <i>Parents who can agree on what they want for child custody and visitation use this to tell the court where they want the children to live and where the children will spend holidays. The parties (Petitioner and Respondent) fill out one of these and both parents sign it.</i> |
| ➤ 430 | Proposed Parenting Plan. <i>Parents who do not have an Agreed Parenting Plan use this to tell the court where they want the children to live and where the children will spend holidays. Each party (Petitioner and Respondent) must fill out one of these.</i>  |





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## II. How to Begin a Child Custody and Visitation Case

### A. Petitioner must fill in and sign the forms required to start the child custody and visitation process.

- Carefully read the specific instructions on each form. Some forms are different if you are filing in paper rather than electronically. If you do not understand something, you should contact an attorney. *Do not contact court staff about how to fill out forms.*
- Type or print clearly on each form. You should use a **blue ink** pen (if possible) to sign each form that requires a handwritten signature.

Here is a list of the forms a self-represented Petitioner **must** use to start the child custody and visitation process:







|  |  |
|--|--|
| ➤ 401  | Petition for Custody and Visitation (Parents not Married).   |
|  402  | Coversheet for a Petition for Custody and Visitation (Parents not Married). <b>Use only if filing in paper; not for electronic filing.</b> |
|  403  | Confidential Information Form. <b>Use only if filing in paper; not for electronic filing. Do not give a copy to the other parent.</b>      |
|  404  | Original Notice for Personal Service. <b>Use for electronic filing only.</b>   |
|  404a | Original Notice for Personal Service. <b>Use for paper filing only.</b>  |



The clerk of court in your county can tell you what the filing fee will be. If you believe you cannot afford the court filing fee, the court might allow you to postpone your payment of the fee. To ask the court to postpone (defer) payment of the filing fee, fill in and file form 409.

|       |  |
|-------|--|
| ➤ 409 | Application and Affidavit to Defer Payment of Costs. <i>Optional: Use this form if you cannot afford to pay the court filing fees.</i> |
|-------|--|










### B. Filing your case.

#### Filing your case electronically.

-  You must register to electronically file. For help with registration, see the eFile User Guide “How to Register Pro Se (Self Represented) for eFiling.”
-  After you have registered, log in to the electronic filing system at <https://www.iowacourts.state.ia.us/EFile/> to electronically file your child custody and visitation case.
-  For help electronically filing your case, see “How to File a New Case” at [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).
-  If you are unable to proceed electronically, you must receive permission from the court to file in paper. Contact the clerk of court in the county where the petition will be filed for more information on being excused from electronic filing.
-  With your Petition (401), you must also file an Original Notice (form 404) and a Protected Information Disclosure (form 411) with the full version of any protected information or other information you have redacted or omitted from the Petition.
-  If filing electronically, you will receive a Notice of Electronic Filing when the clerk of court has approved the filing of your Petition.

-  Log in to your eFile account and download and print your Petition, Original Notice, and Protected Information Disclosure so that you can serve (deliver them to) the other parent.
-  For help finding and downloading your Petition, Original Notice, and Protected Information Disclosure, please see the “My Filings Reference Guide” at: [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).

### **Filing your case in paper.**

-  You must proceed electronically unless you have received permission from the court to file in paper.
-  With your Petition, you must also file a Petition Cover Sheet (form 402), an Original Notice (form 404a), and a Confidential Information Form (form 403). It is also recommended that you file a Protected Information Disclosure (form 411) with the complete version of any protected information or other information that you have redacted or omitted from the Petition.
-  Forms 401 and 404a and, if applicable, 411: Make **two** copies if you can deliver copies of these forms to the other parent in-person or by mail. Make **three** copies if you are going to ask the county sheriff or a civil process server to deliver these forms to the other parent.
-  Forms 402 and 403: You do **not** have to make photocopies of these forms.  
*Note about making photocopies:* You should make your photocopies before you go to the courthouse to file your papers. It is expensive to make photocopies at the clerk of court office. It is cheaper to make the copies at a business that makes photocopies or at a public library.
-  Take the original forms you filled in and the photocopies to the clerk of court office in your county. Tell the clerk at the counter you are filing a Petition for Custody and Visitation (Parents not Married).
-  Give the clerk at the counter the original forms and the photocopies of these forms:
  - 401 Petition for Custody and Visitation (Parents not Married)
  - 402 Coversheet for a Petition for Custody and Visitation (Parents not Married)
  - 403 Confidential Information Form (*Do not make copies of this form.*)
  - 404a Original Notice
  - 411 Protected Information Disclosure, if applicable
-  Pay the filing fee, or file form 409. (*See above.*) The clerk at the counter can tell you the amount of the filing fee. *See the term “Fees” in part VII of this Guide for a list of the fees you might have to pay during the child custody and visitation process. The Iowa legislature sets these fees and periodically raises them, so check with the clerk’s office to confirm the current filing fee.*
-  The clerk of court will sign the Original Notice (form 404a). You will have to serve this form on (deliver it to) the other parent. (*See section C, below.*)
-  The clerk at the counter will time-stamp each of the copies (original and photocopies).

**C. Serve (deliver) the Original Notice (form 404 if filing electronically; form 404a if filing in paper), a copy of the Petition (form 401), and, if applicable, the Protected Information Disclosure (form 411) and the Application and Affidavit to Defer Costs (form 409) and the Court’s Order approving that Application on the other parent.** (See the definition of “Serve (Service)” on page 26.)

➤ **For both paper and electronic filers:**

- **Important:** Petitioner has **90 days** after filing the Petition to serve the Petition on Respondent (the other parent). If Petitioner fails to meet this deadline the case will be dismissed.
- **If you know where the other parent is,** you have three options for completing service:



- **Service Option 1:** You can hand the forms to the other parent yourself, or send the forms to the other parent by regular mail. You must also get the other parent to sign an “Acceptance of Service” (form 405; see below). After the other parent signs the Acceptance of Service form, you must meet the requirement for “proof of service” by:

- 🖨 If filing electronically:

- 🖨 File the Acceptance of Service form through EDMS.

- 🖨 For help, See “How to eFile to an Existing Case” at [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).

- 📄 If filing in paper:

- 📄 Make a photocopy of the Acceptance of Service form for your records; and

- 📄 Take the original Acceptance of Service form (the one the other parent signed) to the clerk of court office for filing.

|       |  |
|-------|--|
| ➤ 405 | Acceptance of Service of Original Notice. <i>Petitioner uses this when Petitioner personally delivers the Original Notice and a copy of the Petition to Respondent and Respondent is willing to sign the “Acceptance of Service” form.</i> |
|-------|--|

- **Service Option 2:** You can ask the county sheriff or other civil process server to serve the forms on the other parent. **Note:** If you are using this service method and you filed an Application and Affidavit to Defer Costs (form 409), and the court approved it, you *must* have the county sheriff serve form 409 and the Order approving deferral and all other papers, as the county sheriff will defer the service costs, but a civil process server will not.

