



# DANE COUNTY FAMILY COURT RESOURCE BOOKLET

---

*A collaborative project of Dane County's  
Family Court Counseling Service, Legal Resource Center,  
Court Commissioner Center, Child Support Agency  
and Volunteer Attorneys*

**[Dane County Courthouse](#)  
[215 S. Hamilton Street](#)  
[Madison, WI 53703](#)**

## **Children's Rights**

- The right to be treated as important human beings with unique feelings, ideas, and desires.
- The right to have a meaningful relationship with both parents.
- The right to express love, affection and respect for each parent.
- The right to know and appreciate what is good in each parent.
- The right to care and guidance from both parents.
- The right to know that their parents' decision to divorce was not their fault.
- The right to regular and consistent contact with both parents.
- The right to have a relaxed, secure relationship with both parents without being placed in the middle.
- The right to not be a source of argument between the parents.
- The right to focus on being a child and not be burdened by adult conflicts.

## **Parents' Responsibilities**

- The responsibility to acknowledge the importance of the child's access to both parents.
- The responsibility to support the child's healthy relationship with the other parent.
- The responsibility to protect the child from adult conflicts.
- The responsibility to achieve respectful and courteous communication with the other parent.
- The responsibility to notify the other parent regarding any emergencies concerning the child.
- The responsibility to be knowledgeable about their child's medical and mental health care needs.
- The responsibility to effectively address his or her own medical and mental health needs.
- The responsibility to keep the child safe, secure and happy.

# **Table of Contents**

Introduction.....	4
Commonly Used Acronyms in the Courthouse.....	5
Divorce Procedures.....	6
Divorce Flowchart.....	6
Starting the Action.....	6
Temporary Orders.....	7
120 –Day Waiting Period/Marital Settlement Agreements/Status and Pretrial Conferences.....	8
Final Hearing/Trial.....	8
Legal Issues in Divorce Actions.....	9
Maintenance/Family Support/Section 71 Payments.....	9
Property Division/Attorney Fees/GAL Fees.....	10
Legal Custody.....	11
Physical Placement.....	14
Parenting Plan.....	14
Third-Party Visitation.....	15
Child Support/Health Expenses/Tax Exemption.....	16
Arrears/Failure to Pay Support.....	18
Paternity Procedures.....	19
Voluntary Paternity Acknowledgment.....	19
Paternity Action to Establish Paternity.....	20
Genetic Testing Procedure.....	21
Paternity Issues Addressed by the Court.....	21
Court Orders.....	22
Enforcing Court Orders: Remedial Contempt.....	22
Changing Court Orders: Custody and Physical Placement.....	23
Permission to Move/Remove Children.....	24
Changing Court Orders: Family/Child Support and Maintenance.....	25
Domestic Abuse/Child Abuse/Harassment Restraining Orders.....	26
CHIPS (Children in Need of Protection or Services).....	27
Termination of Parental Rights.....	28
Guardian ad Litem (GAL).....	28
Capacity to Consent.....	28
Notice.....	29
Voluntary TPR.....	29
Involuntary TPR.....	29
Adoption.....	30
Officials and Agencies Involved in Family Court Cases.....	32
Community Services.....	36
Canopy Center Healing and Family Support Services (Formerly Parental Stress Center).....	37
Frequently Asked Questions.....	46
General FAQs.....	46
Divorce FAQs.....	50
Post-Divorce (or Post-Paternity) FAQs.....	52
FAQ by Kids (answered by Family Court Counselors).....	55
Appendix 1: Divorce Flowchart.....	56
Glossary of Common Legal Terms.....	57
Works Consulted.....	66
Parental Guidelines (Created by FCCS Staff).....	67

## **Introduction**

This booklet is designed as a resource for people involved in a family court process. Although it contains several state and county court statutes, it is not to be considered as legal advice. Also, it does not constitute an endorsement of any agency or course of action. Instead, it is designed to help people understand the legal process of obtaining a divorce through procedural explanations, resources for starting legal research, and contact information for organizations that can provide more assistance with family court matters.

If you need specific legal advice, it would be best to consult an attorney or review relevant Wisconsin statutes, such as Chapter 767 – Actions Affecting the Family, and other legal sources. Public libraries should have copies of the statute books or they can be accessed online at: <http://www.legis.state.wi.us/rsb/Statutes.html>

For more information on matters contained in this booklet, please contact the Dane County Legal Resource Center at (608-266-6316). The Legal Resource Center contains information on family law matters, including court-approved forms, and staff available to assist you with finding materials. Unfortunately, the staff is unable to give legal advice. If you would like to visit the resource center, it is located in Room L1007 of the [Dane County Courthouse](#) and it is open to the public from 8:30 a.m. to 4:30 p.m., Monday through Friday. It allows visitors to copy particular statutes or other information for \$.25 per page

**In reviewing the booklet, please be aware that the information contained is current as of January 1, 2012.** Efforts will be made to update this booklet as needed, but you are responsible for ensuring that relevant statutes, cases, state regulations or other legal authorities you cite in your case are the most current and up to date versions available. You may access the current version of many legal resources at the Legal Resource Center or online through the Wisconsin State Law Library's website at [www.wilawlibrary.gov](http://www.wilawlibrary.gov). If you need additional help finding current legal information online or in print, please contact the Legal Resource Center.

As you are reading through this booklet, you may encounter terms that are unfamiliar to you. Please check the glossary at the end of the book for the proper definition. Unless specifically noted, the room numbers for offices presented in this book are all in the Dane County Courthouse.

This book is not intended to cover all family court situations. If you still have questions about your specific family court situation, you can contact the Legal Resource Center for additional information or resource center staff can refer you to an agency that provides legal services, such as the State Bar of Wisconsin's Lawyer Referral and Information Service.

**This resource book is available for purchase at the Family Court Counseling Service (Rm 2030) or the Legal Resource Center (Rm L1007). It can be accessed online for free at <http://countyofdane.com/familycourtcounseling/>**



## **Commonly Used Acronyms in the Courthouse**

**CCB**=City-County Building

**CCC**=Court Commissioner Center

**COC**=Clerk of Courts

**CSA**=Child Support Agency

**DCF**=Department of Children and Families

**DCLRC**=Dane County Legal Resource Center

**FCAP**=Family Court Assistance Project

**FCCS**=Family Court Counseling Service

**FDS**=Financial Disclosure Statement

**FLAC**=Family Law Assistance Center

**MSA**=Marital Settlement Agreement

**PSB**=Public Safety Building

**SCR**=Supreme Court Rules

**TPR**=Termination of Parental Rights

**TRO**=Temporary Restraining Order

**VPA**=Voluntary Paternity Acknowledgment

**WSLL**=Wisconsin State Law Library

# **Divorce Procedures**

**NOTE:** This section is a general guide. For more information or answers about a particular divorce situation, you should consult an attorney. Also, there may be other people with specific knowledge in this area who can provide some additional legal information, such as the volunteers at the Family Court Assistance Project, Family Law Assistance Center, or other organizations listed in the “*Community Services*” section.

This section refers to divorce, the most common marital action, rather than legal separation or annulment. Most information about custody, support and property, however, is the same whether the action is for divorce, legal separation or annulment. Information on legal separation and annulment can be found in [Chapter 767 of the Wisconsin Statutes](#).

Forms for pursuing a divorce, legal separation, or annulment are available for a small fee at the Legal Resource Center (Rm L1007) or are available online. Question 8 in the **General FAQs** section provides information to help you find divorce forms online (with the exception of the Original Certificate of Divorce or Annulment, which is not online but can be picked up at the Clerk of Courts, Rm 1000). The Clerk of Courts (Rm 1000) also provides a free checklist with Dane County procedures for divorce. Many of the filing instructions, forms, and checklists can be downloaded from the Clerk of Courts’ Family Court Forms page at: <http://www.countyofdane.com/court/prepare/formFamily.aspx>

## ***Divorce Flowchart***

See [Appendix 1: Divorce Flowchart](#).

## ***Starting the Action***

A divorce action can be started in Dane County if one spouse has lived in Wisconsin for at least six (6) months and in Dane County for at least thirty (30) days immediately before filing. Wisconsin is a “no fault” state, meaning no one needs to be found at fault for breaking the marriage in order for the divorce to be granted. The only basis for divorce is that the marriage is irretrievably broken.

There are two ways to start a divorce action depending on whether both spouses are in agreement about the divorce or not. The first way is when both spouses are in agreement and both parties want a divorce. They can file together by submitting the “Joint Petition for Divorce and Confidential Petition Addendum.” They will be called “Joint Petitioners” and neither spouse will need to be served. This is known as a “Non-Contested Divorce.” A filing fee will need to be paid unless a fee waiver is obtained.

The second way to start a divorce is when only one spouse wants to file for the divorce. This spouse is the “Petitioner” and files a “Summons and Petition for Divorce and Confidential Petition Addendum.” The petitioner pays a filing fee unless he or she obtains a fee waiver and arranges for an authenticated copy of the summons and petition to be personally served to the other spouse. The other spouse who did not file is now called the “Respondent.” This is known as a “Contested Divorce.” The summons and petition must be served within 90 days of the filing date. If the petitioner has good reason to believe 90 days is not enough time, the petitioner could request one extension of 60 days from the court. See [Wis. Stat. §767.215\(4\)](#).

Although the petitioner must arrange for the summons and petition for divorce to be personally served, there are a limited number of options available. The respondent must be served by a sheriff's deputy, a private process server or someone other than the petitioner. If the summons and petition cannot be served on the respondent after diligent effort, the judge may permit service by publication in a newspaper in the area most likely to give notice of the divorce to the respondent. For an explanation of "reasonable diligence," please see the "Instructions for Service by Publication" on the Clerk of Courts' Family Court Forms website. There are several steps the petitioner must go through before publication of the summons and petition is permitted, including but not limited to attempting personal service at the last-known address of the respondent. For more information on publishing the summons and petition, obtain the "Service by Publication for a Divorce or Legal Separation" packet available at the Legal Resource Center for a small fee or online for free from the Clerk of Courts' Family Court Forms page at: <http://www.countyofdane.com/court/prepare/formFamily.aspx>

Additional information is available in video format in a series called "Moving On: A Guide to Pro Se Divorce" from The Dane County Bar Association Delivery of Legal Services Committee. There are three short videos intended to help self-represented parties understand and navigate the divorce process and the major legal concepts that will come up along the way. You can watch them at the Legal Resource Center (Rm L1007) or online at: <http://dcba.net/programs/MovinOn.html>

### ***Temporary Orders***

Many of the filing instructions, forms, and checklists can be downloaded from the Clerk of Courts' Family Court Forms page at: <http://www.countyofdane.com/court/prepare/formFamily.aspx>

A temporary order is an order by a judge or commissioner in effect before the divorce is finalized. While a divorce is still pending, a temporary order could address any issues that will be discussed at the final hearing, including but not limited to legal custody of children, periods of physical placement, child support, maintenance or family support, use of property, debt payments and attorney fees. Temporary orders are optional, and in some cases the parties are able to resolve issues between themselves without one. In other cases, the parties have reached their own agreement and would like to make that agreement the temporary order. They must file a "Stipulation for Temporary Order" ([Form FA-4127](#) without minor children, [Form FA-4126](#) with minor children). Both parties must sign the form before submitting it to the court. The court may review and approve the submitted stipulation without holding a hearing.

Either party may request that a temporary order hearing be held by filing an "Order to Show Cause and Affidavit for Temporary Order" ([Form FA-4129](#) without minor children, [Form FA-4128](#) with minor children) at the Court Commissioner Center (Rm 2000). For the current local practice on scheduling temporary order hearings, see ***Dane County Circuit Court Rule 402(4)***. The other party must be personally served with a copy of this document and any attachments a minimum of five (5) working days before the hearing, unless otherwise ordered. Each party must prepare a "Financial Disclosure Statement" ([Form FA-4139](#)) for the hearing and bring proof of his or her present income.

Once the paperwork has been filed, the parties participate in a temporary order hearing. At this hearing, the commissioner will listen to testimony from the parties, review exhibits and issue a temporary decision regarding the issues raised. If one of the parties who was present at the hearing disagrees with the commissioner's temporary order, he or she has the right to a new hearing (or "Trial de Novo") before the judge assigned to the case. In order to request a new hearing, that party must file a Motion for and Notice of New (De Novo) Hearing ([Form FA-4130](#)). According to Dane County Circuit Court Rule 402(5), the motion must be filed "within 15 days of the oral decision of the family

court commissioner or within 15 days of mailing of the written decision if the order was not orally given at the time of the hearing.” A copy of the Motion for and Notice of New (De Novo) Hearing and any attachments must be served on the other party. Use the Service Guide ([Form FA-5000](#)) to determine an appropriate method of service. The parties are required to comply with the commissioner’s order until it is revised by the judge.

### ***120 –Day Waiting Period/Marital Settlement Agreements/Status and Pretrial Conferences***

There is a statutory waiting period of 120 days that must pass before a divorce or legal separation trial can take place. The 120-day waiting period begins from service of the summons and petition or from the filing date of the joint petition. See [Wis. Stat. §767.335](#). Usually the waiting period cannot be waived since it is required by statute, although for some emergency reasons you could request an immediate trial. The judge will decide whether to waive the 120 days after the commissioner makes a recommendation. It is rare that the waiting period is waived. After the 120-day waiting period, the final divorce hearing is held.

During the 120-day waiting period, the parties attempt to reach a “Marital Settlement Agreement” or “MSA” ([Form FA-4150](#) without minor children, [Form FA-4151](#) with minor children). Either party may obtain the form, propose language, and send it to the other party for consideration in resolving the case. The MSA outlines all issues that must be addressed by the judge at the final hearing. If the parties reach a complete agreement, they should sign the MSA, complete a “Certificate of Divorce or Annulment,” and file the original of both documents with the Court Commissioner Center (Rm 2000). Once these two documents have been filed, the CCC will send a “Certificate of Readiness for Trial” to the judge advising that a short divorce hearing should be scheduled after the waiting period expires, as all issues have been resolved and the divorce will be stipulated.

If the parties cannot agree on all of the MSA issues, one of the parties must complete a Certificate of Divorce or Annulment and request a status conference ([Form FA-4132](#)). At the status conference the commissioner will talk with the parties to ascertain the disputed issues. The CCC will prepare a “Certificate of Readiness for Trial” to advise the judge to allocate the appropriate amount of time for the number of issues that will need to be decided at the final hearing. The judge may hold a pretrial conference before scheduling the case for trial.

### ***Final Hearing/Trial***

Both parties are required to appear at the final hearing/trial unless one party can prove non-residence in Wisconsin, service was made by publication or the court orders otherwise. If one of the joint petitioners or the respondent wants to attend the hearing by telephone or waive his or her right to appear, he or she must make a written request to the judge and send a copy to the other party. It is up to the judge to allow a party to appear by phone or to not attend at all.

At the final hearing, each party must submit a “Financial Disclosure Statement” (FDS, [Form FA-4139](#)) providing current income, expenses, assets and debt information as of the date of the trial. Some people may also want to take a copy of the “Findings of Fact, Conclusions of Law and Judgment of Divorce” ([Form FA-4161](#) without minor children and [Form FA-4160](#) with minor children) to their hearing. Even though the parties have thirty (30) days from the trial date to prepare the Findings of Fact, Conclusions of Law and Judgment of Divorce document, many people will complete this form the same day as both spouses need to sign it.



In stipulated or non-contested divorce cases, each party will testify that the marriage is irretrievably broken. Then the judge will review the MSA and use that document as the basis for the judgment of divorce. The final hearing for a stipulated divorce usually lasts approximately 15 minutes.

In contested divorce cases, the final hearing will be a trial at which the judge hears testimony from the interested parties, witnesses, and expert witnesses (such as property appraisers, accountants, family court counselors, psychologists, psychiatrists). During the hearing, the judge will also review exhibits. The trial may last several hours and the judge will make the final decision on all issues still contested by the parties. If one party disagrees with the judge's decision, he or she may appeal the decision to the Court of Appeals. If the affected party disagrees with the Appeals Court decision, he or she may try to appeal that decision to the Supreme Court of Wisconsin. The judgment of divorce will stand unless overturned by a higher court.

Whether the divorce is stipulated or contested, a Findings of Fact, Conclusions of Law and Judgment of Divorce ([Form FA-4161](#) without minor children, [Form FA-4160](#) with minor children) must be completed and signed by both parties, as mentioned above. The original, photocopies and copies of the MSA should be filed with the judge within thirty (30) days following the date of the final hearing, unless the judge orders otherwise. If no objection is received by the court within five (5) working days, the judge will sign the original and send copies back to the parties.

The Dane County Bar Association Delivery of Legal Services Committee's produced a series of short videos called "Moving On." These videos cover the divorce process, demonstrate what to expect during the hearing, and discuss major issues for custody and physical placement of minor children. Watch them at the Legal Resource Center (Rm L1007) or online at: <http://dcba.net/programs/MovinOn.html>



## **Legal Issues in Divorce Actions**

### ***Maintenance/Family Support/Section 71 Payments***

If one party seeks marital support payments from the other party, he or she must request "maintenance," which was formerly known as alimony. A court commissioner may order maintenance at the temporary order hearing, which may include payment towards the expenses and attorney fees incurred by the party. The judge may also order maintenance at the trial for a limited or indefinite period after considering:

1. The length of the marriage;
2. The age and physical and emotional health of the parties;
3. The division of property;
4. The educational level of each party at the time of marriage and at the time the action is commenced;

5. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for the children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment;
6. The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and if so, the length of time necessary to achieve this goal;
7. Tax consequences to each party;
8. Any mutual agreement made by the parties before or during the marriage, according to the terms of which one party has made financial or service contributions to the other with the expectation of reciprocation or other compensation in the future, where such repayment has not been made, or any mutual agreement made by the parties before or during the marriage concerning any arrangement for the financial support of the parties;
9. The contribution by one party to the education, training or increased earning power of the other;
10. Such other factors as the court may in each individual case determine to be relevant.

In regards to tax status, maintenance is tax deductible to the payer and taxable to the payee. (Before the divorce, there may be no tax effect.) If the payee remarries, the court must terminate maintenance upon application by the payer, with notice to the payee. Upon proof of remarriage, maintenance can be modified by the court.

Family support is a substitute for child support and maintenance. It is taxable to the recipient and deductible by the payer. The net family support payment (after taxes are paid) must be at least the amount that should have been paid as child support required by the child support percentage of income standard. Family support paid before divorce may have no tax effect. Section 71 payments, an alternate form of maintenance, are not ordered by the court unless the parties stipulate to such payment. Like maintenance, Section 71 payments are taxable to the payee and deductible by the payer. Section 71 payments cannot be modified by the court. The court will enforce maintenance, family support, and Section 71 payments through the contempt of court process.

### ***Property Division/Attorney Fees/GAL Fees***

If the parties cannot agree to a division of their personal property and real estate, the judge will divide the property based on overall value. Valuation of property is often the subject of testimony by expert witnesses. To achieve an equal division of property, the judge may award property to one party and a cash payment to the other party. Wisconsin presumes that all property other than property which a party receives as a gift or through inheritance should be divided equally, including property owned before the marriage. The judge may divide property unequally after considering the following factors, without regard to marital misconduct:

1. The length of the marriage;
2. The property brought to the marriage by each party;
3. Whether one of the parties has substantial assets not subject to division by the court;
4. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services;
5. The age, physical and emotional health of the parties;
6. The contribution by one party to the education, training or increased earning power of the other;

7. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage;
8. The desirability of awarding the family home or the right to live therein for a reasonable period to the party having physical placement for the greater period of time;
9. The amount and duration of maintenance payments or family support payments and whether property division is in lieu of such payments;
10. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests;
11. The tax consequences to each party;
12. Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution (which shall be binding upon the court, if the agreement is equitable);
13. Such other factors as the court may in each individual case determine to be relevant.

The judge would determine each party's liability for the payment of marital debts. Generally, creditors of each party take the position that debt incurred during the marriage is marital debt for which the parties are jointly liable. Even if the judge orders one party to pay certain debts after divorce, creditors may seek payment from the other party if the first party defaults or discharges the debt in bankruptcy.

Finally, the judge may order a party to contribute to the other party's attorney fees and divorce costs if the judge finds that one party needs a contribution and that the other party has an ability to pay. In that case, the judge will order each party to contribute to the payment of what are termed "Guardian ad Litem" (GAL) fees. Generally, the parties share the GAL fees equally, but a party can ask the judge to order a different contribution based on the circumstances of the case.

### ***Legal Custody***

Legal custody is defined as the party with the major decision-making authority for a minor child. Major decisions can include decisions regarding consent to marry, enter military service, obtain a motor vehicle operator's license, authorization for nonemergency health care and choice of school and religion. A child's legal custody will be determined by agreement of the parties or by decision of the court. If custody or physical placement is contested, a guardian ad litem (GAL), or an attorney certified to advocate for the best interest of the child, will be appointed by the court. Generally, the parties pay the GAL fees equally.

Wisconsin law presumes that joint legal custody is in the best interest of the child unless the court finds that a party has engaged in a pattern or serious incident of interspousal battery or domestic abuse based on a preponderance of the evidence. See [Wis. Stat. §767.41](#). The court may award sole legal custody to a party only if the court finds that doing so is in the child's best interest and that either of the following applies:

1. Both parties agree to sole legal custody with the same party.
2. The parties do not agree to sole legal custody with the same party, but at least one party requests sole legal custody and the court specifically finds any of the following:
  - One party is not capable of performing parental duties and responsibilities or does not wish to have an active role in raising the child.

- One or more conditions exist at that time that would substantially interfere with the exercise of joint legal custody.
- The parties will not be able to cooperate in the future decision making required under an award of joint legal custody. The court must consider any reasons offered by a party objecting to joint legal custody. Evidence of child abuse, interspousal battery, or domestic abuse creates a rebuttable presumption that the parties will not be able to cooperate in future decision making and that it is detrimental to the child to award joint or sole legal custody to the party.

The court may not give sole legal custody to a parent who refuses to cooperate with the other parent, if the court finds that the refusal to cooperate is unreasonable. However, if a party has engaged in a serious incident or pattern of interspousal battery or domestic abuse, the presumption that joint legal custody (or sole legal custody to that party) is not appropriate can be rebutted only by a preponderance of evidence indicating that:

- The party has successfully completed a certified treatment program for batterers and is not abusing alcohol or any other drug;
- It is in the best interest of the child for the party to be awarded joint or sole legal custody.

If the court finds that both parties engaged in a pattern or serious incident of inter-spousal battery or domestic abuse, the court must determine which party is the primary aggressor. A party who was convicted of a crime that was an act of domestic abuse will be found to be the primary physical aggressor. The presumption against joint or sole legal custody applies to this party. In making this determination, the court considers:

- Prior acts of domestic violence between the parties;
- The relative severity of any injuries in any of the prior acts;
- The likelihood of future injury to either of the parties resulting from acts of domestic violence;
- Whether either of the parties acted in self-defense in any of the prior acts;
- Whether there is or has been a pattern of coercive and abusive behavior between the parties;
- Any other factor the court considers relevant.

Alternatively, the court may determine that neither party was the primary physical aggressor. Then, the presumption against joint or sole custody to either party does not apply.

If the court is required to make a decision concerning custody, and/or physical placement, the court must consider all facts relevant to the best interest of the child. The court may not prefer one party over the other on the basis of sex or race. The court is required to consider all of the following factors:

1. The wishes of the child's parents, as shown by any agreement between the parties, any proposed parenting plan or any legal custody or physical placement proposal submitted to the court at trial;
2. The wishes of the child, which may be communicated by the child or through the child's GAL or other appropriate professional. It is important to note, however, that there is no statutory age at which a child may choose which parent they want to reside with until they are considered an adult at 18.
3. The interaction and interrelationships of the child with his or her parents, siblings, and any other person who may significantly affect the child's best interest;

4. The amount and quality of time that each parent has spent with the child in the past, any necessary changes to the parents' custodial roles and any reasonable life-style changes that a parent proposes to make to be able to spend time with the child in the future;
5. The child's adjustment to the home, school, religion and community;
6. The age of the child and the child's developmental and educational needs at different ages;
7. Whether the mental or physical health of a party, minor child, or other person living in a proposed custodial household negatively affects the child's intellectual, physical, or emotional well-being;
8. The need for regularly occurring and meaningful periods of physical placement to provide predictability and stability for the child;
9. The availability of public or private child care services;
10. The cooperation and communication between the parties and whether either party unreasonably refuses to cooperate or communicate with the other party;
11. Whether each party can support the other party's relationship with the child, including encouraging and facilitating frequent and continuing contact with the child, or whether one party is likely to unreasonably interfere with the child's continuing relationship with the other party;
12. Whether there is evidence that a party engaged in abuse of the child;
13. Whether any of the following has a criminal record and whether there is evidence that any of the following has engaged in abuse of the child or any other child or neglected the child or any other child:
  - A person with whom a parent of the child has a dating relationship;
  - A person who resides, has resided, or will reside regularly or intermittently in a proposed custodial household;
14. Whether there is evidence of interspousal battery or domestic abuse;
15. Whether either party has or had a significant problem with alcohol or drug abuse;
16. The reports of appropriate professionals if admitted into evidence;
17. Such other factors as the court may in each individual case determine to be relevant;

If the court finds that a parent has engaged in a pattern or serious incident of interspousal battery or domestic abuse, the safety and well-being of the child and the safety of the parent who was the victim of the battery or abuse shall be the paramount concerns in determining legal custody and periods of physical placement.

If a parent is a service member, the court may not consider as a factor in determining the legal custody of a child whether the service member has been or may be called to active duty in the U.S. armed forces and consequently is, or in the future will be or may be, absent from the service member's home.

In making an order of joint legal custody, the court may specify what decisions shall constitute "major decisions" for the child in addition to those specified under [Wis. Stat. §767.001\(2m\)](#). The court may also give one party sole power to make specified decisions, while both parties retain equal rights and responsibilities for other decisions. No party awarded joint legal custody may take any action inconsistent with any applicable physical placement order without court authorization.

If the interest of a child demands it and the court finds that neither parent is able to care for the child adequately or that neither parent is fit to have the care and custody of the child, the court may declare the child to be in need of protection or services and transfer legal custody to a relative, a county department or a licensed child welfare agency. The court must advise the parents of any applicable grounds for termination of parental rights.

## ***Physical Placement***

“Physical placement” means the condition under which a party has the right to have a child physically placed with that party and gives that party the right and responsibility to make routine daily decisions regarding the child’s care. One party may be awarded primary physical placement with the other party having periods of physical placement or the parties may be awarded substantially equal periods of physical placement.

In determining the allocation of periods of physical placement, the court must consider the same factors that determine legal custody. The court must establish a placement schedule that allows the child to have regularly-occurring, meaningful periods of physical placement with each parent, maximizes the amount of time the child may spend with each parent and one that takes into account the geographic separation and domestic accommodations for different households. The court must recognize that a child is entitled to periods of physical placement with both parents.

However, if the court finds that a party has engaged in interspousal battery or domestic abuse, the court shall provide for the safety and well-being of the child and the safety of the parent victim in any placement order. See [Wis. Stat. §767.41\(6\)\(g\)](#). The court must then impose one or more of the following:

- Require the exchange of the child to occur in a protected setting;
- Require supervised placement;
- Require the offender to pay the costs of supervised physical placement;
- Require the offender to complete a certified treatment program for batterers;
- Deny overnight placement to the offender;
- Require the offender to post a bond for the return and safety of the child;
- Require any other condition that the court deems necessary to the child’s safety and well-being, including prohibiting the offender from being under the influence of alcohol or any controlled substance when the parties exchange the child and from possessing or consuming alcohol or any controlled substance during his or her periods of physical placement.

The court cannot deny periods of physical placement to a party because the party failed to meet any financial obligation to the child or to the other party and the court may not grant periods of physical placement to a party because the party meets such obligations. If the court denies periods of physical placement to a party, the court shall advise the party of applicable grounds for termination of parental rights.

The court may grant to either or both parents a reasonable amount of electronic communication at reasonable hours during the other parent’s periods of physical placement in order to supplement a parent’s periods of physical placement with the child. Electronic communication rights shall be based on whether it is in the child’s best interest and whether equipment for providing electronic communication is reasonably available to both parents. Electronic communication is not a substitute for physical placement.

## ***Parenting Plan***

If legal custody or physical placement is contested, the court may order both parties to file a parenting plan before any pretrial or status conference hearing takes place. A party who does not file a plan waives the right to object to the other party’s plan. In Dane County, it is vital to check with the

judge assigned to a case as to whether he or she requires a parenting plan. A Proposed Parenting Plan ([Form FA-4147](#)) is available online or can be purchased from the Legal Resource Center, Rm L1007.

The parenting plan shall provide the following information:

1. What legal custody or physical placement the party is seeking;
2. Where the parent lives currently and where the parent intends to live during the next two years (If there is evidence that the other party engaged in interspousal battery or domestic abuse, the specific address need not be disclosed. A general description of the location will suffice.);
3. Where the parent works and the hours of employment, with a general description instead of a specific address if interpersonal battery or abuse has occurred;
4. Who will provide childcare when the parent cannot and who will pay for childcare;
5. Where the child will go to school;
6. What doctor or health care facility will provide medical care for the child;
7. How the child's medical expenses will be paid;
8. What the child's religious commitment will be, if any;
9. Who will make decisions about the child's education, medical care, choice of childcare providers and extracurricular activities;
10. How the holidays will be divided;
11. What the child's summer schedule will be;
12. Whether and how the child will be able to contact the other parent when the child has physical placement with the parent providing the parenting plan, and what electronic communication, if any, the parent is seeking;
13. Whether equipment for providing electronic communication is reasonably available to both parents;
14. How the parent proposes to resolve disagreements related to matters over which the court orders joint decision making;
15. What child support, family support, maintenance or other income transfer there will be;
16. If there is evidence of interspousal battery or domestic abuse, how the child will be transferred between the parties for the exercise of physical placement to ensure the safety of the child and the parties.

### ***Third-Party Visitation***

A grandparent, great-grandparent, stepparent or person who has maintained a relationship similar to a parent-child relationship with the child may petition the court for a hearing to grant that person reasonable visitation rights. This petition may commence an independent action or may be part of an ongoing action regarding the family. The parents of the child must have notice of the hearing. At the hearing, the court will evaluate whether visitation is in the best interest of the child and will so advise the parties. If the parties are unable to settle the matter, a trial will be scheduled. The court may find that there is no legal basis for visitation if the parents of the child are not divorced and are part of an intact family.

#### Special Grandparent Provision, [Wis. Stat. §767.43\(3\)](#)

The court may grant reasonable visitation rights to a grandparent if the child's parents have notice of the hearing and the court determines all of the following:

- The child is a nonmarital child whose parents have not subsequently married each other;

- The paternity of the child has been determined if the grandparent filing the petition is a parent of the child's father;
- The child has not been adopted;
- The grandparent has maintained a relationship with the child or has attempted to maintain a relationship with the child but has been prevented from doing so by a parent who has legal custody of the child;
- The grandparent is not likely to act in a manner that is contrary to decisions that are made by a parent who has legal custody of the child and that are related to the child's physical, emotional, educational or spiritual welfare;
- The visitation is in the best interest of the child.

There are no standard, statewide court forms for establishing or enforcing grandparent or third-party visitation rights. You may contact [Family Court Assistance Project \(FCAP\)](#) or the [Family Law Assistance Center \(FLAC\)](#) because those programs have forms available. Find their contact information in the "[Community Services](#)" section of this booklet. Alternately, you would need to draft your own forms to file or consult with an attorney.



## **Child Support/Health Expenses/Tax Exemption**

The court shall order either or both parents to support a child who is less than 18 years old or less than 19 years old if the child is pursuing an accredited course leading to a high school diploma or its equivalent. If the parents cannot agree to the amount of child support that should be paid to a custodial party, a circuit court commissioner will determine the child support obligation at a hearing requested by a parent or by the Child Support Agency (CSA). If any parent or child receives public assistance benefits, the CSA is automatically involved in the case and any agreement between the parents regarding support and/or health insurance must be approved by the CSA. If the CSA and the parents do not agree, the court commissioner will decide the disputed issues at a hearing.

The following describes the general rules usually applied to establish a child support order. However, not every family situation is described below, so the approach applicable to your specific situation may be somewhat different. In addition, the court has some discretion to deviate from the child support guidelines and order a payer to pay more or less than the guidelines would otherwise provide. For example calculations of child support amounts, read "Your Guide to Setting Support Amounts" available on the Dept. of Children and Families' website at [http://dcf.wisconsin.gov/publications/pdf/DCF\\_p\\_dwsc824.pdf](http://dcf.wisconsin.gov/publications/pdf/DCF_p_dwsc824.pdf)

The court commissioner calculates the child support payments based upon the percentage standard guidelines established by the State of Wisconsin Department of Children and Families unless the court finds that use of the guidelines is unfair to one of the parents or the children based on all of the circumstances. In setting the support amount, the court may consider all relevant financial information as to the parent's actual income or his or her earning capacity. The percentage standard guidelines based on the payer's "gross" (pre-tax) income or earning capacity and the number of children in the payee's care are:



- 17% for one child
- 25% for two children
- 29% for three children
- 31% for four children
- 34% for five or more children

Lower percentages are applied when the parents' gross monthly income / earning capacity is less than 150% of the federal poverty guidelines (see Poverty Guidelines for Earnings ([Form CV-427](#))). Lower percentages are also applied when the parents' gross income / earning capacity is greater than \$7,000/month. The child support guidelines may be revised periodically. The law in effect at any given time may be found at the Legal Resource Center (Rm L1007).

For “shared family placement” cases (i.e. both parents have periods of physical placement at least 25% of the time or at least 92 overnights each year) the child support guidelines are calculated by a 5-Step formula that incorporates the percentage standard listed above.

Step 1: Calculate each parent’s gross monthly income / earning capacity.

Step 2: Multiply each parent’s gross monthly income / earning capacity by the percentage standard applicable to the number of children the parents have.

Step 3: Multiply each amount determined under Step 2 by 1.5.

Step 4: Multiply the amount for the mother in Step 3 by the percentage of time the father has physical placement and multiply the amount for the father in Step 3 by the percentage of time the mother has physical placement.

Step 5: The order for child support is the difference between the mother’s amount in Step 4 and the father’s amount in Step 4.

The following is an example of the 5-Step process in a case with 2 children. Parent A has physical placement 60% of the time, and parent B has 40% physical placement:

	<u>Parent A</u>	<u>Parent B</u>
Step 1:	\$2000 gross monthly income	\$3000 gross monthly income
Step 2:	\$2000 x 25% (guidelines for two children) = \$500	\$3000 x 25% (guidelines for two children) = \$750
Step 3:	\$500 x 150% = \$750	\$750 x 150% = \$1125
Step 4:	\$750 x 40% (Parent B’s physical Placement percentage) = \$300	\$1125 x 60% (Parent A’s physical placement percentage) = \$675
Step 5:	\$675 - \$300 = \$375.	
Step 6:	Parent B pays \$375/mo to Parent A for child support.	

In addition, all parents with at least 25% physical placement will be ordered to pay a portion of the child’s “variable costs” (i.e. child care expenses, tuition, special needs the child has and other activities that involve substantial cost). The court may order each parent to pay the percentage of variable costs that corresponds to that parent’s percentage of physical placement. However, the court may order a parent to pay a higher or lower percentage of the variable costs if the court determines that outcome would be fair and reasonable based on the family’s circumstances, i.e. large differences between the parent’s incomes.

The court commissioner also calculates support for “serial payer” cases, i.e. cases in which 1 or both parents already are court-ordered to pay child support for child from another relationship and cases in which the payer has an older child residing in the payer’s home. In that situation, the amount the parent is required to pay each month for older children is subtracted from that parent’s gross monthly income to determine that parent’s remaining available income. The child support guideline formula discussed above is then applied to the remaining available income.

The court commissioner also calculates child support in special circumstances involving “split placement,” i.e. each parent has primary physical placement of one or more of the children. The child support calculation in this situation involves a 3-Step formula:

Step 1: Calculate each parent’s gross monthly income / earning capacity.