If you choose option 2, you must fill in two forms: 404 (if filing electronically) or 404a (if filing in paper), and 406 (see below).

|       |   |
|-------|---|
| ➤ 406 | Directions for Service of Original Notice. <i>Use this if you know where the other parent lives or works, but you want the county sheriff or other civil process server to deliver the child custody and visitation Petition (form 401) and Original Notice (form 404 or form 404a if filing in paper) to the other parent.</i> |
|-------|---|

- Give the county sheriff or other process server **two** copies of the:
  - Original Notice (form 404 or 404a)
  - Petition (form 401)
  - Directions for Service (form 406)
  - Protected Information Disclosure (form 411), if applicable.
  - Application and Affidavit to Defer Costs (form 409) and the court’s order approving that Application, if applicable.
- Tell the sheriff or process server to deliver the Original Notice, Petition, Protected Information Disclosure, and other forms (if applicable) to the other parent.
- The sheriff or other process server will file the “proof of service” with the clerk of court after you pay the service fee. If the court granted your Application to Defer Costs (form 209), the county sheriff *must* be the one who delivers the forms to the other parent, as the county sheriff will defer the service costs, but a civil process server will not.
- **Service Option 3:** You can have another person who is not a sheriff or process server deliver the papers to the other parent. If a person other than you, a sheriff, or a process server delivers a copy of the Petition and Original Notice (and other forms, if applicable) to the other



parent, that person must fill out an Affidavit of Service of Original Notice and Petition for Custody and Visitation (Parents not Married) (form 410), and either you or that person must file the Affidavit with the clerk of court soon after the papers were delivered to the other parent.

|     |  |
|-----|--|
| 410 | Affidavit of Service of Original Notice and Petition for Custody and Visitation (Parents not Married). <i>Use if someone other than Petitioner, a sheriff, or process server delivers a copy of the Petition (form 401) and Original Notice (form 404 if filing electronically; form 404a if filing in paper) to Respondent.</i> |
|-----|--|







- **If you do not know where the other parent is**, you can ask the court for permission to give notice to the other parent by publication in a newspaper.
  - A court will give a Petitioner permission to give notice by publication in a newspaper only if Petitioner has tried several ways to find the Respondent. Some steps you can take to find the other parent include:
    - Contacting the other parent’s parents, brothers, sisters, friends, former employer, or people she or he used to work with.
    - Checking local or area phone books, or phone books where you think the other parent might be living.
    - Searching for the other parent using internet-based search engines or social media. If you do not know how to do this, go to your local library and ask a librarian for help.
    - Contacting an attorney to help you.
    - If you cannot find the other parent, you should mail a copy of the Original Notice (form 404), the Petition (form 401), and, if applicable, the Protected Information Disclosure (form 411) to the other parent’s last known address. You **must** do this to get a Decree by default. (See part **VI.A** and form 425 below.)
  - If you cannot find the other parent after taking these steps, you can ask the court for permission to serve notice by publication in a newspaper. To do this, you **must** file form 407.

|       |  |
|-------|--|
| ➤ 407 | Motion and Affidavit to Serve by Publication. <i>Use this if you cannot find the other parent. With this form you will ask the court’s permission to serve Notice by Publication in a newspaper.</i> |
|-------|--|

 **If filing form 407 electronically:**

-  Electronically file your Motion and Affidavit to Serve by Publication, using the How to eFile to an Existing Case document as your guide.
-  When you receive the Notice of Electronic Filing that your Motion has been approved, print and mail a copy of the motion to the other parent’s last known address.

 **If filing form 407 in paper:**

-  Make two photocopies of the form.
-  Take the original and both copies to the clerk of court office.
-  The clerk at the counter will time-stamp the original and photocopies.
-  The clerk will keep the original and give the copies back to you.
-  Mail one copy of the form to the other parent’s last-known address.
-  Keep one copy for your records.

- The court might schedule a hearing on your Motion and Affidavit. You will receive notice of the date and time for the hearing. You must attend the hearing. Follow the advice in part **X** *Tips on Handling Your Own Case in Iowa's Courts*.
- **Note:** Using form 407 does not guarantee that a judge will let you serve notice by publication in a newspaper.
- If the judge signs an Order allowing you to publish the Notice in a newspaper, you should fill out a Notice by Publication (form 408) and take it to a newspaper. After you take the Notice to the newspaper, promptly mail a copy of the Notice, the Petition, and the Protected Information Disclosure to Respondent's last-known mailing address.

|       |   |
|-------|---|
| ➤ 408 | Notice by Publication. <i>Use this if you cannot find the other parent to deliver a copy of the Petition (form 401) and Original Notice (form 404 or 404a if filing in paper), and a judge has signed an Order allowing you to publish the Notice in a newspaper.</i> |
|-------|---|

- **Important:** You must closely follow the instructions for form 408 to publish the Notice by Publication in the newspaper.
- If you served Notice by Publication in a newspaper (form 408), you *must* also file an Affidavit of Mailing Notice (form 425).

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### III. What to do if the Other Parent has Filed a Petition for Custody and Visitation and You have Received the Legal Papers

#### A. Carefully read the papers served on you (a child custody and visitation Petition and Original Notice).

- It is important to read the papers carefully to understand what the other parent (**Petitioner**) is asking for in the Petition.
- You (**Respondent**) might also receive other papers (court “orders”) filed in your case that tell you things you must do as part of the custody and visitation process. Examples of these orders are:
  - Setting the date for the pretrial conference;
  - Requiring each party to give financial or other information to the other party; or
  - Requiring attendance at mediation (in some counties).
- Even if the Petitioner is not represented by an attorney, you may still talk to or hire an attorney to help you with the legal process.
- 🖨 You are required to register and electronically file your Answer and other documents using the Electronic Document Management System (EDMS). See “How to Register Pro Se (Self Represented) for eFiling” at [http://www.iowacourts.gov/wfData/files/EDMS/OnlineDocumentation/HowtoRegisterProSe\\_SelfRepresentedeFiler.pdf](http://www.iowacourts.gov/wfData/files/EDMS/OnlineDocumentation/HowtoRegisterProSe_SelfRepresentedeFiler.pdf). See the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at: <https://www.legis.iowa.gov/docs/ACO/CR/LINC/01-31-2017.chapter.16.pdf>.
- 🖨 In exceptional circumstances, you may apply for and be granted an exemption or be excused from electronic filing requirements. Contact the clerk of court in the county where the Petition was filed for information on exemptions.
- 🖨 Whenever you electronically file a document in your case, EDMS will serve a copy of that document on the other registered parent or the other parent’s attorney. The Notice of Electronic Filing will indicate if the other is exempt from the electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on the other parent if he or she does not have an attorney.