Step 2: Multiply each parent’s gross monthly income / earning capacity by the percentage standard applicable to the number of children in the other parent’s primary care.

Step 3: Subtract the lower amount from the higher amount in Step 2. The parent with the higher amount in Step 2 must pay the difference to the other parent for child support.

The following is an example of the 3 Steps in a case with 3 children, parent A has primary physical placement of one child and parent B has primary physical placement of two children:

	<u>Parent A</u>	<u>Parent B</u>
Step 1:	\$2000 gross monthly income	\$4000 gross monthly income
Step 2:	\$2000 x 25% (guidelines for the two children in Parent B’s care = \$500)	\$4000 x 17% (guidelines for one child in Parent A’s care = \$680)
Step 3:	\$680 – 500 = \$180	
Step 4:	Parent B pays \$180/mo to Parent A for child support.	

Child support must be expressed as a fixed sum unless the parties agree to a percentage order and the order is the payer’s only child support order. If there is a percentage order, the CSA cannot provide enforcement assistance. Furthermore, if the State is a necessary party due to receipt of public assistance benefits, or if a party requests CSA involvement, then the CSA will seek to have the support order converted to a fixed sum amount.

Regardless of which party is ordered to pay child support, both parents are responsible for paying the health insurance and uninsured medical, dental and other health-related expenses for their child. If the parents cannot agree, the judge or court commissioner will determine which party is entitled to claim the child as a dependent for tax filing purposes or whether each party will be able to claim the child as a dependent in alternate years.

***Arrears/Failure to Pay Support***

Interest will be charged on child support “arrears” (support not paid in the month it is due). Presently, the interest rate is 1% per month on the unpaid balance. **Support payments are collected by the Wisconsin Support Collections Trust Fund (“WSCTF”), Box 74200, Milwaukee, WI 53274-0200.**

There is an annual fee for such collection, the “Receiving & Disbursing (R&D) fee.” Presently, the R&D fee is \$65 per case, per year. . In most cases, support will be paid by income assignment (directly withholding the money from the payer’s paycheck) through the payer’s employer. The court commissioner or CSA may increase the income assignment up to 50% of the support obligation to pay off arrears and interest. If the payer owes arrears or interest when current support ends, the income assignment will continue until all arrears and interest are paid. The payer’s tax refunds may be intercepted to pay arrears and interest. Driver’s licenses and hunting and fishing licenses may be suspended or denied due to failure to pay support and liens will be placed on the payer’s property. The payer may be subject to civil contempt of court and sentenced to jail if non-payment continues, and/or a criminal felony prosecution for failure to pay support. See [Wis. Stats. ch. 785](#) and [Wis. Stat. §948.22](#) for more information on contempt for criminal failure to support.

Interest will be charged on child support “arrears,” or support not paid in the month it is due. Presently, the interest rate is 1% per month on the unpaid balance. The court commissioner or CSA may increase the income assignment up to 50% of the support obligation to pay off arrears and interest. If the payer owes arrears or interest when current support ends, the income assignment will continue until all arrears and interest are paid. The payer’s tax refunds may be intercepted to pay arrears and interest. Driver’s licenses and hunting and fishing licenses may be suspended or denied due to failure to pay support, and liens may be placed on the payer’s property. The payer may be subject to civil contempt of court and sentenced to jail if non-payment continues, and/or a criminal felony prosecution for failure to pay support. See [Wis. Stat. ch. 785](#) and [Wis. Stat. § 948.22](#) for more information.

For information on expunging arrears see the section called “[Changing Court Orders: Family/Child Support and Maintenance](#)”



## **Paternity Procedures**

There are two ways to establish the paternity of a child.

### ***Voluntary Paternity Acknowledgment***

If the father of the child is known, both parents are 18 or older, and the mother is not married to another man at the time of the child’s birth, both parents can sign a “Voluntary Paternity Acknowledgment” or “VPA” form. The VPA is a form that, once signed by the parents and correctly filed with the State, is a conclusive determination of paternity and has the same effect as a judgment of paternity entered by a court. It is available at the hospital at the time the child is born or later from the Dane County Child Support Agency. The acknowledged father’s name will be added to the birth certificate, and he may be responsible for support of this child until he or she is an adult.

The Voluntary Paternity Acknowledgment form is a legal document and you should not sign it unless you fully understand what it means. Once you have filed it, there is a very short window of time when it may be rescinded if either party changes his or her mind. It may be rescinded before a

court enters an order in an action affecting the family or within 60 days after the statement was filed, whichever comes first. You may rescind the paternity acknowledgment by filing with Vital Records a “Request to Withdraw Voluntary Paternity Acknowledgment.” This form is available from the Wisconsin Office of Vital Records ([1 W. Wilson, Rm 158, Madison, WI, 53703](#)).

After a VPA form has been filed and processed by Vital Records, a court action may be initiated to address custody, placement, and support issues. There is a “Paternity Acknowledgment Packet available for a small fee from the Legal Resource Center (Rm L1007) or online for free at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

### ***Paternity Action to Establish Paternity***

If the parents do not file a Voluntary Paternity Acknowledgment, a paternity action may be commenced to establish the child’s paternity. There are no state or county court forms available to commence this kind of paternity action. You will need to draft your own legal documents or consult an attorney to do so for you.

A petition to establish paternity may be filed by any of the following persons:

- The child;
- The child’s natural mother;
- A man presumed to be the child’s father;
- A man alleged or alleging himself to be the father of the child;
- The personal representative of a person specified above if that person has died;
- The legal or physical custodian of the child;
- The State of Wisconsin (through the CSA);
- A guardian ad litem (an attorney appointed to represent the best interests of the child);
- A grandparent, if the grandparent is liable or potentially liable for maintenance of the child;
- In connection with the filing of a petition for visitation, a parent of a person who has filed a declaration of paternal interest with respect to the child or a parent of such person who signed and filed a statement acknowledging paternity with respect to the child before April 1, 1998.

A paternity action to establish paternity or legal fatherhood of a child is commenced by filing a summons and petition for paternity. The action can be commenced before the birth of the child, but the entry of judgment of paternity must wait until after the child is born. The respondent must be served with the summons and petition by personal or substitute service in compliance with [Wis. Stat. §767.813\(4\)](#). There are no standard, statewide court forms for establishing paternity. You can commence a paternity action through the Child Support Agency or a private attorney who will need to draft the forms for you.

To apply for the Child Support Agency’s services, fill out the “Parent’s Application for Child Support Services” and file it with the Dane County CSA, [City-County Building \(Rm 365\)](#). There is no application fee for requesting CSA’s services; however, other fees like genetic testing or court fees may still be incurred. The application is available from the CSA or it can be downloaded from the Dept. of Children and Families’ website at <http://dcf.wisconsin.gov/bcs/applications.htm>.

The first hearing is called the first appearance. At that hearing, genetic tests may be ordered if paternity is contested. If paternity is not contested, a judgment of paternity may be entered and issues of custody, placement, child support and responsibility for health related expenses of the child may be addressed.

## ***Genetic Testing Procedure***

If genetic testing is requested by a party or by a guardian ad litem representing the best interests of a minor mother, minor alleged father, or child if the mother is married to someone else, genetic testing will be ordered. If the CSA has filed the proceeding, the CSA will schedule and pay for the testing (seeking reimbursement from a party at a later date) and schedule a pretrial conference with the court commissioner following receipt of the test results. The CSA does not represent either party at the pretrial conference. The CSA represents the interest of the State of Wisconsin. If the genetic tests show that the alleged father is not excluded from paternity and that the statistical probability of his being the father is 99% or higher, he shall be presumed to be the child's father. If the mother is married at the time the child is conceived or born, her husband is presumed to be the child's father. Genetic tests will determine whether this marital presumption of paternity is overcome. If additional genetic testing is requested by a party, that party will be required to pay for such testing in advance, unless the court finds that the person is indigent.

Until a judgment is entered based on either a paternity acknowledgment or paternity adjudication, issues of legal custody and physical placement cannot be addressed. However, if a genetic test shows a 99% or higher probability of paternity, the court may enter a temporary order as to child support and health care expenses while the paternity case is pending.

## ***Paternity Issues Addressed by the Court***

If genetic testing excludes a person from paternity, the court will dismiss the person from the paternity action. If a person is not excluded, but continues to deny paternity the case will proceed to a paternity trial before a judge or jury. However, if the genetic test results show that the alleged father is statistically likely to be the child's father by 99% or higher, then the alleged father bears the burden of proving that he is not the child's father. He must retain his own attorney (rather than be represented by a public defender) if the genetic test results show a probability of paternity of 99% or higher.

If requested, the court commissioner will address the following issues at the time a judgment is entered:

- Responsibility for birth expenses,
- Responsibility for genetic test costs,
- Custody and placement of the child,
- Current child support and support dating back to the filing of the paternity suit,
- Health insurance for the child and payment of the child's uninsured health care expenses.

The CSA must also seek an order requiring the parents to provide health insurance for the child and to pay the child's uninsured health care expenses.

Paternity hearings are closed to any person other than those necessary to the proceeding, and the record of the proceeding shall be placed in a closed file. The mother of the child has the right to name the child at birth if the parents are not married. When paternity is adjudicated, however, the parties can agree to change the child's last name. If one party wishes to change the child's last name, but the other party disagrees, the court may change the child's last name to a hyphenated name if the court believes a name change is in the child's best interest. If the parents of the child marry after a Voluntary Paternity Acknowledgment is filed with Vital Records, or after a paternity adjudication is made by the court, the child becomes a marital child who is entitled to an amended birth certificate and who will enjoy all the rights and privileges of a marital child as if he or she had been born during the marriage.



## Court Orders

### *Enforcing Court Orders: Remedial Contempt*

Filing instructions and forms for enforcing a family court order are available for a small fee at the Legal Resource Center (Rm L1007) or for free from the Clerk of Courts' Family Court Forms page at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

A judgment or order must be obeyed until it is changed by a subsequent order. Contempt of court is the appropriate relief to seek if a party is not following a court order. The party seeking compliance with the court order can file an "Order to Show Cause and Affidavit for Finding of Contempt" ([Form FA-4172](#)) to request a hearing before a commissioner. The commissioner may recommend to the judge assigned to the case that the party be found in contempt of court and ordered to "purge" the contempt by meeting certain conditions to avoid going to jail for a limited period of time. If the party fails to meet the purge conditions, a bench warrant and commitment may be issued by the judge. The party will be arrested and jailed until the purge conditions are met or the jail sentence is served. A party may ask the CSA for assistance in enforcing the child support or family support provisions of a judgment or order.

A "Petition to Enforce a Physical Placement Order" ([Form FA-609](#)) may be filed if:

- A party has been awarded specific periods of physical placement by the court, but the other party has denied or substantially interfered with one or more periods of physical placement of the party or
- A party has suffered a financial loss or expense due to the other party's intentional failure to exercise one or more periods of physical placement under a judgment or order allocating specific times for the exercise of periods of physical placement.

If, after the hearing, the court finds that a party has intentionally and unreasonably denied or interfered with one or more of the other party's periods of physical placement, the court must grant additional periods of physical placement to replace those denied or interfered with and award the other party reasonable costs and attorney fees. The court may also:

- Change the order specifying times for the other party's exercise of periods of physical placement, find the party in contempt of court, and require the party to pay a sum of money sufficient to compensate for financial loss or expenses incurred as a result of non-compliance with the order.
- Issue an injunction ordering the party to comply strictly with the physical placement order for a maximum period of two years. After service of this injunction on the party, intentional violation of the injunction is a felony.

**NOTE:** If a party was granted physical placement in the original judgment but not specific dates and times, that party may file a "[Motion to Set Specific Periods of Physical Placement.](#)" The court order must include a specific placement schedule before one party can file to enforce the physical placement order by contempt.

Wisconsin provides serious penalties for violating legal custody and physical placement provisions of a court judgment or order. A party who takes a child from or causes a child to leave the other party in violation of the court order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period, with intent to deprive the custodian of custody rights, can be charged with having committed a Class F felony. A parent may defend violation of these laws if the action is taken to protect the child or to prevent a parent from fleeing with the child. See [Wis. Stat. §948.31](#) for the law on interfering with custody and the corresponding penalties for violations.

### ***Changing Court Orders: Custody and Physical Placement***

Forms for changing a legal custody or physical placement order are available for a small fee at the Legal Resource Center (Rm L1007) or can be downloaded for free from the Clerk of Courts' Family Court Forms page at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

There are two ways to change the provisions of an existing family court order. If the parties agree to change child support, maintenance, legal custody or physical placement, they may file a "Stipulation and Order to Amend Judgment for Support/Maintenance/Custody/Placement" ([Form FA-604](#)) with the Court Commissioner Center (Rm 2000). The court will review the stipulation and if it is acceptable, sign the order. You should always keep a copy of the stipulation for your own records before you give the original to the court.

If only one party wishes to change the judgment or order, that party may file a "Notice of Motion and Motion to Change: Legal Custody, Physical Placement, Child Support or Spousal Maintenance" ([Form FA-4170](#)) and then arrange to have a copy of the motion served on the other party. For a more complete description of the filing process and what to expect at your hearing, see the "Instructions for Motion to Change Custody, Placement, Support or Maintenance."

The judge cannot modify legal custody or physical placement if the modification would substantially alter the time a parent may spend with the child within two years of the entry of the initial judgment or order, unless a party shows by substantial evidence that modification is necessary because the current custodial conditions are physically or emotionally harmful to the best interest of the child. See [Wis. Stat. §767.451](#). After the two-year period, the judge may modify legal custody or physical placement if the modification would substantially alter the time a party may spend with the child, if the judge finds that:

1. The modification is in the best interest of the child.
2. There has been a substantial change of circumstances since the entry of the last order affecting legal custody or physical placement.
3. Continuing the current allocation of decision making is not in the best interest of the child.
4. Continuing the child's physical placement with the parent with whom the child resides for the greater period of time is not in the best interest of the child.

A judgment or order cannot be changed if there has not been a substantial change of circumstances since the last judgment or order was entered. **A change in either party's economic circumstances or marital status is not sufficient to qualify as a substantial change of circumstances.**

If the parties have substantially equal periods of physical placement and circumstances make it impractical for that arrangement to continue, the judge may change physical placement if it is in the

best interest of the child. A party wanting the order changed must show why it is no longer in the best interest of the child for the parties to have substantially equal periods of physical placement.

The judge may modify an order of physical placement at any time if the judge finds that a party has repeatedly and unreasonably failed to exercise periods of physical placement awarded to that party. The judge may modify an order of physical placement which does not substantially alter the amount of time a party may spend with the child if the judge finds that the change is in the best interest of the child. The judge may deny a party's right to physical placement at any time if the judge finds that the child's physical, mental or emotional health is in danger. The court must consider whether a stepparent of the child has a criminal record and whether there is evidence that a stepparent of the child abused or neglected the child or any other child.

In any action to modify legal custody or physical placement, the judge may require the party seeking the change to file a "Parenting Plan" before scheduling a hearing. See the previous section on "[\*Parenting Plan\*](#)" for more information.

### ***Permission to Move/Remove Children***

If both parties are granted periods of physical placement, a party with legal custody and physical placement rights shall provide not less than 60 days written notice to the other party, with a copy to the court, of his or her intent to:

- Establish legal residence with the child at any location outside Wisconsin.
- Establish legal residence with the child at any location within Wisconsin that is at a distance of 150 miles or more from the other parent.
- Remove the child from Wisconsin for more than 90 consecutive days.

The written notice must be sent to the other party by certified mail. The notice must state the proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other party may object within 15 days of receipt of the notice. A "Notice of Intent to Remove Children" form is available at the Legal Resource Center (Rm L1007) for a small fee or online at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

Within 15 days of receiving the notice of intent to move, the other party may send to the party proposing the move, with a copy to the court, a written notice of objection. If the party proposing the move receives a notice of objection within 20 days after sending the notice of intent to move, the child may not move until the dispute is resolved, unless the party obtains a temporary order authorizing such move.

Upon receipt of a copy of a notice of objection to the move, the court will refer the parties to mediation with Family Court Counseling Service (FCCS) and may appoint a GAL. The court will hold a hearing upon petition of a party seeking a change in the legal custody/physical placement order because of the proposed move or removal. Parties are advised to seek legal counsel in this circumstance due to the complexity of the issues. For instance, there is no agreement among judges as to whether the removal provisions apply to paternity cases.



## ***Changing Court Orders: Family/Child Support and Maintenance***

Forms for changing a support order are available for a small fee at the Legal Resource Center (Rm L1007) or can be downloaded for free from the Clerk of Courts' Family Court Forms page at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

There are two ways to change a support and/or maintenance order. If the parties agree to change the child support, family support or maintenance provisions of their court judgment or order they may file a "Stipulation and Order to Amend Judgment for Support/Maintenance/Custody/Placement" ([Form FA-604](#)) with the Court Commissioner Center (Rm 2000). If a party receives public assistance benefits, the Child Support Agency must approve the parties' agreement to change the child support order before it is submitted to the court because the State is a necessary party. You should always keep a copy of the stipulation for your own records before you submit the original.

If only one party seeks to change the judgment, that party may file the "Notice of Motion and Motion to Change: Legal Custody, Physical Placement, Child Support or Spousal Maintenance" ([Form FA-4170](#)). The other party must be served with the motion at least 5 business days before the hearing. A motion to increase, decrease, suspend, or terminate support cannot be granted unless the moving party proves that there has been a substantial change of circumstances since the last order was signed. The passage of 33 months from the date of the last child support order is presumed to be a substantial change of circumstances. For a more complete description of the required process and what to expect at your hearing, see the "Instructions for Motion to Change Custody, Placement, Support or Maintenance" on the Clerk of Courts' Family Court Forms page.

Support cannot be changed prior to the date on which the other party receives a copy of the motion to change support, except in rare circumstances. A party seeking to erase ("expunge") arrears and interest from the record of the case may file a motion to show by documentary evidence that during the time the arrears and interest accrued on the record, any of the following circumstances applies:

1. That the party made payments by check or money order directly to the other party which were intended as child support, not as a gift to or on behalf of the child or for some other voluntary expenditure or for payment of some other obligation to the payee, with written evidence that the other party agreed to accept the payments instead of receiving child support through the Wisconsin Support Collections Trust Fund.
2. That the child received benefits based on the payer's entitlement to federal disability insurance benefits during the period that unpaid support accrued.
3. That the child lived with the party, with the other party's agreement, for more than 60 days beyond a court-ordered period of physical placement.
4. That the parties resumed living together with the child, and that the party directly supported the family.

**Both parties must advise the CSA of any change of address within 10 days of such change.** A party ordered to pay support must also advise the other party and the CSA of any substantial change in his or her income that would affect his or her ability to pay support, within 10 business days of such change. This notification does not change the support order. A party must file a motion to change support, a hearing must be held on the motion and a new order must be entered before the change will take effect (unless the parties submit a written agreement to the court, approved by the CSA, if

necessary). See the above section on “[Changing Court Orders: Family/Child Support and Maintenance](#)” for information on available forms.



## **Domestic Abuse/Child Abuse/Harassment Restraining Orders**

A person who believes that he or she or his or her child or ward is the victim of domestic abuse, child abuse or harassment may petition for a temporary restraining order (TRO) and an injunction. If a person believes that a child is the victim of abuse or harassment by a juvenile, the person may petition for a TRO and Injunction. All petition forms are available in the Probate Court (Rm 1005).

- “Domestic abuse” is defined as intentional infliction of physical pain, physical injury or illness, intentional impairment of physical condition, sexual contact or sexual intercourse without consent, criminal damage to the victim’s property, or a threat to engage in such conduct. The petitioner must be an adult and the respondent must be an adult family member (spouse, parent, child or person related by blood or adoption to another person), former spouse, an adult household member or former household member, an adult with whom the petitioner has had a dating relationship or an adult caregiver. See [Wis. Stat. §812.12](#).
- “Harassment” is defined as striking, shoving, kicking or otherwise subjecting another person to physical contact, engaging in an act that would constitute abuse of a child, sexual assault or stalking or attempting or threatening to do the same, or engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose. Children and adults can file a petition for a harassment restraining order. See [Wis. Stat. §812.125](#).
- “Child abuse” is physical injury inflicted on a child other than by accidental means, sexual intercourse or sexual contact with a child contrary to law, sexual exploitation of a child, permitting, allowing or encouraging a child to engage in prostitution, causing a child to view or listen to sexual activity, causing a child to expose, or exposing to a child, genitals or pubic area, emotional damage or a threat to engage in such conduct. A GAL may be appointed to represent the best interests of the child when a TRO is issued. The child victim or a parent, stepparent or legal guardian of the child victim may petition for a restraining order. See [Wis. Stat. §812.122](#).

A TRO is in effect until the injunction hearing before the judge and may prohibit the respondent from having any contact with the petitioner until the time of hearing. If the parties live together, the respondent may be prohibited from going back to the residence. Both parties have a right to appear at the injunction hearing. If the judge signs the injunction, the respondent may be prohibited from having contact with the petitioner for a maximum of four years (domestic abuse and harassment), and for a maximum of two years, or until the child reaches the age of 18, whichever occurs first, for child abuse. The judge will order the respondent to surrender firearms to the sheriff if a domestic abuse injunction is ordered, and can prohibit the respondent from possessing any firearms.

## **CHIPS (Children in Need of Protection or Services)**

Juvenile courts have jurisdiction over children who are alleged to be in need of protection or services which result from abuse or neglect. [Wis. Stat. §48.13](#) provides a number of legal grounds (reasons) why a petition could be filed on behalf of a child. The acronym CHIPS is often used to refer to these cases, which stands for **C**hildren **I**n **N**eed of **P**rotection or **S**ervices.

The most common reasons a CHIPS action is filed are: if the child is without a parent or guardian; has been a victim of abuse; if the child receives inadequate care when a parent is missing, incarcerated, hospitalized or institutionalized; if the child's parent neglects, refuses, or is unable (for reasons other than poverty) to provide necessary care, food, clothing medical/dental care, or shelter which seriously endangers the physical health of the child. If another child in the home is alleged to have been abused or neglected, that may also be a legal ground for filing such a petition. Parents can also file a petition on behalf of their child if they are not able to provide the special care or treatment that child may need.

Social workers from the Dane County Department of Human Services (often called "Social Services") have the power to ask the court to intervene on behalf of a child by filing a CHIPS petition, if that child's situation falls into one of the categories described above. Attorneys representing the county, called Corporation Counsel, file the petition, which they sign along with the social worker.

The "parties" to a CHIPS case will be the county (corporation counsel and social services) the child (represented by a GAL if younger than 12 yrs, and a Public Defender, if older than 12) and the child's parents, who also have a right to an attorney.

At the first hearing, held before a circuit court commissioner, the parents will be asked to respond to the facts written in the petition by entering a plea, which can be a denial, an admission, or a statement of "No Contest" which equates to an admission. At the first hearing the court may also enter an order as to the placement of the child. Each parent can request that a lawyer be appointed to represent him or her. If the parent financially qualifies for a lawyer paid by the county, one will be appointed. Otherwise, the parent will have to hire his or her own attorney. If a parent objects to the facts in the petition, the parent will enter a denial. The parent has a right to a trial before a judge or a jury if requested by the parent. At a trial, Corporation Counsel must prove the facts in the petition are true.

The number of hearings in a given case will vary, but the final hearing is called a dispositional hearing. The court will rule as to whether the facts in the petition support a legal finding that the child is in need of protection or services. If a CHIPS finding is made, then the court has the power to decide where the child will live and with whom. If the child is placed in a parent's home, the court will order certain Rules of Supervision which the parent must follow until the Dispositional Order expires. If the child is placed outside the parents' home, the court will order what actions the parent must take in order to have the child returned to his or her home, called Conditions of Return. The assigned social worker remains on the case until the order expires, and works with the family to accomplish the goals set by the order.

Juvenile court orders take precedence over any existing family court order as they relate to custody and placement of a child, until the juvenile court order expires.

## **Termination of Parental Rights**

Termination of Parental Rights (TPR) is a legal proceeding in juvenile court which permanently severs all rights and responsibilities of a parent to his or her child. In the State of Wisconsin, a TPR must be ordered before a child is eligible to be adopted. Parental rights can be terminated either *voluntarily* (when the parent consents to the TPR, see [Wis. Stat. §48.41](#)) or *involuntarily* (when the parent objects to the TPR, see [Wis. Stat. §48.415](#)).

A court will not terminate parental rights for the convenience of the parent(s), to end a child support order or simply because a parent requests the termination. Termination requires either consent or a reason to TPR, the termination must be in the child's best interest and, in almost all cases, there must be another adult willing to step into the shoes of the terminated parent and accept responsibility by adopting the child. If it is not likely that your child will be adopted immediately after the TPR, you are strongly advised to consult an attorney prior to filing a petition for termination of parental rights.

In general, once a parent's rights are terminated, the legal rights of siblings, grandparents and other relatives are also extinguished.

### ***The Two-Part Process of TPR***

Part One is the *fact-finding hearing* where the person who filed the petition for termination must either provide the court with a signed, notarized consent from the parent whose rights will be terminated or prove that grounds exist to terminate the rights of the parent involuntarily.

Part Two is the *dispositional hearing* where the court considers six factors set forth in [Wis. Stat. §48.426](#) to determine if a termination of parental rights is in the child's best interest.

The two-part process can take place on the same day if the court and all the parties agree. If the TPR is contested, there are usually two separate hearings on two separate days. By law, the initial appearance on a TPR petition must be held within thirty (30) days after the petition is filed.

### ***Guardian ad Litem (GAL)***

In all TPR cases, the court assigned to hear the case *must* appoint a "Guardian ad Litem" or "GAL." A GAL is an attorney licensed in Wisconsin who has taken specific continuing legal education courses designed to educate them in representing the best interests of children. In most cases, the parents are required to pay the legal fees of the guardian ad litem.

### ***Capacity to Consent***

The capacity (ability to understand the proceedings) of a parent to give voluntary and informed consent may be an issue in a voluntary TPR proceeding. This issue may be raised by the GAL representing the child's best interest, who must inform the court of any reason to doubt the parent's capacity. The court must then determine whether the parent is capable of giving informed and voluntary consent. If the court finds that the parent is incapable of knowingly and voluntarily consenting, the court must dismiss the TPR proceeding. Such a dismissal, however, does not preclude an involuntary TPR, pursuant to [Wis. Stat. §48.41](#).

## ***Notice***

Notice of any TPR proceeding must be provided to the non-petitioning parent. “Notice” informs the other parent that the TPR has been filed, when the hearing is scheduled and which judge will be presiding over the case. The other parent must be given the opportunity to attend the court hearing if he or she wishes to do so. In a TPR case, personal service is required. However, if with reasonable diligence the other parent cannot be located, the court can authorize constructive notice by publication.

## ***Voluntary TPR***

The juvenile court may terminate parental rights with the parent’s consent. This is considered a voluntary TPR. The court may accept a voluntary consent to TPR only under the following conditions:

1. The parent appears personally at the hearing on the TPR petition and gives his or her consent. Before accepting the consent, the judge must explain the effect of TPR and question the parent to ensure that the consent is informed and voluntary.
2. If the court finds that it would be difficult or impossible for the parent to appear in person at the hearing on the TPR petition, the court may accept written consent as given before an embassy or consul official, a military judge, or a judge of court in another county or state or in a foreign jurisdiction. On the request of a parent, unless good cause to the contrary is shown, the court may also accept telephone or live audiovisual testimony.

A person who may be the father (alleged but not adjudicated) of a nonmarital child may also consent to TPR by signing a written, notarized statement that he has been informed of and understands the effect of TPR and voluntarily disclaims any rights to the child, including the right to notice of TPR proceedings.

If the TPR proceeding is held prior to a proceeding for adoption by the child’s stepparent, or if the child’s birth parent is a resident of a foreign jurisdiction, the parent may also consent to the TPR by filing an affidavit stating that the parent has been informed of and understands the effect of a TPR order and voluntarily disclaims all rights to the child, including the right to notice of TPR proceedings.

## ***Involuntary TPR***

To succeed in an involuntary TPR case, the person who files the petition for termination of parental rights must provide proof to the court to demonstrate by “clear and convincing evidence” that grounds exist to terminate parental rights. The petition must allege facts sufficient to support the grounds. Under [Wis. Stat. §48.415](#), the grounds for involuntary TPR are as follows:

- Abandonment
- Relinquishment
- Continuing need of protection or services
- Continuing parental disability
- Continuing denial of periods of physical placement or visitation
- Child abuse
- Failure to assume parental responsibility
- Incestuous parenthood
- Homicide or solicitation to commit homicide of parent
- Parenthood as a result of sexual assault

- Commission of a serious felony against one of the person's children
- Prior involuntary TPR to another child

In an involuntary TPR, the non-petitioning parent has the right to request a jury trial. Forms for initiating a TPR case are available for purchase at the Legal Resource Center (Rm L1007). For more information, read the "[Juvenile Court Resource Booklet](#)," which can also be purchased from the Legal Resource Center.

## **Adoption**

Adoption is the act of accepting a child (or adult) born to another person as one's own child with all the legal rights and responsibilities of parenthood. See [Wis. Stat. §48.81-48.975](#). There is no fee to file a petition for adoption. The filing procedure and forms are available for a small fee from the Legal Resource Center (Rm L1007) or on the Clerk of Courts' Other Court Forms page: <http://www.countyofdane.com/court/prepare/formOther.aspx>

In order for an adoption to occur, a biological parent's rights must be terminated by death or through a legal process. The petitioner and any child age fourteen (14) and older must attend the adoption hearing.

An unmarried adult, married couple or spouse of the child's birth parent, who is a resident of Wisconsin, may petition to adopt a child in this state. Any child present in this state may be adopted if the child's parents are either deceased or have had his/her parental rights terminated in this or another state or foreign jurisdiction. An adult may be adopted by any other adult who is a resident of Wisconsin.

After a petition for adoption is filed, a judge will be assigned and a hearing scheduled. Hearings are usually scheduled within 4-8 weeks. Adoption hearings are closed to the public. Requests by the parties to allow family and close family friends to attend the hearing are generally granted by the judge.

An order of adoption creates the relationship of parent and child between the adopted person and the adoptive parent. Moreover, an order of adoption severs the relationships between the child and his or her biological relatives, unless the birth parent is the spouse of the adoptive parent (as is the case in a step-parent adoption). Rights of inheritance may also be altered.

Any child whose adoption would otherwise be valid under the laws of Wisconsin may be readopted in this state. Often a child adopted in a foreign country by Wisconsin residents is readopted in order to obtain a Wisconsin birth certificate for the child.

The agency providing post-placement supervision and a home study for the adoptive parent(s) must file a report with the court advising the court on the health and welfare of the child and the appropriateness of the prospective adoptive parents.

At the adoption hearing the presiding judge will ensure that all legal requirements are met and determine whether the adoption is in the best interests of the child. The court may require some brief testimony from the prospective adoptive parents.

The proposed adoptive parents must bring a check with them to the hearing in order to file a Report of Adoption with the Wisconsin Department of Vital Records and to order a certified copy of

the child's new birth certificate. If the child was born in a foreign country, Wisconsin will create a birth certificate. (The foreign birth certificate and English translation is required.) If your child was born in another state, that state's form is required. Wisconsin charges \$20.00 for filing the Report of Adoption, \$20.00 for the first certified copy of the new birth certificate and \$3.00 for each additional birth certificate ordered when the Report of Adoption is filed. Fees are subject to change.

Adoption files are closed to the public pursuant to [Wis. Stat. §48.93](#). Adopted persons who wish to obtain information about themselves and their birth relatives, or birth parents seeking to give information to their birth children, should contact:

Adoption Records Search Program  
P.O. Box 8916  
Madison, WI 53708-8916  
(608) 266-7163

[http://dcf.wisconsin.gov/children/adoption/adoption\\_search/default.htm](http://dcf.wisconsin.gov/children/adoption/adoption_search/default.htm)



# **Officials and Agencies Involved in Family Court Cases**

## ***Dane County Circuit Court Judges***

All Circuit Court judges in Dane County are assigned to family court matters. Although preliminary matters might be decided by a court commissioner, the parties have a right to a new hearing (called a “trial de novo”) with the assigned judge of any matter determined by a commissioner. The judge is responsible for each case as it moves through the system toward resolution of the issues, and might hold status conferences or set deadlines to ensure that the case is progressing. If you reach agreement on all terms in your case, the final hearing will be held before the assigned judge. If you are unable to reach agreement on any issues, including custody and placement of children or financial matters, the judge will make the final decision after hearing testimony and the recommendations of all parties. Final decisions of a circuit court judge may be appealed to the Wisconsin Court of Appeals. One of the duties of the judges is to authorize and publicize local circuit court rules, available on the Clerk of Courts’ website at: <http://www.countyofdane.com/court/prepare/rules.aspx>

***Court Commissioner Center (CCC)  
Room 2000, Dane County Courthouse  
(608) 266-4311***

Circuit court commissioners hold hearings in actions for divorce, legal separation, annulment, and paternity. Commissioners conduct initial hearings in all actions affecting the family and enter temporary orders for child support, maintenance, custody and physical placement of children, attorney’s fees, and use of property. The commissioners enter paternity judgments and hold almost all hearings which occur before the divorce, legal separation or annulment trial. Commissioners hear all post judgment support and enforcement motions. They also screen all post-judgment custody and placement motions filed by parents. In some cases, they enter interim custody and placement orders pending a referral to the Family Court Counseling Service and trial before a judge. In other cases, they may enter a final custody or placement order.

***Family Court Counseling Service  
Room 2030, Dane County Courthouse  
(608) 266-4607***

Dane County Family Court Counseling Service (FCCS) provides parent education classes, mediation services, and family studies (evaluations) to assist in resolving legal custody and physical placement disputes in divorce, paternity, and grandparent and stepparent visitation cases. The circuit court commissioners and judges refer the parties to FCCS.

After a referral to FCCS, parents will receive a letter requesting background information and a schedule of when to attend the mandatory Parent Education Program. There is a fee per parent (no exceptions) for the Parent Education Program. This program has an educational format, and is attended by other parties experiencing similar difficulties. The goals of the program are to help parents cope with family changes, focus on their children’s needs, resolve conflicts, and understand both the mediation and study process as well as legal procedures in Dane County Family Court.



A counselor will be assigned to mediate the dispute or, if mediation is waived, to conduct a family study. There is no fee for the initial mediation session in individual cases. If parents return to FCCS in the future for mediation, a \$50.00 per parent fee will be imposed. Parents may apply for FCCS fee waivers. Application for a waiver is made at the FCCS Office.

The mediator is a neutral party who assists parents in reaching a settlement in the best interest of the child. The court ordered mediation session provides parents the opportunity to come together and resolve their issues in a confidential, non-adversarial setting. A successful mediation results in an agreement between the parents that will be forwarded to the court. Upon the judge's approval, the agreement will become a court order. If parents are unable to reach an agreement in the first session, but wish to continue with mediation, they can purchase up to two additional 90-minute extended mediation sessions for a fee of \$200.00. Any additional fees will be shared between both parents.

Participating in mediation may be particularly difficult for parents who experienced domestic violence at the hands of a former partner or spouse. Parents interested in receiving emotional support during a mediation session can contact DAIS (Domestic Abuse Intervention Services) to find out if they are eligible to be accompanied to mediation by a Service Representative. Service Representatives may also be able to provide accompaniment to family study sessions. Service Representatives cannot speak during the mediation session and are not attorneys so they cannot provide legal advice. DAIS provides services free of charge. See the "[\*Community Services\*](#)" section for their contact information.

A parent may seek a waiver of mediation from a judge or court commissioner. To waive mediation the court must find that attending the mediation session will cause undue hardship or would endanger the health or safety of a party. The court must consider evidence of child abuse, interspousal battery or domestic abuse, abuse of alcohol or drugs, or any other evidence indicating that a party's health or safety will be endangered by attending the session. Mediation may also be waived if parents participated in private mediation. If mediation is waived, FCCS will begin the family study process immediately. An "Affidavit and Order To Waive Required Mediation" form is available for a small fee in the Legal Resource Center (Rm L1007) or online at: <http://www.countyofdane.com/court/prepare/formFamily.aspx>.