#### B. Filing your Answer to the Petition.

- Within **20 days** after receiving a copy of the Petition and Original Notice, you must file an Answer to the Petition with the court. If you fail to file an Answer within 20 days, the court may grant a child custody and visitation Decree without your input.
- Carefully read the specific instructions on each form for how to fill them in. If you still do not understand something after reading the instructions, you should contact an attorney.
- Respondent must use one of these forms to answer the Petition:







|       |  |
|-------|--|
| ➤ 415 | Answer to Petition for Custody and Visitation (Parents not Married). <i>Use this to file an Answer if you received Petition form 401 from the other parent (Petitioner).</i> |
| ➤ 416 | General Answer. <i>Use this if you received a child custody and visitation Petition from the other parent, but it was <b>not</b> form 401.</i>                               |

- Decide which form you need. Then do the following:
  - Fill out the form.
  - Sign the form.

 **Filing your Answer electronically** (if the Petition was filed in a county that uses EDMS).

-  Scan the signed form and save it as a .pdf. Save it in a place that will be accessible to you when you electronically file.
-  Log on to EDMS and file your Answer. For Help, See “How to eFile to an Existing Case” at: [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).
-  EDMS will notify you when your Answer has been filed. You can then open the Answer and print a copy for your records. If there was a problem with your filing, EDMS will send you a Retraction Notice. You can then log in to My Filings, correct the error, and resubmit your Answer. For help, See “How to Resubmit a Returned Filing” at: [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).
-  The Notice of Electronic Filing will indicate if the other parent is exempt from electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on the other parent if he or she does not have an attorney.

 **Filing your Answer in paper:**

-  Make two photocopies of the original.
-  Take your original Answer form and the photocopies to the clerk of court office in the county where the Petition was filed. (The county is listed at the top of the Petition form.)
-  The clerk will time-stamp your forms and copies.
-  The clerk will take the original one and give the copies back to you.
-  Keep one of the copies for your records.
-  Serve one of the copies of your Answer on the other parent, or if the other parent has an attorney, on the other parent’s attorney, by mail or in person.

**Continued on next page**

#### IV. Children in the Middle Course

- Iowa law requires that parents with children must attend a course on the effects any legal action involving issues of child custody or visitation has on children before the court will enter a final Decree.
- Within forty-five days of the service of original notice, each parent must take the **Children in the Middle** class.
- You can find information on this class and the location in your area under Representing Yourself in the Divorce/Family Law section of the judicial branch website:  
[http://www.iowacourts.gov/For\\_the\\_Public/Representing\\_Yourself\\_in\\_Court/DivorceFamily\\_Law/Children\\_in\\_the\\_Middle/](http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/DivorceFamily_Law/Children_in_the_Middle/).
- You can also ask the clerk of court about the class.

#### V. What You Should do After a Petition for Custody and Visitation is Filed but Before a Court Enters a Final Decree

##### A. Forms that may be used

- Here is a list of forms that either Petitioner or Respondent can use during the period after a Petition for Custody and Visitation is filed to complete the steps necessary to get a final Decree.

|       |  |
|-------|--|
| ➤ 421 | Affidavit for Temporary Custody and Visitation. <i>Use this form if you are a parent and you want to tell the court about custody and visitation. Use this form if one of the parents asked you to tell the court about custody and visitation before the case is finished.</i>                            |
| ➤ 422 | Motion. <i>Use this to ask the court to do something in your case or to ask for temporary support, custody, or visitation during the case (optional).</i>  |
| ➤ 423 | Response to a Motion. <i>Use this if the other parent filed a Motion (form 422) and you disagree with something the other parent is asking for in the Motion.</i>  |
| ➤ 424 | Custody and Visitation Financial Statement. <i>Each party <b>must</b> fill out and file one of these forms (required).</i>   |
| ➤ 425 | Affidavit of Mailing Notice. <i>Petitioner <b>must</b> file this if he or she served Notice by Publication in a newspaper and asks the court for a Decree by default.</i>  |
| ➤ 426 | Notice of Intent to File a Written Application for Default Decree. <i>Petitioner uses this form if Respondent is "in default," which means he or she has not filed an Answer to the Petition and Petitioner wants to ask the court to sign a final Decree.</i>   |
| ➤ 427 | Request for Relief in Custody and Visitation Case. <i>Either party can use this. Usually the Petitioner uses this if the Respondent has not filed an Answer to the Petition and the Petitioner wants to move forward and ask the court to sign a final Decree.</i>   |
| ➤ 428 | Settlement Agreement for Custody and Visitation. <i>Use this if both parties agree on issues of custody, visitation, and child support.</i>  |
| ➤ 429 | Agreed Parenting Plan. <i>Parents who can agree on what they want for child custody and visitation use this to tell the court where they want the children to live and where the children will spend holidays. The parties (Petitioner and Respondent) fill out one of these and both parents sign it.</i> |
| ➤ 430 | Proposed Parenting Plan. <i>Parents who do not have an Agreed Parenting Plan use this to tell the court where they want the children to live and where the children will spend holidays. Each party (Petitioner and Respondent) must fill out one of these.</i>  |

**B. Things one or both parents can do after the filing of a Petition for Custody and Visitation to complete the steps necessary to get a final Decree. *Financial Affidavits* and *Parenting Plans* are required to be completed before a child custody and visitation case will be finalized.**

- You may file a **Motion** requesting the court to do something.

You or the other parent might need something that requires a temporary order from the court. For example, one of the parties might request temporary child support, temporary custody or visitation, or to pay attorney fees before the court enters a final Decree. If so, file a Motion (form 422) with the court to ask for what you want.

- If you're the other parent files a Motion, and you disagree with what the other parent is asking the court to do, you should fill out and file a Response to the Motion (form 423). This form allows you to tell the court that you disagree with the other parent's Motion.
- If your case is electronic, EDMS will send you a notice telling you the date, time, and location of the hearing.
- If your case is in paper, the clerk's office will mail you a notice telling you the date, time, and location of the hearing.
- You **must** go to the hearing. If you do not show up for the hearing, the court will not give you the things you request in your Motion.

- Complete and file a **Financial Affidavit** (form 424).

During the waiting period, each spouse can fill out, sign, and file a Financial Affidavit. Each party **must** complete a Financial Affidavit during the child custody and visitation process.

- Financial Affidavits give the court information about the parties' property, amount of debts, and income levels.
- The court will use this information to set or change child support.
- You will *not* get a final Decree until you complete the Financial Affidavit.

- Complete and file a **Settlement Agreement** (form 428).

If you and the other parent agree child custody, visitation, and support, you should complete and file a Settlement Agreement (form 428).

- Work together to fill out the Settlement Agreement.
- Sign and print the Agreement and proceed with the steps for filing electronically or in paper.