Parents who are already divorced or who have a paternity judgment and wish to have FCCS conduct a study must first file a "Motion to Change Custody or Physical Placement" form with the Clerk of Courts (Rm 1000). See the section "[\*Changing Court Orders: Custody and Physical Placement\*](#)" for more information. A circuit court commissioner will screen the motion to determine if there is sufficient basis for the court system to become involved in the case. Spouses in a divorce or legal separation or parents without a paternity judgment may request to be referred to the FCCS by filing a letter making that request with the Court Commissioner Center.

A family study is an intensive investigation process in which the counselor makes recommendations about the best interests of the child regarding legal custody and physical placement. The fee for this study is determined by the FCCS Director after evaluating the parents' combined gross household incomes and is based on a four-tier system. The study typically involves separate and joint interviews with the parents, meeting the children, and observing parental interaction. At times, home visits and outside assessments may be conducted. Parents sign release of information forms so the counselor may contact collateral sources. In some cases, the court may appoint a Guardian ad Litem (GAL), an attorney to represent the child's best interests. GAL fees are usually paid by the parents.

There is a counselor available during office hours to answer basic questions regarding custody, physical placement, and FCCS services. FCCS staff are not attorneys and do not give legal advice.

***Dane County Child Support Agency  
Room 365, City-County Building  
(608) 266-4031***

The Child Support Agency (CSA) provides services to locate absent parents, establish paternity, and establish and enforce child support and health insurance orders. These services may involve State of Wisconsin support orders or interstate actions with other states. The agency uses the State KIDS computer system to process all case work.

Child support payments are made through the Wisconsin Child Support Trust Fund in Milwaukee. Payers and employers receive monthly billing statements from the State of Wisconsin. The CSA accepts only those payments related to warrants. To inquire about child support payments call 1-800-991-5530.

If a party to a case receives any form of public assistance, copies of all legal papers must be served on the CSA which must approve all agreements involving child support. Public assistance includes W-2, medical assistance (BadgerCare), child care assistance, kinship care and foster care. If neither party receives public assistance, CSA will not automatically be involved but an individual can still apply for their services. There is no longer an application fee, but parties may be responsible for paying additional court fees. The application is available at the CSA or online at:  
<http://www.danechildsupport.com/form.aspx>

All cases are assigned alphabetically to attorneys and investigators. The names of both parties must be placed on all correspondence, as well as the court case number, the KIDS case number, and the parties' PIN numbers. If the KIDS or PIN numbers are not known, include the Social Security numbers.

The CSA attorneys represent the State's interest, not individual parents or children. Due to the large caseload (about 3,000 per attorney), the agency cannot provide a level of personalized service equal to that of a private attorney.

The CSA does not handle physical placement, custody, payment of bills (except paternity birth expenses), dependency tax exemptions, property settlements or restraining orders.

***Case Mediation  
Le Jordan, Administrator  
P.O. Box 44008  
Madison, WI 53744-4008  
(608) 848-1477***

The Case Mediation Program is sponsored by the Dane County Bar Association and provides experienced family law attorneys to mediate financial issues. There is a nominal fee for mediation. Payment must be received prior to scheduling the first mediation session. At the present time, participants in the program do not have to be represented by an attorney.

The mediator does not represent either party. The mediator tries to assist in reaching a settlement, but does not guarantee a resolution nor take responsibility for the merits of any settlement. Once an agreement is reached, it must be signed by the parties and submitted to the court for approval.

The entire mediation process will be considered “settlement negotiations” or “offers of compromise.” Mediation is therefore confidential and what occurs may not be divulged to anyone, except to the parties’ respective attorneys and their agents. Confidentiality rules are subject to various exceptions, which should be discussed between the parties and their attorneys. Parties may voluntarily enter mediation, or the court may order mediation.

In the event the Case Mediation Program is unable to provide a mediator, or if the parties desire a specific mediator who is not available through the Case Mediation Program, the parties may hire a private mediator.



## **Community Services**

*Contact the agency directly to find out more information about their services and any fees!*

### **Adoption Advocates, Inc.**

2317 International Lane, Suite 111  
Madison, WI 53704  
(608) 246-2844

Website: [www.aaiwi.org](http://www.aaiwi.org)

Email: [adoptionadvocates@aaiwi.org](mailto:adoptionadvocates@aaiwi.org)

- State-licensed, nonprofit, child placing agency. Provides a no-cost, individual information session for families inquiring about adoption and step-parent adoption screening for residents of Dane County. Will send out an information packet upon request.

### **AL-Anon/Alateen**

Helpline: (608) 241-6644

Website: [www.soarwithafg.org](http://www.soarwithafg.org) (Area 61, District 8 Madison Area)

Email: [helplineanon@gmail.com](mailto:helplineanon@gmail.com)

Website: <http://www.area61afg.org/Index.html> (Al-Anon Family Group, Area 61 WI and Upper W. Michigan)

Email: [webmaster@area61afg.org](mailto:webmaster@area61afg.org)

- Al-Anon Family Groups are a fellowship of relatives and friends who feel their lives have been affected by someone else's drinking. This nonprofessional fellowship provides a forum for sharing struggles, strengths and experiences whether the alcoholic is still drinking or not. They are not affiliated with A.A. although there is cooperation between these two groups.
- Alateen is intended for young people, mostly teenagers, who have a relative or good friend with a drug or alcohol abuse issue. Allows for a safe space to share feelings, learn effective ways to cope with their problems, and to understand that they are not the cause of anyone else's drinking or behavior.

### **Alcoholics Anonymous (A. A.)**

Madison Area Intergroup Central Office, Inc. (MAICO)  
6033 Monona Dr., Suite 204  
Madison, WI 53716  
24 Hour Hotline: (608) 222-8989

Website: <http://www.aamadisonwi.org/>

Email: [maico@tds.net](mailto:maico@tds.net)

- MAICO helps coordinate and facilitate communication and cooperation among individual A.A. groups and area 12-step and other committees. A. A. is a support group to help individuals battling alcoholism to stay sober. There are no dues or fees, and the only requirement for membership is a desire to stop drinking. They also provide a newsletter, supportive literature and a directory of area meetings.

### **Big Brothers and Big Sisters of Dane County**

2059 Atwood Avenue #2  
Madison, WI 53704  
(608) 661-5437

Website: [www.bbbsmadison.org](http://www.bbbsmadison.org)

Email: [friends@bbbsmadison.org](mailto:friends@bbbsmadison.org)

- Children ages 6-18 may enroll in the program. Adult volunteers are matched in a one-to-one mentoring relationship with the child. The relationship between the child and adult is set up for one year, with the volunteers' option to extend the time commitment to two or more years. The adult and child maintain the relationship with three or four visits each month. Services are free.

### ***Canopy Center Healing and Family Support Services (Formerly Parental Stress Center)***

1457 E. Washington Avenue, Suite 102

Madison, WI 53703

(608) 241-4888 (office)

(608) 241-2221 (Parent Stressline)

Website: <http://www.canopycenter.org/Programs.aspx> Email: [info@canopycenter.org](mailto:info@canopycenter.org)

- Private and non-profit child abuse treatment and prevention agency offering services to parents, children, and families through three different programs:
  1. **Parent Stressline:** 14-hour, 7-day a week listening service staffed by trained parent advocates for parents and caretakers who are experiencing stress or who just need someone to listen. Parent advocates strive to assist callers with finding solutions to their problems and make referrals. Anonymous and confidential.
  2. **OASIS:** group therapy to people who have been affected by incest and child sexual abuse.
  3. **Families United Network:** parental support groups that meet on a weekly basis to help parents build parenting skills and strong families.

### **Catholic Charities**

30 S. Franklin St.

Madison, WI 53703

(608) 256-2358, (800) 236-4673

Website: <http://www.catholiccharitiesofmadison.org/>

- Provides individual, family, couples, marital and group therapy. Certified outpatient mental health clinic provides treatment for depression, physical, sexual, and emotional abuse, anxiety, grief and loss, lack of self-esteem, and relationship issues. English and Spanish services available. Insurance accepted, sliding fee available.

### **Center for Families**

2120 Fordem Avenue

Suite 200

Madison, WI 53704

608-241-5150

Website: [www.centerforfamilies.org](http://www.centerforfamilies.org) Email: [info@centerforfamilies.org](mailto:info@centerforfamilies.org)

- The resulting agency of a merger between Family Enhancement, The Respite Program, and The Exchange Center for the Prevention of Child Abuse. Now offering information and support to parents, children and families through a variety of programs and resources such as: **Welcome Baby, Parents Place, Neighborhood Parent Aide, Play and Learn, the Respite Center, Parent Child Home Program** and
  - **Family Enhancement Program:** Parent support and education groups. Parenting classes, workshops and other programs to strengthen families.
  - **Respite Center:** child care (birth to 14 years old), support services for parents in crisis or transitional situations, and community referrals as needed. The agency is open 24 hours per day, seven days a week. Parents new to the Respite Center

should call ahead to arrange an intake appointment if at all possible. Child care is short term and there is a sliding fee scale.

- **Early Childhood Initiative:** provides parents in the Allied Drive and Sun Prairie neighborhoods, who have infants up to 12 months old, with parental support and education as well as job skill counseling.

### **Children’s Service Society of Wisconsin**

1716 Fordem Ave.  
Madison, WI 53704  
(608) 221-3511  
Website: [www.cssw.org](http://www.cssw.org)

- Provides individual and family counseling to children and families, Special Needs Adoption services, Treatment Foster Care for children and adolescents with significant emotional, behavioral, physical or medical challenges, search for the biological parents for children in out-of-home care, mobile play groups for children age birth to 5, and programming to assist parents help their child transition to public schools (outside of the Madison Metropolitan School District).

### **Community Action Coalition for South Central Wisconsin, Inc.**

1717 N. Stoughton Rd.  
Madison, WI 53704  
(608) 246-4730, Toll-free: 877-675-3508  
Website: [www.cacscw.org](http://www.cacscw.org)

Email: [cac@cacscw.org](mailto:cac@cacscw.org)

- Services to reduce poverty in Dane, Jefferson and Waukesha Counties including food and garden programs, citizen advocacy, free clothing center, housing case management, financial assistance with housing and telephone costs, landlord mediation, and advocacy on issues related to poverty.

### **Community Coordinated Child Care, Inc.**

5 Odana Court  
Madison, WI 53719  
(608) 271-9181, Toll-free: 800-750-5437  
Website: [www.4-c.org](http://www.4-c.org)

Email: [info@4-c.org](mailto:info@4-c.org)

- Non-profit agency that provides advocacy and support services for child care providers, families, and the community through referral services for parents, professional development/training for providers, family child care certification, corporate child care planning and the Child and Adult Care Food Program.

### **Office of Community Services (City of Madison)**

215 Martin Luther King Jr. Blvd, Rm. 225  
Madison, WI 53703  
(608) 266-6520  
Website: <http://www.cityofmadison.com/commserv/index.html>

Email: [commserv@cityofmadison.com](mailto:commserv@cityofmadison.com)

- Provides services for children, families and seniors by coordinating neighborhood programs, offering child care funding for low-income families, accrediting child care centers, and referring local people to available community agencies and services.

### **Dane County Department of Human Services—Children, Youth and Families Division**

1202 Northport Dr.  
Madison, WI 53704  
(608) 242-6200 (general information) 7:45 am – 4:30 pm

(608) 261-5437 or 255-6067 (after business hours) to report child abuse

Website: <http://www.danecountyhumanservices.org/cyf.shtm>

- This division administers a variety of programs to promote child and family welfare such as pregnancy and early childhood services, children's mental health, delinquency and protective services.

### **Dane County Legal Resource Center (DCLRC)**

Dane County Courthouse

215 S Hamilton Street, Rm L1007

Madison, WI 53703

(608) 266-6316

Website: <http://wilawlibrary.gov/about/locations.html> Reference Email: [dclrc.ref@wicourts.gov](mailto:dclrc.ref@wicourts.gov)

- Public law library where visitors can purchase court forms, pick up informational literature on various legal topics, and use print and electronic legal resources to conduct legal research. Staff are librarians, not attorneys, so cannot give legal advice but can help locate legal information and make referrals to available legal assistance agencies or clinics.
- Free public access to Westlaw, Books UnBound, and other specialized legal treatises and databases.
- Only public photocopier in the Dane County Courthouse; copies are \$.25 per page.

### **Domestic Abuse Intervention Services (DAIS)**

PO Box 1761

Madison, WI 53701-1761

(608) 251-4445 or 1-800-747-4045, 24 hour crisis/intake line

Website: <http://www.abuseintervention.org/> Email: [info@abuseintervention.org](mailto:info@abuseintervention.org)

- Assistance for victims of domestic violence. Services include a 24 hour help and crisis line; crisis response; legal advocacy; support groups, emergency shelter; and programs for children. All services free of charge. Legal services include support, referrals, and court accompaniment for restraining orders and family, criminal, and immigration issues. The Legal Advocates are not attorneys and cannot give legal advice.

### **Family Court Assistance Project (FCAP)**

(608) 262-2301

Website: <http://www.law.wisc.edu/fjr/clinicals/fcap.html>

- Meets several days a week at the Dane County Courthouse and at the Villager Mall (2300 S. Park Street). Appointments strongly encouraged; call the listed phone number to set up an appointment.
- Law school students will help complete and review forms and give general legal information about family court proceedings and processes; legal advice not provided.
- Free forms will be available regarding divorce, paternity, and post-judgment motions.
- Contact FCAP at the above phone number for current hours or to make an appointment.

### **Family Law Assistance Center (FLAC)**

Dane County Courthouse

215 S Hamilton Street, Rm L1007

Madison, WI 53703

Website: <http://www.dcba.net/programs/FLAC.html>

- Meets every Wednesday, between 11:30 am and 1:30 pm. Volunteer attorneys and paralegals are available to help people complete family court forms, to answer questions about family court procedures and to provide referrals to community agencies; legal advice not provided.

- Free forms will be available regarding divorce, paternity, and post-judgment motions.
- Spanish speaking volunteers are available on the first and third Wednesdays of each month.

**Family Service, Inc.**

128 E Olin Ave.  
Madison, WI 53713  
(608) 252-1320

Website: [www.fsmaad.org](http://www.fsmaad.org)

Email: [info@fsmaad.org](mailto:info@fsmaad.org)

- Provides family, child, elderly, individual and group counseling and support for coping with the stress of family conflict, substance addiction, and abuse, neglect or violence in the home. Certified by Council on Accreditation as a mental health agency, staffed by experienced mental health and social service staff.
- Nonprofit human service agency willing to work with all income levels.
- Services include Counseling & Psychotherapy, Anti-Violence Programs, Older Adult Services, Personal Growth Series, FACE and FACEKids, Families in Transition, Safe at Home, Alcohol & Other Drug Services, Steps to Success Day Treatment, Employee Assistance, and Consumer Credit Counseling.

**Family Support and Resource Center**

101 Nob Hill Road, Suite 201  
Madison, WI 53713  
(608) 237-7630

Website: [www.fsrcdane.org](http://www.fsrcdane.org)

- Nonprofit organization that provides supportive services to Dane County families who are raising children with developmental disabilities.
- Services include Family Support (home and community-based supports designed to enhance the quality of life for children with significant disabilities up to the age of 21) and Community Inclusion (advancement of connections and relationships between children with disabilities and community organizations and people).

**Imagine a Child's Capacity (ICC)**

14 Ellis Potter Court, Suite 2  
Madison, WI 53711  
(608) 204-6242

Website: [www.icc-wi.org/bridgesforfamilies.asp](http://www.icc-wi.org/bridgesforfamilies.asp)

Email: [info@icc-wi.org](mailto:info@icc-wi.org)

- Offers family-focused education and/or therapy to children with social, emotional, cognitive or physical developmental disabilities and their families. ICC professionals provide tools for teachers, peers, parents and the community to help foster inclusion, acceptance and independence so children may reach their fullest potential.
- Birth to Three Program: Wisconsin's early intervention program for infants and toddlers within the Madison School District. For the rest of Dane County call 608-273-3232.

**Lawyer Referral and Information Service**

State Bar of Wisconsin  
PO Box 7158  
Madison, WI 53707-7158  
(608) 257-4666, Toll-free: 1-800-362-9082

Website: [www.legalexplorer.com](http://www.legalexplorer.com)

Email: [LRISResponse@wisbar.org](mailto:LRISResponse@wisbar.org)



- Telephone and online service providing referrals to full fee attorneys (in the caller's area) or to an appropriate government or community agency. Hotline operators will not give legal advice but will ask questions about your legal situation in order to make a referral.

### **Legal Action of Wisconsin**

31 S. Mills St.

Madison, WI 53715

Office Line: (608) 256-3304 or 1-800-362-3904      Intake Line: (608) 256-3258 or 1-800-362-3904

Website: [www.legalaction.org](http://www.legalaction.org)

- People seeking legal services in the following areas must call during the designated intake hours (Please note: you may call the office line to verify the intake hours have not changed or to inquire about other legal issues. This list is only the most commonly sought legal services, but Legal Action may be able to assist with other types of cases. This is not an exhaustive list.):
  - a. Family Law: 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays of each month at 9 am. They only take the first 12 callers.
  - b. Housing: Mondays and Tuesdays from 9 am-12 pm
  - c. Consumer: Tuesdays from 9 am. They only take the first 5 callers
  - d. Public Benefits: Mondays 9 am-12 pm
  - e. Migrant Farm Workers: Monday-Friday from 9 am-5 pm
  - f. Foreclosure: Tuesdays 9 am-12 pm

### **Madison Area Gay/Bi Fathers Group**

Contact GD at: [taurusgad@yahoo.com](mailto:taurusgad@yahoo.com) for more information

- Our membership represents a broad spectrum of gay and bisexual men who have young children, adult children and grandchildren. Monthly potlucks on a Sunday afternoon provide a safe and confidential setting in which members socialize, benefit from one another's emotional support and share experiences with parenting, separation, divorce, coming out and many other issues. The group is not a dating service.

### **Mental Health Center of Dane County**

625 W. Washington Ave.

Madison, WI 53703

(608) 280-2700

(608)-280-2600 (24 hour emergency line)

Website: [www.mhcdc.org](http://www.mhcdc.org)

- Private nonprofit organization that provides comprehensive outpatient mental health and AODA services for Dane County residents. Treatment services are available to children, youth, families, and adults. Provides a 24-hour emergency mental health/suicide prevention telephone service. The Crisis Intervention Service (24-hour mobile unit staffed by experienced mental health professionals) makes every effort to respond promptly to mental health emergencies with priority going to those involving a threat to someone's physical safety or well-being.

### **Middleton Outreach Ministry**

7432 Hubbard Ave.

Middleton, WI 53562

(608) 836-7338

Website: [www.mompop.org](http://www.mompop.org)

Email: [info@momhelps.org](mailto:info@momhelps.org)

- Christian churches serving together with others from the community to offer services such as a food pantry, clothing closet, household supply program, housing and emergency aid; rides and other services for seniors in the service area.

**Nehemiah Community Development Corporation**

655 Badger Road  
Madison, WI 53713  
(608) 257-2453

Website: [www.nehemiah.org](http://www.nehemiah.org)

Email: [nehemiah@nehemiah.org](mailto:nehemiah@nehemiah.org)

- Private faith-based social service organization that provides educational and leadership development programming, primarily for at-risk African American children, youth and families in the Madison area. They focus on prevention and early intervention in particular. This organization's mission is to empower indigenous learners and leaders to bring about hope, transformation and justice for themselves, their families and their communities.

**LGBT OutReach**

600 Williamson St.  
Madison, WI 53703  
(608) 255-8582

Website: <http://www.lgbtoutreach.org>

Email: [info@lgbtoutreach.org](mailto:info@lgbtoutreach.org)

- Information (including The Earl Greely Memorial Library, one of the largest and most extensive LGBT libraries in the Midwest housed at OutReach), crisis intervention, support groups and advocacy for gay, lesbian, bisexual, and transgender community members.

**Parental Stress Center**—See listing for *Canopy Center Healing and Family Support Services (Formerly Parental Stress Center)*

**Parents, Families and Friends of Lesbians and Gays (PFLAG)**

4221 Venetian Lane  
Madison, WI 53708-6655  
(608) 848-2333, 24 Hour Help & Information Line

Website: [www.pflag-madison.org](http://www.pflag-madison.org)

Email: [pflagmadison@yahoo.com](mailto:pflagmadison@yahoo.com)

- Promotes health and well-being of gay, lesbian, bisexual, and transgender persons, their families and friends through support, education and advocacy. Meets every third Sunday from 2-4 p.m., Sept-May at Friends Meeting House, 1704 Roberts Court, Madison.

**Prevent Child Abuse Wisconsin**

1716 Fordem Ave.  
Madison, WI 53704  
(608) 256-3374 or 1-800-CHILDREN

Website: [www.preventchildabusewi.org](http://www.preventchildabusewi.org)

Email: [pcaw@cssw.org](mailto:pcaw@cssw.org)

- Builds community resources, provides training and public awareness, and carries out advocacy activities in order to strengthen child abuse prevention efforts in Wisconsin.

**Psychology Research and Training Clinic**

1202 W Johnson St. Room 351  
Madison, WI 53706  
(608) 262-5925

Website: <http://psych.wisc.edu/Clinic/>

- Provides counseling to individuals, couples and families by advanced graduate students in clinical psychology under supervision of a licensed psychologist. Fees are on a sliding scale from \$10-60 per session. There is a \$25 intake fee.

**Rainbow Project, Inc.**

831 East Washington Avenue  
Madison, WI 53703  
(608) 255-7356

Website: <http://www.rainbowproject.bizland.com/> Email: [Info@TheRainbowProject.net](mailto:Info@TheRainbowProject.net)

- Fosters healthy parent-child relationships and community awareness through short & long-term counseling, prevention & early intervention for families affected by violence or substance abuse, assessment and advocacy for mental health needs of families, and specialized community referrals. Available programs include Children of Violent Homes, PRIDE Preschool Program, Think First/Anger Coping, Grandparents Raising Grandchildren, and more.

**Rape Crisis Center**

2801 Coho Street, Suite 301  
Madison, WI 53713  
(608) 251-7273, 24 Hour Crisis Line; 251-5126 Office

Website: [www.danecountyrcc.org](http://www.danecountyrcc.org) Email: [info@danecountyrcc.org](mailto:info@danecountyrcc.org)

- Provides crisis intervention, legal and medical advocacy, individual and group support and counseling, information and resources to victims of sexual assault, harassment and incest and their family and friends. Services provided free of charge to women, children, and men. Spanish speakers available. Sponsors Chimera self-defense classes (\$30 for public/\$20 for students).

**The Salvation Army**

630 E. Washington Ave.  
Madison, WI 53703  
(608) 256-2321

Website: [www.salvationarmydanecounty.org](http://www.salvationarmydanecounty.org)

- Social services offered include community meals on Saturday and Sunday, a food pantry, and temporary shelter for women and families, assistance to disaster victims, spiritual ministry, and youth activities. No fees.

**Separated/Divorced Group**

Bethel Lutheran Church  
312 Wisconsin Ave.  
Madison, WI 53703  
(608) 257-3577

Website: [http://bethel-madison.org/ministries/separated\\_divorced.html](http://bethel-madison.org/ministries/separated_divorced.html) Email: [laura@bethel-madison.org](mailto:laura@bethel-madison.org)

- Meets Tuesdays 7-8:30 p.m. in the Good Sheppard Chapel for mutual understanding, friendship and support for those experiencing grief and loss from a separation, divorce, or break-up of a committed relationship. Open to all ages, minorities, and faiths. Small groups led by therapists. No fee but donations appreciated. For more information, contact Pastor Laura Sutherland at the number or email above.

**South Madison Health and Family Center – Harambee**

2202 S Park St.—Villager Mall Shopping Center

Madison, WI 53713

(608) 261-9138

Website: <http://www.smhfc-harambee.com>

Email: [info@smhfc-harambee.com](mailto:info@smhfc-harambee.com)

- Umbrella agency for many different non-profit agencies, volunteer organizations and citizen groups that offer a variety of health care, family support, and educational services. Partner agencies include Dane County Parent Council, Planned Parenthood, South Branch of Madison Public Library, Madison Department of Public Health, Access Community Health Centers, Family Support 360, and Dane County Department of Public Health.

**United Way 2-1-1 (Formerly First Call for Help)**

PO Box 7548

Madison, WI 53707-7548

Call 2-1-1 or (608) 246-4357; (608) 246-4360 TDD/TTY

Website: [www.unitedwaydanecounty.org](http://www.unitedwaydanecounty.org)

Email: [unitedway2-1-1@uwdc.org](mailto:unitedway2-1-1@uwdc.org)

- Free, confidential information service for Columbia, Dane, Green, Iowa, Lafayette, Rock, and Sauk counties. Individualized referrals online or by telephone to community resources and organizations such as food pantries, legal assistance clinics, area programs, events and social service agencies from a comprehensive resource database.

**United Way of Dane County**

2059 Atwood Ave.

Madison, WI 53704

(608) 246-4350

Website: [www.unitedwaydanecounty.org](http://www.unitedwaydanecounty.org)

- United Way of Dane County focuses on the “Agenda for Change,” the seven areas identified by our community as most critical for bringing about meaningful change: education, children, health, housing, independence, safety and volunteers. They partner with local health and human service agencies to solve the underlying causes of negative cycles and social conditions that affect Dane County residents.

**Urban League of Greater Madison, Inc.**

2222 S. Park Street, Ste. 200

Madison, WI 53713

608-729-1200

Website: [www.ulgm.org](http://www.ulgm.org)

Email: [ulgm@ulgm.org](mailto:ulgm@ulgm.org)

- ULGM works to improve the social and economic conditions of African Americans, other people of color, and the economically disadvantaged in our community. They provide employment and career training services for job seekers; academic support for youth; support to larger low-income families building stability and equity as they become first-time homeowners, and assistance to employers developing their workforce to attain their diversity goals.

**UW-Extension Dane County Family Living Educators**

1 Fen Oak Court, Rm 138

Madison, WI 53718

608-224-3700 (main line)

Website: [www.uwex.edu/ces/cty/dane/flp/index.html](http://www.uwex.edu/ces/cty/dane/flp/index.html)

Email: [neubauer@co.dane.wi.us](mailto:neubauer@co.dane.wi.us)

- Provides research-based information on topics affecting today's families. Offers educational programs on family life issues such as nutrition, housing, money management and parenting. For more information contact Deb Neubauer at 608-261-5077 or the above email.

### **Wisconsin Family Ties**

16 N Carroll St. Suite 230

Madison, WI 53703

(608) 267-6888 or 1-800-422-7145

Website: [www.wifamilyties.org](http://www.wifamilyties.org)

Email: [info@wifamilyties.org](mailto:info@wifamilyties.org)

- A statewide organization run by families for families that include children and adolescents who have emotional, behavioral, mental and substance abuse disorders. Support groups available for parents, advocacy for better treatment options, and referrals to information and specialists available.

### **Wisconsin Fathers for Children and Families**

P.O. Box 1742

Madison, WI 53701

(608) ALL-DADS or 255-3237; Helpline

Website: <http://www.wisconsinfathers.org>

- Provide support services and public advocacy for the greater involvement of responsible fathers in their children's lives. Publish "Today's Dad" newsletter, maintain a telephone helpline for fathers, and organize a "Father's Night Out" where other area fathers can socialize and network. Volunteer opportunities available, membership for a small fee, support services are free of charge.

### **Youth Services of Southern Wisconsin—Briarpatch Division**

1955 Atwood Avenue

Madison, WI 53704-5220

(608) 251-6211; Helpline

Website: [www.youthsos.org](http://www.youthsos.org)

- Crisis intervention for teenage youth or their families, including runaway youth. Confidential counseling is available 24 hours a day through the Helpline. Trained volunteers and staff help youth and their families deal with homelessness, drug and alcohol abuse, domestic violence, custody difficulties, education troubles, and other complicated issues of adolescence. No fees; walk-in service or by appointment.

### **YWCA Madison**

101 East Mifflin Street, Suite 100

Madison, WI 53703

(608) 257-1436

Website: [www.ywcamadison.org](http://www.ywcamadison.org)

- Provides affordable housing for low-income women in Dane County, emergency shelter for homeless families, employment and training programs, special services for teenage girls such as Girls Inc. (an after school enrichment program for girls 9-18), and promotes the elimination of racism and abuse through social action and advocacy.

## **Frequently Asked Questions**

- ★ **General FAQs**
- ★ **Divorce FAQs**
- ★ **Post-Divorce (or Post-Paternity) FAQs**
- ★ **FAQs by Kids**

### ***General FAQs***

#### **1. Where can I find information about my case?**

Online: <http://wcca.wicourts.gov/index.xsl>

Wisconsin circuit court case information can be found online in the WCCA database, more commonly referred to as “CCAP.”

In person: You can visit Court Records (Rm 1002) between 7:45 am-4:30 pm, Monday-Friday to look at your case file. Be sure you bring your case number; there is a \$5.00 search fee if you do not have your case number. Copies are \$1.25 per page.

#### **2. How should I behave in court?**

##### **BEFORE YOU ENTER THE COURTROOM OR HEARING ROOM:**

1. The court is a very traditional and polite place where a certain demeanor (way of acting) is expected. You must act and speak in a way that helps you with your case.
2. Turn off your cell phone.
3. Remove your hat.
4. **BE ON TIME!** The court has a very busy schedule. If you are late, your case might be postponed to another date, an order may be entered without your input, or the case may be dismissed entirely.
5. Dress professionally, as you would for an important event. Your clothing should be neat and clean and you should be well groomed.
6. Do not bring your children to court.

##### **WHILE IN COURT:**

1. Be respectful to everyone in court. This includes the judge or court commissioner, court staff, the other party involved in your case, witnesses, court bailiff, social workers, counselors, and any other people in the courtroom.
2. Address the judge as “Your Honor.”
3. Address the commissioner as “Commissioner,” not by his or her first name.
4. Do not use profanity, argue, or verbally react to statements made in court by the judge or commissioner, opposing party or attorney. You will have your turn to speak. Don’t interrupt.
5. Do not chew gum.

### 3. How do I find a good lawyer?

There are many different ways to search for a lawyer, such as:

- Ask friends or relatives if they have ever worked with an attorney and been satisfied with the services provided. Even if that lawyer does not practice in family law, he or she may be able to refer you to an attorney who does. When choosing a lawyer, however, be sure to select one that has experience with your type of case.
- The State Bar of Wisconsin offers a lawyer referral service. The service is available by phone (800) 362-9082 or online at <http://www.legalexplorer.com/lawyer/lawyer.asp>
- The Wisconsin State Law Library's (WSLL) website links to a number of web-based lawyer directories and guides: <http://wilawlibrary.gov/topics/dir.php#LAWYERS>
- You may also want to look in the yellow pages under "Attorneys" or "Attorney's Guide." You will find attorneys listed by their practice areas, but many will run ads with a list of the services they provide.
- Visit the Wisconsin Court System's Self-Help Center for programs that offer no or low-cost legal aid and information that can help you determine if you can afford a lawyer: <http://www.wicourts.gov/services/public/selfhelp/index.htm>

### 4. What professional and ethical rules do lawyers, court commissioners and judges have to follow?

Professional and ethical rules for lawyers, court commissioners and judges can be found in the Wis. Supreme Court Rules:

- A. Chapter 20, Rules of Professional Conduct for Attorneys
- B. Chapter 60, Code of Judicial Conduct
- C. Chapter 60 Appendix, Code of Judicial Conduct

Supreme Court Rules can be found in Volume 5 of the Wisconsin Statutes or online at: <http://legis.wisconsin.gov/rsb/scrtoc.htm>

### 5. Where can I complain if my lawyer, court commissioner, or judge has violated certain professional or ethical rules?

#### A. Lawyer:

The Office of Lawyer Regulation (OLR) investigates grievances about attorney misconduct. You can find out more information by calling their office toll-free 877-315-6941 or by going to their website at

<http://www.wicourts.gov/about/organization/offices/olr.htm>

If your complaint deals with malpractice rather than misconduct, you may wish to consult a different attorney to pursue the matter. WSLL provides links to tips on hiring and working with a lawyer, lawyer regulation, malpractice, legal ethics and professional conduct standards for attorneys: <http://wilawlibrary.gov/topics/legalprof/malpractice.php>

#### B. Court Commissioner:

For complaints about a court commissioner, read SCR 75.06:

<http://www.wicourts.gov/html/rules/CHAP75.htm>

Contact information for the lead commissioner can be found on the Circuit Court Commissioner page of the Clerk of Courts' website at:

<http://www.countyofdane.com/court/court/commissioners.aspx>

Contact information for the chief judge can be found in the Circuit Court Administrative Districts directory: <http://www.wicourts.gov/contact/docs/circuitdistricts.pdf>

You can also file a complaint with the Wisconsin Judicial Commission by calling them at (608) 266-7637 or completing the complaint form available online at:

<http://www.wicourts.gov/about/committees/judicialcommission/index.htm>

C. Judge:

The Wisconsin Judicial Commission investigates allegations of judicial misconduct. You can call them at (608) 266-7637, or download a complaint form from their website at

<http://www.wicourts.gov/about/committees/judicialcommission/index.htm>

## 6. How can the filing or service fees be waived in my case?

If you believe you are "indigent" or incapable of paying the required filing fee due to poverty, complete the "Petition for Waiver of Filing and Service Fees" ([Form CV-410](#)) and bring in the required proof of aid or income when you turn in your application for approval. The procedure for a fee waiver may change periodically. The current instructions for the fee waiver are available at the Legal Resource Center (Rm L1007) or online on the Clerk of Courts' Family Court Forms page at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

## 7. Where can I find the Wisconsin laws or other legal information regarding my case?

Many primary legal resources such as the Wisconsin Statutes, Administrative Code and recent decisions of the Wisconsin Court of Appeals and Supreme Court are available online for free. The best place to begin your online legal research is the Wisconsin State Law Library's website (see below for web address). You can find links to the statutes and administrative code in the bottom right corner of the homepage, or browse for legal resources by subject in the A-Z Legal Topics page (link is on the homepage, too).

While a lot of legal information can be found online, many resources can only be accessed through a law library. These resources would include but are not limited to practice manuals with sample forms, annotated versions of statutes, or older court opinions. Certain legal databases like WestlawNext, Lexis Nexis or Shepard's are user-friendly but expensive. You may be able to use these resources for free at a public law library; be sure to contact the library directly to ask about what resources they have and what the cost is to print. There are three comprehensive law collections in Wisconsin:

1. The WI State Law Library (WSLL): <http://wilawlibrary.gov>
  - a. Reference Desk: (608) 267-9696
2. University of WI Law School Library: <http://library.law.wisc.edu/>
  - a. Reference Desk: 608-262-3394
3. Marquette Law School Library\*\*: <http://law.marquette.edu/law-library/eckstein-law-library>
  - a. Reference Desk: (414) 288-3837

\*\*This library is open to the public but requires a photo id and registration at the library's welcome desk.



County law libraries like the Dane County Legal Resource Center (Rm L1007) or the Milwaukee Legal Resource Center (located in the Milwaukee County Courthouse) also have specialized legal materials that are not available online, such as Books UnBound, Public Access Westlaw, and legal treatises published by the State Bar of Wisconsin. The Legal Resource Centers also have many pro se circuit court form packets available for purchase. Unfortunately not all counties have law libraries; check with the Clerk of Court in the respective county to see if there are legal resources available to the public.

Public libraries may have copies of Wisconsin Statutes, offer free Internet access, and have some legal self-help books available for checkout. Be sure to check more authoritative Wisconsin legal sources if you take any information from a self-help book; many may contain information that does not apply in Wisconsin.