- You **must** fill out a **Parenting Plan** during the legal process. This gives the court information about your wishes for custody and visitation. You will not get a final decree until you complete a Parenting Plan.

- If both parents agree on custody and visitation, use form 229, **Agreed Parenting Plan**.
  - You must choose which parent has legal custody. This means making decisions about things such as medical care, education, extracurricular activities, and religious instruction.
  - You must choose which parent has physical care or whether the parents will share physical care. This means providing a home for and taking care of the child.
  - You and the other parent must agree on custody and visitation.
  - Work together to fill out and sign the form.



- If you and the other parent do not agree on custody and visitation, you must each fill out and sign separate **Proposed Parenting Plans**, form 430.
  - On form 430, the parent chooses who that parent wants to have legal custody. This means making decisions about things such as medical care, education, extracurricular activities, and religious instruction.
  - The parent chooses which parent has physical care or whether the parents should share physical care. This means providing a home for and taking care of the child.
- You might have to attend **educational or mediation programs**. The court may require you to attend a mediation session with the other parent. These requirements vary by judicial district, and you should carefully read all information you receive from the court or the clerk of court.

### C. Remember about filing documents:

#### If you are filing electronically

-  Scan the signed document and save it as a .pdf. Save it in a place that will be accessible to you when you electronically file.
-  Log in to EDMS and file the document at <https://www.iowacourts.state.ia.us/EFile/>. For Help, see “How to eFile to an Existing Case” at [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).
-  EDMS will notify you when your document has been filed. You can then open the document and print a copy for your records. If there was a problem with your filing, EDMS will send you a Retraction Notice. You can then log in to My Filings, correct the error, and resubmit your document. For help, see “How to Resubmit a Returned Filing” at: [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).
-  The Notice of Electronic Filing will indicate if the other parent is exempt from the electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on the other parent if he or she does not have an attorney.

#### If you are filing in paper

-  Make a photocopy for each person.
-  File the original document at the clerk of court office in the courthouse.

## VI. How to Get a Final Child Custody and Visitation Decree

- You and the other parent are not finished until a judge signs a final child custody and visitation Decree. A judge writes the final Decree.
- You can get a final Decree by: (A) default, (B) written agreement, or (C) trial.

### A. Decree by Default

- Petitioner can ask the court for a Decree by default if Respondent did not file an Answer by the deadline or has not participated in the legal proceedings.
- When and how Petitioner asks the court for a Decree by default depends on how Petitioner served notice on Respondent as set forth in **1** or **2** below:
  1. *Petitioner served Notice by Publication in a newspaper and Respondent did not file an Answer*



within **20 days** after the third (final) date of publication:

- In this situation, Petitioner can ask for a Decree by default by doing the following:
  - Filing a Motion (form 422) to set a hearing date. In the Motion, check item 1A(4) (“Set a hearing date for a Custody and Visitation Order by default”).

Or,

2. *Petitioner served the Original Notice and a copy of the Petition on Respondent (by mail, in-person, or by sheriff or process server), and Respondent did not file an Answer within **20 days** of service or filing of an Acceptance of Service (form 405) or Affidavit of Service (form 410).* The 20-day period starts on:

- The date the Original Notice (form 404 if filing electronically or form 404a if filing in paper) and a copy of the Petition (form 401) were served on Respondent by the county sheriff or other civil process server; or,
- The date Petitioner filed the Acceptance of Service (form 405) with the clerk of court; or
- The date an Affidavit of Service (form 410) was filed with the clerk of court.
- If Respondent did not file an Answer within the 20-day period, Petitioner can ask the court for a Decree by default but first must give Respondent a **10-day notice in writing**.
  - Petitioner must first give Respondent a **10-day notice in writing** that Petitioner intends to ask the court for a Decree by default. (Note: This 10-day notice requirement does not apply when notice was served by publication. See **A1** above.)
  - To give Respondent a 10-day notice, Petitioner must file a Notice of Intent to File a Written Application for a Default Decree (form 426) and serve a copy of this document on Respondent.
  - After Petitioner files a Notice of Intent to File a Written Application for a Default Decree (form 426) and it is served on Respondent, Petitioner must wait 10 days from the date of service *plus* 3 more days for mailing. If Respondent does not file an Answer within **13 days**, Petitioner can ask the court for a Decree by default.

➤ **To request a Decree by default:**

- Prepare a Motion (form 422) to set a hearing date. On the Motion, check item 1A(4) (“Set a hearing date for a Custody and Visitation Order by default”).
- File the Motion with the clerk of court and serve a copy of the Motion on Respondent.

➤ **After requesting a hearing date for a Decree by default:**

- 🖨 If your case is electronic, EDMS will send you a notice telling you the date, time, and location of the hearing.
- 📄 If your case is in paper, the clerk’s office will mail you a notice telling you the date, time, and location of the hearing.
- You **must** go to the hearing. If you do not show up for the hearing, the court will not give you a child custody and visitation Decree by default.



➤ **Before you go to the hearing:**

- Fill out and print a Proposed Parenting Plan (form 430).
- Fill out and print a Request for Relief (form 427). This form tells the judge that you want a final Decree and what you want in the Decree.

- Deliver one copy to the other parent.
  - Petitioner in **A1** (above) must mail a copy to the other parent's last-known mailing address.
  - Petitioner in **A2** (above) must deliver a copy to the other parent by mail or in-person.
- Bring the original forms with you to the hearing.
- Read part **X** in this Guide: *Tips on Handling Your Own Case in Iowa's Court*.
  
- **At the hearing:**
  - Be on time. Follow the advice in part **X**: *Tips on Handling Your Own Case in Iowa's Courts*.
    - 📄 If your case is in paper, give the judge the original copy of your Request for Relief (form 427) and Proposed Parenting Plan (form 430).
  - Respectfully ask the court to decide that the other parent is "in default."
  
- **After the hearing:**
  - If the judge determines that your case is ready for a Decree, the judge will fill out a final Decree and file it with the clerk of court.
    - 💻 If your case is electronic, you can log in to EDMS and print off a copy of your Decree.
    - 📄 If your case is in paper, the clerk of court will either give or mail a copy to you.



**Continued on next page**

## B. Decree by Written Agreements

- If you and the other parent agree on terms of custody, visitation, and child support, you can work together to prepare a Settlement Agreement (form 428) and an Agreed Parenting Plan (form 429). **Note:** Even with a Settlement Agreement and Agreed Parenting Plan, the court will review the terms of your Agreements and must approve the terms of your agreement before granting a final Decree. After you complete and file the forms, you should:
  - File a Motion for a hearing date on your Agreements.
  - Ask the clerk of court when a judge can meet with you about your Settlement Agreement and Agreed Parenting Plan. Because most courts have very busy schedules, it might be one week (or more) before you can meet with a judge. The clerk will tell you or mail you a notice with the date and time when you can meet with the judge.
- **Before you see the judge**, read part **X**: *Tips on Handling Your Own Case in Iowa's Courts*.
- **When you see the judge:**
  - Be on time. Follow the advice in part **X**: *Tips on Handling Your Own Case in Iowa's Courts*.
  - For your own reference, you should bring copies of your completed Financial Affidavit (form 424), completed and original Settlement Agreement (form 428) signed by you and the other parent, and the Agreed Parenting Plan (form 429) both you and the other parent have signed.
  - Be prepared for the judge to ask you questions about your Settlement Agreement and Agreed Parenting Plan.
  - The judge will review and must approve the terms of your Agreements before granting a final Decree.
- **After you see the judge:**
  - If the judge decides your case is ready for a Decree, the judge will fill out a final Decree and file it with the clerk of court.
    -  If your case is electronic, you will receive a Notice of Electronic Filing when your Decree is filed and ready for you to download and print.
    -  If your case is paper, the clerk of court will either give you a copy or mail a copy to you.

**Continued on next page**

### C. Decree by Trial

- If the other parent and you do not agree on how to settle your custody and visitation issues, ask the clerk of court how to schedule your case for trial. Follow the instructions of the clerk of court.
  
- **Before you go to court for the trial:**
  - Read part **X**: *Tips on Handling Your Own Case in Iowa's Courts*.
  - Prepare to tell the judge what you want.
  - Each party should complete and file a separate Request for Relief (form 427) and a Proposed Parenting Plan (form 430).
  
- **When you appear before the judge at trial:**
  - Be on time. Follow the advice in part **X**: *Tips on Handling Your Own Case in Iowa's Courts*.
  - For your own reference, you may want to bring copies of:
    - Your Request for Relief (form 427). Each spouse should have completed a Request for Relief.
    - Your Financial Affidavit (form 424). Each spouse should have completed a Financial Affidavit.
    - Your Proposed Parenting Plan (form 430). Each party should have completed a Proposed Parenting Plan.
    - Any other forms and papers you and the other parent filed with the clerk of court.
  - The judge will ask both Petitioner and Respondent questions about the issues you disagree about. The judge will make a final decision on arrangements for custody, visitation, and child support.
  
- **After the trial:**
  - The judge will fill out and file a final Decree with the clerk of court.
    -  If your case is electronic, you will find your signed and file stamped Decree in your case history in EDMS.
    -  If your case is in paper, the clerk of court will either give you a copy of your Decree or mail a copy to you.

## VII. One Thing You *Might* have to do After a Judge Signs the Decree

- If you will be changing the title to real estate, you should talk to an attorney. This is a complicated and very important step in the legal process. You want to be sure to do this correctly.

Continued on the next page

## VIII. Terms Used in the Child Custody and Visitation Process

**Acceptance of Service of Original Notice (form 405):** On this form Respondent can sign to acknowledge, or admit, receiving a copy of the custody and visitation Petition and Original Notice from Petitioner. Signing this paper does **not** mean Respondent agrees to anything that is in the Petition. (Note: the county sheriff or other civil process server does not need to serve the Petition and Original Notice if the Respondent signs this Acceptance of Service.)

**Affidavit of Mailing Notice (form 425):** This form tells the court that the person mailed a notice to the other party. Petitioner must use this form if he or she served Notice by Publication in a newspaper. Petitioner or Respondent must use this form if he or she asks the court for a final Decree by default.

**Affidavit of Service of Original Notice and Petition for Custody and Visitation (form 410):** Use this form if another person who is not a sheriff or process server delivered the Petition and Original Notice to Respondent.


**Affidavit for Temporary Custody and Visitation (form 421):** On this form a parent or someone else can tell the court about custody and visitation before the case is finished.

**Answer (form 415 or 416):** Respondent uses the Answer to respond to what Petitioner—Respondent's spouse—asks for in the Petition.

**Application and Affidavit to Defer Payment of Costs (form 409):** This form asks the court for an order to allow Petitioner to file the Petition without paying the filing fee or the costs of service at that time. You might be required to pay the fee or costs later.

**Cover Sheet (form 402):** This form is used only in nonelectronic cases (paper filing) and it identifies the type of lawsuit being filed (child custody and visitation). It must be completed and filed with the Petition (form 401).

**Confidential information:** Confidential information is personal information that should not be available to the public unless it is required by law or is material to the case. Documents filed in an action will be available to members of the public upon request once the case is final when the court has approved a Decree.

 The following information is considered confidential information in cases that are filed in paper:

- Social Security numbers
- Financial account numbers
- Full dates of birth
- Names of minor children
- Individual taxpayer identification numbers
- Personal identification numbers
- Other unique identifying numbers

**Confidential Information Form (403):** This form is used only in nonelectronic cases (paper filing). Iowa law requires all parties filing in paper to provide the clerk of court with complete personal identifying information on a Confidential Information Form. The clerk of court will keep this form confidential and separate from the case. This form is not a public record.

**Decree:** The document a judge signs that ends your child custody and visitation case. It will require you and the other parent to do certain things, including following child custody and visitation arrangements. By getting together with the other parent and completing a Settlement Agreement (form 428) and Agreed Parenting Plan (form 429), you can tell the judge what you both want the final Decree to say. The judge will review these agreements and determine the final terms of your Decree. If you and the other parent do not agree how to settle your issues, you can tell the judge what you want the final Decree to say by filling out and filing a Request for Relief (form 427) and Proposed Parenting Plan (form 430). The judge will always make the final decision on what the Decree will say.

Once a judge enters your Decree, papers filed during the action will be available to members of the public

upon request.

It is important that you understand what is meant by “protected information” (defined below) and how to “redact” (defined below) such information on the Protected Information Disclosure (form 411).

**Default:** A Default or Default Judgment is a ruling from the court that a party did not do something that was required during the case process. For example, the judge could enter a default judgment if Respondent did not file an Answer after receiving an Original Notice. Once the court enters a Default or Default Judgment, the court may then issue other orders, including a final Decree. Forms 426 and 427 can be used to get a “Decree by default.”

**Dependent adult child:** A child age 18 or older who still requires support from parents. For example, a child who is age 18 but is still in high school, or a child age 18 or older who is in college or is disabled and still needs support.

**Directions for Service of Original Notice (form 406):** This form gives information to the county sheriff or other civil process server on how and where to serve the Petition on Respondent. See “Serve (Service)” below.

**Discovery:** This is the process for parties to give each other information that explains the facts about your family, including details of income, debts, and information about the children. You may have to do this by answering questions or providing papers.

**Electronic Document Management System (EDMS):** This is Iowa’s Internet-based court system that allows parties to electronically file documents and receive filings from other parties and the court. Electronic filing is required, unless the court has granted one or both parties and exception from electronic filing, and special court rules apply to cases that are electronically filed. You must register to use EDMS. See the eFiling pages on the Iowa Judicial Branch website at <http://www.iowacourts.gov/> to request an account. The eFiling section of the judicial branch website contains Overview, Login, eFiling Forms, and Training Documents sections.