## **8. What court forms are available on the Internet?**

Dane County Clerk of Courts has family and other types of court forms online on their court forms page: <http://www.countyofdane.com/court/prepare/forms.aspx>

The Wisconsin Court System has adopted some standard court forms for use in several different types of cases including family, guardianship, general, and juvenile. You can access them online on the WI Court System's Circuit Court forms page: <http://wicourts.gov/forms1/circuit.htm>

The WI Court System has also developed an interactive website that allows you to answer questions and produce the forms you need for a divorce or legal separation: <https://prosefamily.wicourts.gov/pages/index.html>

For links to many other types of forms, check WSLI's Legal Forms page: <http://wilawlibrary.gov/topics/wiforms.php>

## **9. Do I need to notify the court if I move?**

Yes. If you have a court case, whether it is ongoing or closed, you must send notice with your new address to the Clerk of Courts (Rm 1000) and the CSA (CCB Rm 365) within 10 days.

There is a "Change of Address Form" on the Clerk of Courts' Other Court Forms page that can be used to report your new address and other required information to the Clerk of Courts at: <http://www.countyofdane.com/court/prepare/formOther.aspx>

To report a new address to the Dane County CSA call (608) 266-4031 or contact your case manager.

## **10. Is there a notary public in the Dane County Courthouse to notarize my forms?**

No. However, the court officials at the Clerk of Courts (Rm 1000) or the Court Commissioner Center (Rm 2000) can sign your document for most incoming circuit court forms. Usually, that is sufficient for filing in Dane County. The Dane County Clerk, [City-County Building](#) (Rm 106A), is a free notary as are most banks, especially if you are a customer.



## *Divorce FAQs*

### **1. Does the court offer marital counseling before a divorce is filed?**

There are no Dane County marital counseling services available. You may be able to use private mental health providers covered by your health insurance, or other marriage counseling services that are available. You may also want to look under “Marriage Counselors” in the yellow pages to find a service provider.

### **2. What are the differences between an action for legal separation, annulment, and divorce?**

#### D. Legal Separation:

A legal proceeding which separates the parties’ property and finances but continues their marriage. Legal separation is an alternative for people who wish to avoid divorce for religious or other reasons, or are in hopes of reconciliation. Like a divorce, a legal separation requires property division, determination of child custody and placement, and child support or maintenance payments. Spouses who reconcile after a legal separation may apply to have the legal separation revoked and remain married. See [Wis. Stat. §767.315](#) for the grounds for legal separation. A spouse may also apply to convert the legal separation to a divorce.

#### E. Annulment:

Dissolves a marriage that was invalid from the beginning. Parties must meet the grounds in [Wis. Stat. §767.313\(1\)](#) to file for an annulment. The length of your marriage, even if it is a very short time, cannot be used as the sole grounds for annulment. This is a very common misconception.

#### F. Divorce:

A legal proceeding to dissolve a marriage that is irretrievably broken with no hope of reconciliation, [Wis. Stat. §767.315](#).

### **3. How can I protect my kids from the stress of divorce?**

Divorce is hard on children, but try to follow these suggestions to lessen the tension and conflict in your household:

- **Avoid:** blaming the other parent, arguing or fighting in front of children, discussing the court proceedings when the children are at home, involving children in decision making, encouraging child to choose sides, or threatening to send the children to live with the other parent.
- **Work toward:** answering children’s questions in an age-appropriate manner, making answers simple and clear, reassuring children that the divorce is not their fault, encouraging them to express their feelings such as fear and anger, giving them permission to continue to love both parents and not take sides, reassuring them that they will be taken care of, keeping the children’s schedules as normal and typical as possible without major or drastic changes that are unsettling, and preparing the children for changes to their family.

#### **4. What if I don't want a divorce? Is there anything I can do to stop it?**

The only basis for divorce in Wisconsin is that the marriage is "irretrievably broken." This means the husband and wife can find no way to work out their differences. A judge usually will find a marriage irretrievably broken even if only one spouse wants a divorce.

#### **5. What county do I file for divorce in? Is it where I got married?**

In Wisconsin you file for divorce in the county where you currently reside, not where you were married. To file for a divorce in Dane County, one party must have lived in Wisconsin for six months and in Dane County for at least thirty days immediately before filing the petition.

#### **6. How long does it take to get a divorce?**

A minimum statutory waiting period of 120 days must pass between serving the initial papers, and filing the joint petition, and the final hearing unless the court makes an exception for an emergency. See [Wis. Stat. §767.335](#). Most divorces take longer than four months. Several factors affect the length of the process: the complexity of the case, the ability of the spouses to agree on the issues, and the trial court's calendar of other cases. Note: A divorce isn't effective until the final hearing. Once the divorce is final, both parties must wait at least six months before marrying again.

#### **7. How do I change a legal separation into a divorce?**

- If the action is still pending (i.e. it is still before the final hearing), there are no forms. The parties should draft a letter to the CCC or judge (if one has been assigned) asking that the matter be converted to a divorce. One party may make this request even if the other party does not agree. After the letter is filed with the court, the party who filed the letter must send a copy of the other spouse. An Original Certificate of Divorce or Annulment will need to be filed.
- If a legal separation judgment has already been granted, both parties can sign a Stipulation and Order Converting Legal Separation to Divorce ([FA-4162](#)) at any time. After one year from one year after entry of a judgment of legal separation, either spouse may file the Motion and Order Converting Legal Separation to Divorce ([FA-4163](#)) without the other party's consent or signature. For more procedural information, see the instructional guide called Conversion of Legal Separation to Divorce ([FA-5003](#)).

#### **8. What if I'm pregnant and going through a divorce?**

Your husband is legally presumed to be the father of your child. You must notify the court of your pregnancy so that a special lawyer, called a guardian ad litem (GAL) can be appointed to represent the child's best interests. The GAL must recommend to the judge whether your husband or another person is the father of your child before you can be divorced. The alleged father may have to take a paternity test.

#### **9. Do I need a lawyer in order to file for divorce?**

No, there is no requirement that you must hire an attorney in order to file for divorce. There are some key risks and responsibilities that you accept when you decide to represent yourself. If your divorce is complicated or if you feel uncomfortable conducting legal research or following court procedures, and meeting deadlines, you may want to seek legal representation.

## **10. Can I obtain orders on custody, placement, and child support before a divorce is final?**

Yes, the judge or family court commissioner may issue temporary orders that protect your rights during the divorce process. For example, temporary orders may determine child custody and physical placement, use of the family home, payment of maintenance and child support, or payment of debts.

There are two ways to obtain a temporary order. See the section on “*Temporary Orders*” for more details.

## **11. Can I get a divorce if I don’t know where my spouse is?**

Yes, but you have to show the court that you made reasonable efforts to locate your spouse. As a last resort, you may publish the summons in a local newspaper in the area where your spouse last resided in an attempt to inform him or her that you have started a divorce. The court has no power to order child support or maintenance unless your spouse has been personally served with notice of the divorce.

If you need to serve your spouse by publication because you cannot locate him or her, there are instructions and an affidavit outlining the efforts that you should take to contact your absent spouse to prove to the court that he or she cannot be found. The “Service by Publication” packet is available at the Legal Resource Center (Rm L1007) for a small fee or online on at: <http://www.countyofdane.com/court/prepare/formFamily.aspx>

## ***Post-Divorce (or Post-Paternity) FAQs***

### **1. How do I change my custody or support order?**

There are two ways to modify an existing family court order. If the parties agree to the requested changes of their court judgment or order, they may file a “Stipulation and Order to Amend Judgment for Support/Maintenance/Custody/Placement” ([Form FA-604](#)). If only one party seeks to change the judgment, that party may file the “Notice of Motion and Motion to Change: Legal Custody, Physical Placement, Child Support or Spousal Maintenance” ([Form FA-4170](#)). See the sections on “*Changing Court Orders: Family/Child Support and Maintenance*” and “*Changing Court Orders: Custody and Physical Placement*” for more information.

You must meet certain legal requirements in order to change the previous court order. Usually, you must show a substantial change in circumstances since the last court order was entered. Depending upon the change you requested, there may be other legal requirements that need to be met in order to be successful in your effort to change the order.

If you do not have your own attorney, consider visiting the [Family Law Assistance Center or contacting the Family Court Assistance Project](#). See the “*Community Services*” section of this booklet for their contact information.

## **2. Can I file a motion to change custody/placement or support from another county or state in Dane County?**

Yes, but there are additional steps required to have Dane County hear another court's case. If the original court is from another state, you will need to file the "Summons & Petition to Enforce or Modify a Foreign Judgment or Order" in addition to any motion or stipulation to change the order. See the above question for more information on changing an existing court order. This form is available from the Legal Resource Center (Rm L1007) for a small fee or can be downloaded from the Clerk of Courts' Family Court Forms page at <http://www.countyofdane.com/court/prepare/formFamily.aspx>

If the original court is a different county within Wisconsin, you will need to file a motion to change venue in the court that currently has the case. Currently there are no standard state court forms to petition the court for change of venue; however you may be able to submit your request for change of venue as an "other" change on the "Notice of Motion and Motion to Change: Legal Custody, Physical Placement, Child Support or Spousal Maintenance" ([Form FA-4170](#)). Check with the Clerk of Courts in the county that currently has your case. If they will not accept a request to change venue on the Notice of Motion and Motion to Change (Form FA-4170), you will need to draft your own motion or have an attorney do it for you. If the original court grants your motion, then the case will be transferred to Dane County after you pay the required fees. You will then need to file another motion to request the changes you are seeking. See the previous question for information about how to change a court order.

## **3. Do I have visitation rights as a third party—grandparent or other relative?**

According to [Wis. Stat. §767.43](#), "upon petition by a grandparent, great-grandparent, stepparent or person who has maintained a relationship similar to a parent-child relationship with the child, the court may grant reasonable visitation rights to that person if the parents have notice of the hearing and if the court determines that visitation is in the best interest of the child." However, certain limitations apply to this statute. See the section of this booklet called "[Third-Party Visitation](#)" for more information.

## **4. What are my parental rights and responsibilities if I'm incarcerated?**

There is nothing in Wisconsin law that changes your rights as a parent just because you have been incarcerated. However, there are many ways that incarceration can affect your parental rights. For example, if there is no one to care for a child, the county and state could become involved in raising the child. If contact is not maintained with the child, a court could later find that the child was "abandoned" and can terminate parental rights permanently.

If a divorce is started while a parent is incarcerated, the judge can consider the inability to care for the child in deciding who receives custody and placement. Support orders are not automatically reduced when a parent is incarcerated, and state law generally prohibits eliminating arrears. The incarcerated parent's custody could be transferred to the other parent, upon petition of the other parent. For more discussion about possible consequences, see the [Handbook for Parents in Prison in Wisconsin](#) booklet available at the Legal Resource Center (Rm L1007).

**5. What do I do if my ex-spouse isn't obeying the custody order or has stopped paying support?**

If the other party is not following the terms of a current court order, you can file an "Order to Show Cause for Remedial Contempt of a Divorce or Paternity Judgment" ([Form FA-4172](#)). If you want the court to enforce a physical placement order, you can file a "Notice of Hearing and Motion to Enforce Physical Placement Order" ([Form FA-609](#)). This form can only be used to enforce a specific placement schedule. If you have a general placement order, such as "periods as agreed to by mom and dad," you will need to first set up a specific placement schedule by filing the "Motion to Set Specific Periods of Physical Placement" before you can petition the court to enforce your placement order.

All of these forms and instructions are available for a small fee at the Legal Resource Center (Rm L1007) or online at: <http://www.countyofdane.com/court/prepare/formFamily.aspx> See the section "*Enforcing Court Orders: Remedial Contempt*" for additional information.

**6. My new spouse wants to adopt my children from my former marriage. How do we do this?**

Any child present in this state may be adopted if the child's parents are either deceased or have had his/her parental rights legally terminated in this or another state or foreign jurisdiction. In the case of adoption by a stepparent, the birth parent to whom the stepparent is not married must be deceased or have had his/her rights terminated either voluntarily or involuntarily. See the section of this booklet on "*Adoption*" for more information about procedures and forms.

**7. I would like to take my children on a vacation out of state for 3 weeks. Do I need to notify the other parent or get their permission?**

It is your responsibility to ensure you follow all terms of your current family court order and that any vacation you take with your children does not interfere with the custody or placement schedule of the other parent. Nonetheless, the following quote is a case annotation from [Wis. Stat. §767.481](#):

"There is no law prohibiting a parent with joint legal custody and physical placement from taking a child outside the state, including to a foreign country, for less than 90 days. When parents agree that one parent must move the court to prohibit the other from taking a particular trip with the children, the moving party has the burden of producing evidence and persuading the court that prohibiting the trip is in the children's best interest."

See [Long v. Ardestani 2001 WI App 46, 241 Wis. 2d 498, 624 N.W.2d 405, 00-1429](#) for discussion.

**8. I was previously involved in a same-sex relationship and my ex-partner and I now have a dispute regarding custody and placement of our child. What are my rights in this situation? What is the procedure for addressing our dispute?**

This is a complicated area of law and the answer will depend on your specific situation. You will need to consult with an attorney familiar with any relevant statutes or case law. You can use the State Bar of Wisconsin's Lawyer Referral and Information Service to receive the name and contact information of a private attorney by calling (608) 257-4666.

## ***FAQ by Kids (answered by Family Court Counselors)***

### **1. Is it my fault that my parents are having trouble getting along?**

At times parents have trouble getting along. This is never anyone's fault except the parents. Sometimes children think that they should behave better or get better grades or do better in sports and then their parents will get along better. This is NOT true. Parents have trouble getting along because of adult issues such as money and work schedules. It is not your fault.

### **2. Is there something I can do to get my parents back together again?**

Your parents have decided that they cannot be together anymore. You cannot get them back together. They both love you very much and it is important for you to know their separation is not your fault. It is very normal to have complicated feelings about your parents' separation. Please let one of them know when you feel ready to talk to someone more about your feelings.

### **3. I want to live with my dad, but I live more with my mom. Can I ask a judge to make this happen?**

Children don't come to family court like on television. If your parents can't agree on where you spend your time, they can ask the judge to decide. The judge can ask a lawyer or a family court counselor to talk to you and your parents. The lawyer can tell the judge what you want but that does not mean the judge will order it. Based on a bunch of factors, the judge will decide what is in your best interest, including which parent you should live with most of the time.

### **4. How old do I have to be to decide which parent I live with?**

You have to wait until you are 18 and considered an adult to decide which parent to live with. There is no Wisconsin law that allows a minor child to pick which parent to live with because your parents and the court will decide what is in your best interests until you are an adult.

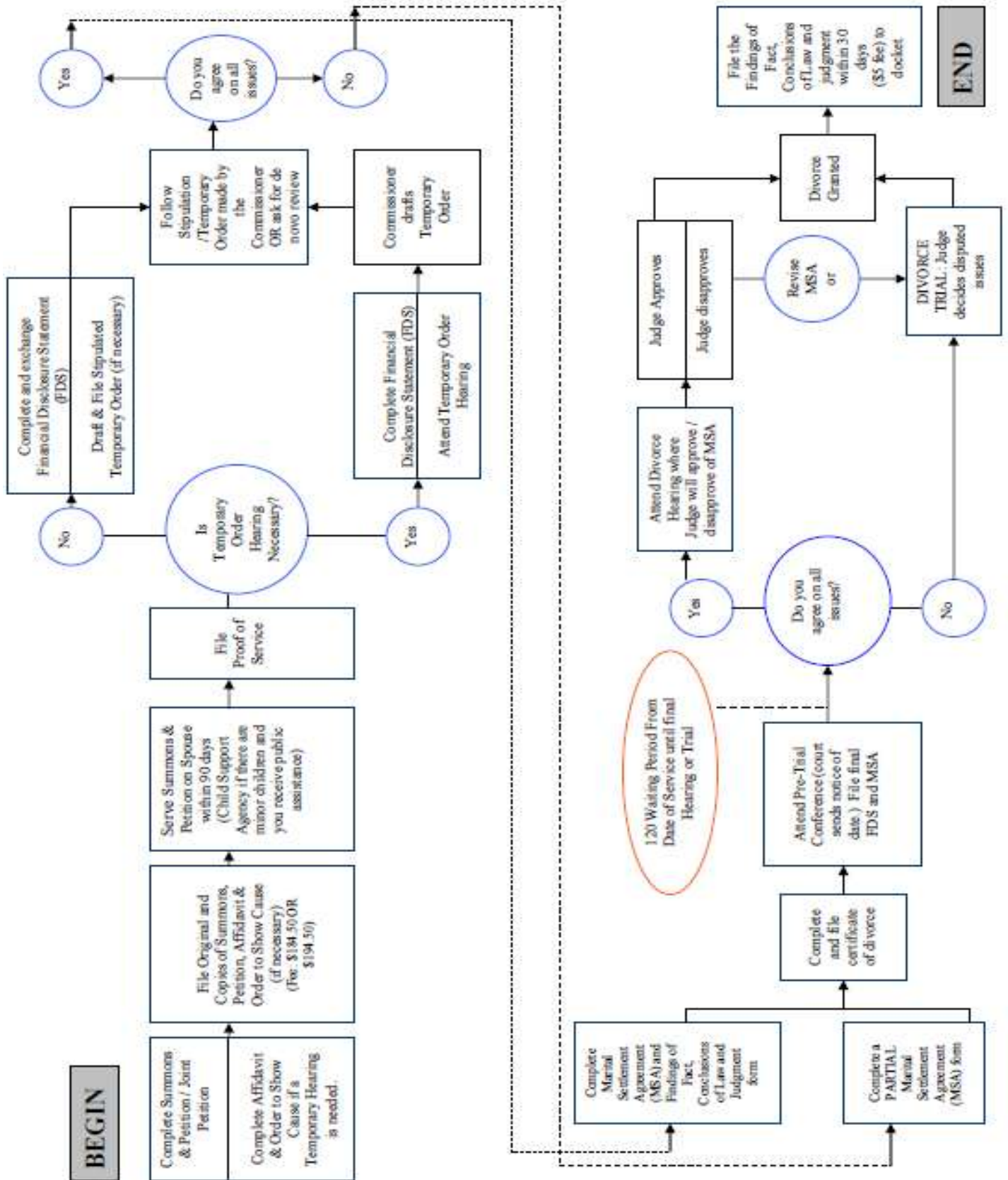
### **5. One parent is always saying bad things about the parent when I visit. How can I make my mom or dad stop saying these things so I can have fun when I stay there?**

You can tell your parent that it hurts your feelings when he or she talks about the other parent like that because you love them both.