**Electronic filing (eFiling):** Electronic filing is the submission of documents through Iowa’s Internet-based court system (EDMS). With electronic filing, you do not take a paper to the courthouse to file it, unless you have applied for and have received an exemption (see definition below) from electronic filing.

**Encumbrance:** This is a general term for a charge against real estate and may include liens, mortgages, and other charges—such as special tax assessments—against real estate.

**Equity:** This term means fairness and justice. “Equity cases” usually include family law cases (divorce, child custody, and support) and real property issues, where a court must fairly divide property and responsibilities among the parties.

**Exemption:** All cases in the Iowa court system are presumed to be electronic. Under exceptional circumstances, a party may ask the court to be excused from registering to participate in EDMS and receive an exemption from proceeding electronically.

**Fees:** Money you must pay to the clerk of court when you file your Petition and at other times.

*Note: The fees listed below are set by the state legislature, which sometimes changes the fees.*

**1. Court fees** are paid to the clerk of court in the county where the case is filed.



**a.** Filing fee—to start a family law case (\$110). (Iowa Code section 602.8105(1)(c))

**b.** Court reporting fee—for each hearing in court (\$40). (Iowa Code section 625.8(2))

*Note on payment of court fees:* At the end of your case the court can determine, or the parties can agree, who will pay the fees. This would include the filing fee, court fees, service fees, and costs of things such as a subpoena or a deposition.

- 2. Service fees:** Money you must pay to a process server, such as the county sheriff, to serve the other party with an Original Notice. The amount varies by county.
- 3. Recording fee:** If your case includes a change of real estate title, the County Recorder charges a fee to enter your change of title to real estate.

**File:** This word has two meanings:

- 1. “To file”** a document is the act of giving the document to the clerk of court.
  -  In electronic cases, this means filing a document through EDMS. The system will stamp the date and time the document is submitted to the system and when the system generated a Notice of Electronic Filing.
  -  In paper, or nonelectronic cases, filing a document means handing the paper document to the clerk of court. The clerk will stamp on the document the date and time that the clerk received the document for filing.
- 2. “File”** (or “court file”) also means the folder(s) in which the clerk of court places the documents for a court case.

**Filer:** Any person or party who files a document with the court.

**Financial Affidavit (form 424):** This form provides information to the court about the parties’ property, debts, income, and expenses. Each party must complete a Financial Affidavit.

**Gross monthly income:** This is the total of your income before subtracting for anything else, such as taxes, retirement account contributions, health insurance, etc.

**Guardian ad litem:** A person, usually an attorney, appointed to look out for the interests of someone in a lawsuit. For example, a guardian ad litem might be appointed for a child or someone who is in prison.

**Iowa Rules of Electronic Procedure:** These are the rules in chapter 16 of the Iowa Court Rules that govern electronic filing, available on the Iowa Judicial Branch website. See Division VI of the chapter 16 rules about Protection of Personal Privacy. Your case will become public when the judge signs your final decree, so it is critical that you understand what information you must protect from public disclosure and how to redact it from documents you file in your case.

**Joint custody or joint legal custody:** This means both parents have equal legal rights and responsibilities toward the children. This includes such things as medical care, education, extracurricular activities, and religious instruction.

**Joint ownership:** When property is owned by more than one person.

**Joint physical care:** This means both parents have equal rights and responsibilities toward the children including shared parenting time with the children, maintaining homes for the children and, providing routine care for the children.

**Legal custody or custody:** This means a parent has rights and responsibilities toward the children. These rights include making decisions about medical care, education, extracurricular activities, and religious instruction.

**Lien:** This is a charge on specific property to cover a debt or obligation.

**Local rules:** Some Iowa judicial districts have local rules that must be considered while processing your case. You can find these local rules, if any, on the Iowa Judicial Branch website at:

[http://www.iowacourts.gov/About\\_the\\_Courts/District\\_Courts/](http://www.iowacourts.gov/About_the_Courts/District_Courts/).

When you get to this page, click on the judicial district for the county where your case is filed. For example: Johnson County is in “District 6,” and so you would click on “District Six” on the left side of the page. Then click on the “Local Rules” link underneath (if there is one).

**Minor child:** A child under the legal age of 18 years.

**Mortgage:** This is a charge on real estate for a debt owed. Both the mortgage and the debt are written papers and the mortgage has been filed with the County Recorder.

**Motion (form 422):** A filing in which one of the parties asks the court to order something to be done in a case. For example, a party might ask for temporary child support or to schedule a hearing.

**Motion and Affidavit to Serve by Publication (form 407):** This is a request for the court to let the party publish a notice in the newspaper that a case has been filed. This is used when a Respondent cannot be located. The person tells the court what they did to try to find the other person to serve the papers.

**Net monthly income:** This is the amount of income that you have available to spend after the deductions from your gross monthly income. Your net monthly income might be the net amount of your paycheck.

**Net value:** This is the amount of money something is worth after subtracting all liens, encumbrances, and mortgages from the fair market value. For example, if your car is worth \$5,000 and there is a lien of \$4,000 against it, then the net value is \$1,000.

**Notice of electronic filing:** This is the notice EDMS generates when you, the other party, or the court files a document in your case. EDMS serves (see the definition for “Serve (Service)” below) most case filings by means of the notice of electronic filing. The notice indicates who on the case was electronically served and who will need to be served by mail because of an exemption from electronic filing. Keep a copy of the notice of electronic filing for your records. The notice alerts you to log in to EDMS and look at the filings on your case, either in the Notification or the My Cases page for documents filed by other case parties and the court, or through the My Filings page for documents you filed. If you are Petitioner in your case, you find the Original Notice and Petition that you must serve on Respondent in your My Filings page of EDMS.

**Notice of Intent to File a Written Application for Default Decree (form 426):** Petitioner uses form 426 if Respondent is “in default,” which means he or she has not filed an Answer to the Petition, and Petitioner wants to ask the court to sign a final Decree.

**Order:** A document a judge signed that tells a party or both parties to do something.

**Original Notice for Personal Service (forms 404 and 404a):** An Original Notice is prepared and filed by Petitioner and signed by the clerk of court. Petitioner serves the Notice on the other party(Respondent) along with the Petition. This tells Respondent that Petitioner has filed a lawsuit on child custody and visitation matters.

**Original Notice by Publication (form 408):** An announcement in a newspaper telling Respondent that the other parent has filed a child custody and visitation petition.

**Paper filers:** Persons who have applied to the court and been granted an exemption from filing electronically.

**Parenting Plan (forms 429 and 430):** These forms are for parents to tell the court where they want the children to live, where the children should spend holidays, and other matters about the children.

**Party:** This refers to a person or business in a court case. In a child custody and visitation case, the two parents are the “parties” in the lawsuit.


**Petition (form 401):** The Petition is a document Petitioner files with the court to start a new court case. It gives the court information about the parties involved in the case, and it tells the court what Petitioner wants the court to do.

**Petitioner:** The person who files the Petition to start a family law or other civil case in court.

**Physical care:** This means providing a home for the minor child and includes taking care of the child.




**Pro se:** This is a Latin term (pronounced “pro-say”) that means “for or on behalf of oneself.” It is sometimes used to describe a person (a *pro se* party) who handles his or her own court case with little or no help from an attorney. A *pro se* party is also called a *self-represented* party or *self-represented litigant*.

 If you do not have an attorney, when you register to electronically file, you will pick “Registered Filer” as your category and be a “Pro se” filer.

**Process server:** This is a person, other than you, who personally delivers, or serves, a paper to the other parent. Often this process server is the county sheriff, but it may be another person who delivers legal papers. (See “Service (Service)” below.)

**Protected information:** Documents filed in a child custody and visitation case will be available to members of the public upon request once the case is final when the court has approved a Decree.

 Protected information is personal information that should be omitted or redacted from court filings and not be available to the public unless it is required by law or is material to the case. The following information is considered protected information:

- Social Security numbers
- Financial account numbers
- Full dates of birth
- Names of minor children
- Individual taxpayer identification numbers
- Personal identification numbers
- Other unique identifying numbers

**Protected Information Disclosure (form 411):** On this form filers will provide the complete version of protected information. It is not a public record.

**Redact (or Redaction):** To “redact” or “redacting” information means removing a portion of the information so that it cannot be traced to a particular individual. When you include personal information in a document you are filing, include only a portion of the protected or confidential information. For example: a child’s name will be redacted to include only initials; a birth date will be redacted to include only the year of birth; a financial account number will be redacted to include only the last four digits.

➤ While it is not required, the following information may be treated as protected or confidential, and thus redacted, without a judge’s order:

- Driver’s license number
- Information concerning medical treatments or diagnosis
- Employment history
- Personal financial information
- Proprietary or trade secret information
- Information concerning a person’s cooperation with the government
- Information concerning crime victims
- Sensitive security information
- Home addresses

**Registration:** You must register for an account to file electronically through EDMS. For help, visit the Iowa Judicial Branch website and see “How to Register Pro Se (Self Represented) for eFiling” at: [http://www.iowacourts.gov/eFiling/Training\\_Documents/](http://www.iowacourts.gov/eFiling/Training_Documents/).


**Request for Relief (form 427):** Use form 427 to ask the court to determine child custody and visitation matters if the other parent is not participating in the process. You tell the court what you want the terms of the Decree to be. The court considers this in a default Decree.

**Respondent:** The parent who receives the Petition for Child Custody and Visitation from the other parent,


who is Petitioner.


**Return of service:** On this form, the county sheriff or civil process server tells the court that Respondent has received a copy of the Petition and the Original Notice, or some other document.

**Self-represented party:** This refers to a person who handles his or her own court case with little or no help from an attorney. A self-represented party is sometimes called a *pro se* (pronounced “pro say”) party. “Pro se” is a Latin term that means “for or on behalf of oneself.”

 As a self-represented party, when you register to electronically file, you will pick “Registered Filer” as your category and be a “Pro se” filer.

**Serve (Service):** To give the other parent a copy of a form or document, like the Petition and Original Notice. Some papers must be given in-person and some papers can be sent by mail.

 After the Petition and Original Notice are personally served by the Petitioner, EDMS serves most papers by means of the Notice of Electronic Filing. Exceptions to electronic service are made for people who apply for and are granted an exemption from electronic filing by the court. See Rule 16.315 for rules on service of documents subsequent to the original notice.

 **Electronic service:** This is when EDMS serves a filed document on all registered case parties who have filed an Answer (if a self-represented party) or an Appearance (if an attorney).

➤ **Mailed service:** This is where a paper (legal document) is delivered through the mail to a party in a court case to that party’s last known address.

➤ **Personal service:** This is where a paper (legal document) is delivered to a party in a court case by a party, another person, a sheriff, or some other civil process server. See forms 405 (Acceptance of Service), 406 (Directions for Service), and 410 (Affidavit of Service).

**Settlement Agreement (form 428):** A paper with the final agreement between you and the other parent on how to settle your case. It is filed with the clerk of court and then given to the judge. The Settlement Agreement will include the details of custody and visitation arrangements.

**Subpoena:** (Pronounced “suh-peena.”) A document ordering a person to appear in court and give testimony. The court may impose a penalty on a person who fails to obey a subpoena without a good reason.

**Continued on the next page**

## **IX. Iowa Court Expectations of Parents in a Child Custody and Visitation Case**

*The judge in your case will expect each parent to act in the best interests of their children. This means that:*

1. Each parent will promote respect and affection for the other parent.
2. Each parent will permit and encourage communication between the other parent and the children.
3. Neither parent will interfere between the children and the other parent.
4. Each parent will allow the other parent reasonable telephone, email, and social media contact with the children.
5. Each parent will have access to information about the children including medical, educational, and law enforcement records.
6. Each parent will tell the other parent if the children suffer an illness or accident requiring medical care. The parents will share with each other the results of any routine medical or dental examinations.
7. Each parent will provide advance notice to the other parent about needed medical and dental care, and each will inform the other of any medical emergencies. Each parent will oversee the completion of homework assignments, studying for tests, music practice, and other extra-curricular activities while the parent has care of the children. Each parent will encourage the children to visit friends and to attend school, church, and social activities. Each parent will tell the other of any events involving the children.
8. The extra-curricular activities of the children will be mutually discussed and planned for each child in advance.
9. The religious activities of the children will be mutually discussed and planned for each child in advance.
10. Neither parent will post or allow to be posted any information about the children or pictures of the children on the internet without the other parent's prior, specific consent.
11. Each parent will allow the other parent to have the children with him or her for special family events such as weddings, funerals, reunions, or major anniversaries and birthdays (e.g. grandparent's 50th wedding anniversary or 50th birthday). The other parent will provide as much advance notice of special events as possible.
12. Each parent will keep the other advised of his or her current address and telephone numbers for residence and business, unless this is not required to protect a victim of domestic abuse.
13. If a parent takes a child out of town for more than two days, that parent will tell the other parent about the trip and give contact information.
14. Each parent will give the other advance notice of any out-of-country travel. Neither parent will unreasonably withhold consent or passports. The parents will give each other contact information, including where they will be during the travel.
15. Some of the children's activities may conflict with visitation schedules. When possible, schedules will be arranged to avoid conflict. The parents will change the children's scheduled care as needed due to the work schedule of either parent. The visiting parent still has to follow the court-ordered visitation schedule.

## X. Tips on Handling Your Own Case in Iowa's Courts

### A. Judges and court staff cannot give you legal advice.

- They cannot tell you whether you should file a case, what you should put in your papers, or what you should say or ask in court. Why? Because:
  - Judges and court staff must not take sides or appear to take sides in any case. It would be unfair for judges or court staff to give one person an advantage over another person in a court case.
  - If court staff gives you advice and it turns out to be wrong, you could lose your case.

### B. Court staff *cannot*:

- Tell you what you *should* do about *anything* involving your court case. They *cannot* tell you:
  - Whether you should file a specific paper.
  - What words or phrases you should use in a paper.
  - What persons you should file a lawsuit against.
  - How much money to ask the other party for.
  - What questions to ask witnesses or other parties.
  - Whether to appeal a judge's decision.
  - How to fill in a form for a person involved in a case.

**Exception:** If a person has a physical disability or cannot read or write, and the person explains the disability to a clerk, then the clerk may fill in the form. The clerk, however, must write down *only* the exact words provided by the person who requested help.






- Tell you the meaning of laws or court decisions.
- Perform legal research for a person involved in a court case.
- Predict the outcome of a case, a paper filed, or some other action in a case.

### C. Court staff *can*:


- Provide public information contained in: dockets, calendars, case files, indexes, and reports.
- Show or tell where to find laws or rules.
- *Identify approved court forms* that might meet the needs of a person who does not have an attorney.
- Answer questions about *where* to write in particular types of information on court forms, but *not what* words to use when filling in the forms.
- Define terms commonly used in court.
- Provide phone numbers for lawyer referral services.

### D. You *cannot* talk to the judge unless all parties and attorneys are present.

- You cannot communicate with the judge about your case by email or regular mail, unless you also send copies of your email or regular mail to the other people involved in your case at the same time.
- You cannot talk with the judge about your case by telephone or in-person unless all other parties are on the phone at the same time or in the same room together.

- This rule is important because it prevents a person or an attorney from giving information to a judge that the other side does not know about. This would be unfair to the other side.
- If you want to give the judge information you think is important for your case, or you want the judge to take some action related to a case,
  -  **If your case is electronic**, you must electronically file the document as a motion or application (whichever is correct), so that EDMS can notify all parties of your request.
  -  **If your case is in paper**, you must put the request in writing. (See approved Iowa court forms for examples of how to do this.)
    -  Make enough copies for you and all the other parties.
    -  Take the papers to the clerk of court office. The clerk will stamp each copy and keep one.
    -  Deliver a copy to each of the other parties or their attorneys. Keep a copy for yourself.



## E. Be prepared

- Keep copies of all the papers you file in court and the papers you get from the other party.
- Know what evidence you need to prove your case. If possible, ask an attorney what you need to do before you go to court and what to do at the court hearing.
- Bring papers and witnesses that will help you present your side of the case.
- Bring at least three copies of each document you want to use as evidence—one for you, one for the other party, and one for the judge.
-  If you are filing electronically, any document you plan to use as an exhibit at a hearing or trial can be submitted electronically using the Exhibit Submission event.
- **Remember to redact protected or confidential information from your exhibit submissions**, because they will become public documents when the judge signs your final Decree.
- If a witness refuses to come to court to testify, you can ask the court to issue a *subpoena* (pronounced “suh-peena”). It’s an order requiring a person to come to court. Be sure to ask the clerk’s office for a subpoena several days before your court hearing.
- Bring physical evidence, if there is any. This might include a canceled check, contract, or invoice. If your case involves damaged property, bring the damaged item or a photograph of it.

## F. Be on time

- If you are not in court when your case is called, and the other party is present, the judge might enter a judgment against you.
- If neither party is on time, your case might be skipped. You might have to wait until the very end of the court session that day before your case is called again. Or you might even have to come back on another day—possibly a few weeks later.

## G. Know and follow court rules

- Judges cannot make exceptions for people without attorneys. You could lose your case if you do not follow the correct procedures.
  -  When you electronically file a paper through EDMS, the system will serve that paper to the other party or (parties) or the other party’s attorney.
  -  The Notice of Electronic Filing will tell you who was served and whether you must send paper copies to anyone who is exempt from electronic filing.

- 📄 When you file a document in paper at the clerk of court office, you must mail or deliver a copy of that paper to the other party (or parties) or the other party's attorney. Always keep a copy for your records.

## H. Be courteous and respectful

- Make a good impression on the judge. A judge can hold a person "in contempt of court" for bad behavior. This could result in a fine or time in jail.
- Wait for your turn to speak. Do not interrupt the judge or the other party. If you interrupt others in court, the judge will stop you and instruct you to wait your turn.
- *Turn off your cell phone and other electronic devices when in court.*

## I. Dress appropriately

- You should wear business attire such as a suit, sport coat, dress, or dress slacks, if you can. Otherwise, wear nice, clean casual clothes and shoes. Remove your hat or cap while you are in the courtroom or in the judge's office.

## J. Speak loudly and clearly so everyone in the courtroom can hear you.

- Judges and the other parties in court need to hear the facts correctly. The judge needs to hear you clearly so that he or she can make a correct decision.

## K. If you cannot attend a court hearing or cannot be on time, you must inform the court.

- You must have a *very good reason* to reschedule any court hearing.
- To reschedule a hearing at the *last minute*, there must be an emergency. You should immediately call the clerk of court office where your hearing is scheduled.
  - Calmly explain your problem, and ask to reschedule the hearing or trial. Court staff will write down the request and contact the judge. The judge will decide whether your reason for changing the hearing or trial date is serious enough to grant your request.
  - Give the clerk your phone number where you can be contacted that day.
- If something very important comes up *two or more days before the hearing*, like a death in the family or an accident that puts you in the hospital, you must submit your request for a new hearing date or time in writing and file it with the clerk of court. In a custody and visitation case, use the family law Motion (form 422) to ask the court for a new hearing date.
  - Do this as soon as you know you need to reschedule the hearing.
  - It's more likely a judge will agree to your request if you get the other party to sign a written agreement to change the hearing time or date, and include it with your Motion for a new hearing date.
- 📄 If your case is electronic, file the motion using EDMS, and the system will serve your request to the other party.
- 📄 Attach the written agreement to your Motion as an "Attachment" and electronically file the Motion.
- 📄 The clerk will approve your Motion and then your request will automatically go to a judge for consideration.
- 📄 If your case is in paper, after you file the Motion at the clerk's office, deliver a copy of your request to the other party.
- 📄 The clerk of court will give your request to a judge for consideration.

- Because judges are busy, you probably will not get an answer right away.
- **Note:** If you do not show up for the trial at the time it is scheduled, and the other party does show up, the judge may enter a judgment in favor of the other party.

**End**