### **6. Can I get a lawyer for myself when we go to court?**

A guardian ad litem, or GAL for short, is sometimes appointed by the court if the court feels it is necessary. The GAL is a lawyer who advocates for what is in the child's best interest. This is different from the lawyer who represents adults because that lawyer will want to do what your parent wants. What you want may not be the same as what is in your best interest. The GAL is legally bound to look out for the best interests of the child.

# Appendix 1: Divorce Flowchart





## **Glossary of Common Legal Terms**

**NOTE:** Legal terms are specifically for use in Wisconsin and Dane County Family Court and may not be accurate for other jurisdictions. For more definitions, visit the Legal Terms Glossary on the Clerk of Courts' website at <http://www.countyofdane.com/court/prepare/glossary.aspx>

### **A**

**Adoption:** The act and legal process of accepting a child (or adult) born to another person as one's own with all the rights and responsibilities of parenthood.

**Affidavit:** A voluntary written statement of facts signed under oath in the presence of a notary public.

**Alimony:** Former term for a limited or indefinite support payment for a former spouse, now called "maintenance."

**Alternative Dispute Resolution ("ADR"):** A method to settle a dispute without a full, formal trial.

**Annulment:** The dissolution of an invalid or illegal marriage. Parties must meet the legal requirements and time limits set by [Wis. Stat §767.313\(1\)](#).

**Answer:** The legal document filed by a respondent/defendant in response to a complaint, petitioner motion filed by a petitioner/plaintiff.

**Appeal:** To seek review by a higher court of a lower court's decision.

**Arrears (or arrearages):** Overdue and unpaid support or maintenance. *Arrears* accumulate as a back balance that is still owed by the payer. Child support *arrearages* will accrue interest.

### **B**

**Basic support costs:** Costs for a child's food, shelter, clothing, transportation, personal care and incidental recreational costs.

### **C**

**Caption:** The heading of a legal paper, which shows the names and addresses of the parties, the name of the court, the number of the case, the case code and the title of the pleading.

**CCC:** Court Commissioner Center, Room 2000, Dane County Courthouse.

**Certificate of Divorce or Annulment:** A form filed with the Clerk of Circuit Courts prior to the divorce hearing for transmittal to the Wisconsin Vital Records Office summarizing details of the parties' marriage and divorce or annulment; also known as the "Vital Statistics Form" since the State maintains statistical information based on this form.

**Certificate of readiness for trial:** A form issued by the CCC advising the judge of any issues still in dispute and alerting him or her that the case is ready to be set for a divorce trial.

**Chambers:** The private office or room of a judge.

**Child support:** Court-ordered payments for the support of a marital or non-marital child. The payments are neither tax deductible to the payer nor taxable to the payee; each county has its own child support agency. Dane County Child Support Agency is located in room 365 of the City-County Building.

**CHIPS:** Child In need of Protection and Services. A court action to protect children under the age of 18. There are 14 different grounds under which a CHIPS petition may be filed. The grounds include a claim that the child is abandoned, has been the victim of abuse or whose parent is unable to provide necessary care for the child so as to seriously endanger the physical health of the child. All 14 grounds can be found in [Wis. Stat. §48.13](#). See the [Dane County Juvenile Court Resource Booklet](#) for more discussion about CHIPS.

**Circuit courts:** In Wisconsin, the original trial courts of each county, as opposed to the lower municipal courts of some cities.

**Conclusion of law:** A judge's final decision on a question of law.

**Contempt of court:** Intentional misconduct in the presence of the court which interferes with a court proceeding or with the administration of justice or the intentional disobedience of a court order.

**Contested divorce:** A divorce in which one or more issues must be resolved by the judge, because the parties cannot agree.

**Continuance:** Adjournment of the proceedings in a case from one day to another.

**Counterclaim:** The legal document filed by the respondent to make a claim against the petitioner in a civil action such as divorce or legal separation, which survives the dismissal of the petition.

**Court commissioner:** An attorney appointed by the chief judge of a judicial administrative district to perform specific duties authorized by law under the direction of the chief judge. Court commissioners typically preside over initial appearances in all criminal proceedings, preliminary examinations, small claims actions and conduct hearings in family, juvenile, and probate cases.

**Court reporter:** A person who makes a word-for-word record of what is said in court, generally by using a stenographic machine, shorthand, or audio recording. They will produce a transcript of the proceedings upon request for fee.

**Custody:** See "legal custody."

## **D**

**DCF:** Wisconsin Department of Children and Families.

**De novo:** See "trial de novo."

**Deposition:** Testimony of a witness taken out of court to be used for discovery or during the trial.

**Discovery:** The pre-trial efforts of a party to a lawsuit to obtain information known by the other parties or witnesses. The most common discovery methods are interrogatories, depositions, requests for admissions, and requests for production.

**Discretion:** The power of a judge to make decisions on various matters based on his or her opinion after considering the guiding legal principles.

**Divorce**: A legal proceeding to dissolve a marriage that is irretrievably broken.

**Domestic abuse**: Intentional infliction of physical pain, physical injury, or illness, intentional impairment of physical condition, sexual assault, or a threat to engage in such conduct or criminally damage property of the victim. Such acts are committed by an adult family member, a person residing or formerly residing with the victim, a person with whom the victim has a child in common, a person who has or had a dating relationship with the victim, or a person who provides in-home or community care for the victim.

**Due process**: A fundamental principle of fairness in all legal matters and judicial proceedings. It includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

## **E**

**Equal protection of the law**: The right of all persons to have the same access to the law and courts and to have equal treatment, both in procedures and in the substance of the law.

**Equivalent care**: A period of time during which the parent cares for the child that is not overnight, but is determined by the court to require the parent to assume the basic support costs that are substantially equivalent to what the parent would spend to care for the child overnight.

**Evidence**: The proof presented in the form of sworn testimony and exhibits, intended to convince the judge of facts material to the case.

**Ex parte proceeding**: A proceeding in which not all parties are present or given the opportunity to be heard; a court action taken by one party or an attorney without notice to the other usually for emergency relief.

**Expert witnesses**: An individual with specialized knowledge, skill, experience, training or education who can provide a credible opinion about the evidence or a factual issue in a case; in a divorce action, for example, the expert witnesses may include property appraisers, accountants, psychologists, psychiatrists, or a family court counselor.

**Expunge arrearages**: To erase the back amount owed in support or maintenance.

## **F**

**Family support**: A substitute for child support and maintenance payments which is tax deductible to the payer and taxable to the recipient.

**FCCS**: Family Court Counseling Service, Room 2030, Dane County Courthouse. Also see *Family Court Counseling Service*.

**Fee waiver**: A ruling that a litigant does not need to pay court fees due to indigency.

**Final judgment**: The written determination of a lawsuit by the judge which rules on all issues and completes the case; a final judgment in a circuit court case may be appealed to the Court of Appeals by the losing party.

**Financial disclosure statement**: A form on which one party provides his or her income, expenses, assets, and debt information.

**Finding of fact:** The determination of a factual question by a judge, jury, or administrative agency. If a judge has served as sole finder of fact, the judge is required to state on the record all facts that are relevant to his or her decision. In a divorce action, one of the parties must prepare the document “Findings of Fact, Conclusions of Law and Judgment of Divorce” for the judge’s signature within 30 days of the divorce trial.

## **G**

**Genetic test:** A test that examines genetic markers present on blood cells, skin cells, tissue cells, bodily fluid cells or cells of another body material for the purpose of determining the statistical probability of an alleged father's paternity.

**Guardian:** A person who has been appointed by a court to take care of a minor child or incompetent adult (“ward”); a “guardian of the person” is responsible for all life decisions of the ward; a “guardian of the estate” will manage that ward’s financial affairs.

**Guardian ad litem (GAL):** An attorney appointed by the court to take legal action on behalf of a minor or an adult not able to handle his or her own affairs, whose duties may include filing a lawsuit for an injured child, defending a lawsuit, filing a claim against an estate, or representing the child’s best interests in juvenile or family court.

**Guardianship:** Legal right given to a person (guardian) to be responsible for the food, housing, health care, finances, and other necessities of the ward.

## **H**

**Harassment:** Striking, shoving, kicking, or otherwise subjecting a person to physical contact or attempting or threatening to engage in such contact, or engaging in a course of conduct or repeatedly committing acts which harass or intimidate a person and which serve no legitimate purpose. [See Wis. Stat. §947.013](#)

**Hearsay:** Testimony from a witness who states what they heard from someone else, not what he or she saw or heard personally. Hearsay is usually not admissible as evidence in court, but there are exceptions.

## **I**

**Income imputed based on earning capacity:** The amount of income that exceeds the parent’s actual income and represents the parent’s ability to earn, based on the parent’s education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent’s community.

**Indigency:** The state or condition of a person who lacks the means of subsistence and faces extreme hardship and neediness. An *indigent* person is someone who is unable to afford an attorney because of poverty, and he or she may ask the court to waive certain filing fees or other costs in order to access justice.

**Injunction**: A mandatory and prohibitive order issued by a court preventing an action. For example, a harassment restraining order is an *injunction* that directs the respondent to avoid contact with the petitioner and to cease harassing behavior.

## **J**

**JIPS**: Juvenile In need of Protection or Services. Court proceedings involving a juvenile under the age of 18 where one of the following apply: (1) a parent signs a petition requesting the court to take jurisdiction and is unable to control the juvenile; (2) the child is habitually truant from school or home; (3) the child is a school dropout; (4) the child is under the age of 10 and has committed a delinquent (criminal) act; or (5) the child has been determined to be not responsible for a delinquent act by reason of mental disease or defect or who has been determined to be not competent to proceed. See the [Dane County Juvenile Court Resource Booklet](#) for more discussion about JIPS.

**Joint legal custody**: Equal authority to make major decisions for a child. See also “legal custody” or “major decisions for the child.”

**Joint petition for divorce**: A petition for divorce signed by both parties who agree about filing for divorce; they need not be in agreement about all settlement issues in order to file jointly.

**Judgment**: The final decision or decree of the court.

## **L**

**Legal custody**: The right and responsibility to make “major decisions” concerning the child. *Custody* may be *joint legal custody*, in which both parties share the decision making authority, or *sole legal custody*, in which only one party has the authority to make major decisions for the child. See also “major decisions for the child.”

**Legal separation**: A legal proceeding which separates the parties’ property and finances but continues their marriage and is an alternative for people who cannot get divorced for certain reasons, such as religious beliefs or tenets, insurance reasons, etc. See [Wis. Stat. §767.315](#). The court grants a legal separation on the grounds that the marriage relationship is broken but maybe the parties hope to reconcile. A legal separation addresses the same issues as a divorce. After one year, either spouse can seek to have a legal separation converted into a divorce without the other spouse's consent. Spouses who reconcile after a legal separation may apply to have the legal separation revoked.

**Lien**: A claim against property, usually as security for a debt or obligation.

**Litigant**: A party to a lawsuit.

## **M**

**Maintenance**: A limited or indefinite support payment for a spouse, formerly known as “alimony”; tax deductible to the payer and taxable to the payee if made pursuant to a divorce or legal separation agreement or order.

**Major decisions for the child**: Decisions including but not limited to consent to marry, consent to enter military service, consent to obtain a motor vehicle operator’s license, authorization for non-emergency health care, and choice of school and religion.

**Marital settlement agreement (MSA)**: The parties' written agreement regarding issues such as property division, debt allocation, child custody, maintenance, and child or family support from their legal separation or divorce.

**Mediation**: The cooperative process involving the parties and a neutral third party mediator, in which the parties define and attempt to resolve disagreements by applying communication and dispute resolution skills.

**Motion**: A written request for the judge to order something or to change something in an order.

## N

**No fault divorce**: In Wisconsin, a divorce is granted if the marriage is irretrievably broken. The judge does not find either party at fault.

**Notary public**: A person authorized by law to administer oaths, certify and authenticate specific documents and perform other prescribed acts.

## O

**Objection**: An in court expression of opposition to a statement or procedure.

**Order**: An oral or written direction or decision of a commissioner or judge.

**Order for appearance**: The judge's direction to a party to be present for a trial or other court event at a specific date and time.

**Order to show cause**: A court order directing a party to appear on a certain date to explain why the judge should not issue a specific order, make a certain finding, or grant relief for the moving party.

## P

**Parent Education Program**: A court-ordered program offered by FCCS that 1) helps parents cope with changes in the family and focus on their children's needs and 2) educates parents about the mediation and evaluation process and other legal procedures in family court.

**Proposed parenting plan**: ([Form FA-4147](#)) A document submitted by one parent that provides information to the court about their preferences when there is a dispute about the legal custody and placement of a child. See [Wis. Stat. §767.41\(1m\)](#).

**Paternity**: The legal fatherhood of a child.

**Paternity case**: A legal proceeding to determine the paternity of a child and to a father's rights and responsibilities.

**Paternity Acknowledgment**: A legal proceeding concerning custody, physical placement, or support of a child where both parents have signed a Voluntary Paternity Acknowledgment (VPA) and filed it with the Wisconsin Vital Records Office after April 1, 1998. This form is not available online. Contact the Dane County Child Support Agency to request a VPA form.

**Percentage standard**: A set of guidelines developed by the State Department of Children and Families to determine the amount of a child support obligation; currently [DCF 150](#).

**Periods of physical placement:** The specific times when the child is with one parent or the other. Also see the definition of “physical placement” below.

**Permission to move:** Wisconsin law requires that if the court grants periods of physical placement to more than one parent, it shall order a parent with legal custody of and physical placement rights to a child to provide not less than 60 days’ written notice to the other parent, with a copy to the court, of his or her intent to: (1) Establish his or her legal residence with the child at any location outside the state. (2) Establish his or her legal residence with the child at any location within this state that is at a distance of 150 miles or more from the other parent. (3) Remove the child from this state for more than 90 consecutive days. See [Wis. Stat. §767.481](#) for the full procedure of obtaining *permission to move*. There is disagreement as to whether the rule applies to non-marital children.

**Petitioner:** The person who starts a lawsuit.

**Physical placement:** The condition under which a party has the right to have a child physically placed with that party and has the right and responsibility to make, during that placement, routine daily decisions regarding the child’s care, consistent with major decisions made by the person(s) having legal custody. See [Wis. Stat. §767.001\(5\)](#).

**Pretrial conference:** A meeting between the judge and lawyers or pro se parties involved in a lawsuit to narrow the issues in the suit, to agree on what will be presented at the trial, and to make a final effort to settle the case without a trial. See also "[120 –Day Waiting Period/Marital Settlement Agreements/Status and Pretrial Conferences.](#)"

**Primary physical placement:** Where the child resides most of the time.

**Pro se (proh say):** Representing oneself in a court proceeding without the assistance of a lawyer; a self-represented litigant.

**Purge conditions:** Certain conditions imposed by the court that are necessary to cure a contempt order. If the party fails to meet these conditions, a bench warrant and commitment may be issued.

## **Q**

**Qualified Domestic Relations Order (QDRO):** Sometimes pronounced *kwah'-droh*. Order entered after a divorce is granted to divide retirement benefits between two parties.

## **R**

**R&D fees:** Receipt and Disbursement Fee. An annual administrative fee charged by the WI Support Collections Trust Fund for the cost of processing payments and maintaining payment records. Currently, a \$65 fee is charged to the payer each year on each court case.

**Rebuttable presumption:** An assumption that is taken to be true unless someone provides compelling evidence to the contrary.

**Remedial sanction:** A consequence imposed by the court for the purpose of terminating contempt of court; see also “purge conditions.”

**Restraining order:** See “injunction” or “temporary restraining order.”

## S

**Section 71 payments:** Alternate form of maintenance payments. Generally, Section 71 payments are taxable to the recipient and deducted by the payer; section 71 payments cannot be ordered unless the parties agree.

**Serial payer:** A parent with an existing legal obligation for child support who incurs an additional legal obligation for child support in a subsequent family as a result of another court order.

**Service by publication:** When a summons cannot be served on the respondent personally after diligent effort, the summons may be published in a newspaper in a municipality or area likely to give notice of a pending action against the respondent; proof of publication is filed with the Clerk of Courts.

**Shared-placement payer:** A parent who has periods of physical placement of at least 25% of the time and is determined to owe support to the other parent. See [DCF 150.02\(26\)](#).

**Shared physical placement:** Parents share the placement of their children at least 25% of the time or at least 92 days out of the year. See [DCF 150.04\(2\)](#) for the formula to calculate the child support obligation of shared-placement parents.

**Sole legal custody:** Condition under which only one party has the right to make major decisions for a child.

**Split placement:** One parent has primary placement of one or more of the children and the other parent has primary placement of one or more of other children. Each parent has primary placement of at least one but not all of the children.

**Status conference/pretrial:** A meeting of parties or attorneys before a judge or court commissioner to discuss how the case is proceeding, what discovery has been conducted, any settlement negotiations, probable length of trial, and other matters relevant to moving the case toward trial.

**Statute:** Legislatively enacted written law.

**Statute of limitation:** A certain time allowed by statute in which a lawsuit must be initiated.

**Stipulation:** A voluntary agreement between opposing parties concerning some relevant point of the case. Before a stipulation is binding, it must be in writing, signed by the parties and/or attorneys, and made a court order by the judge or commissioner.

**Summons:** A notice to the respondent that the petitioner has commenced an action against him or her and that he or she will be required to answer the petition and/or appear before the court.

## T

**Temporary order:** An order by a judge or commissioner for a temporary period of time.

**Temporary restraining order (TRO):** A judge's or commissioner's order forbidding certain actions until a full hearing can be held, most commonly in domestic abuse and harassment cases. See also "Injunction."



**Termination of parental rights (TPR):** The permanent severing of all rights, and obligations existing between parent and child, pursuant to a court order, entered either voluntarily or involuntarily. See [Wis. Stat. §48.40--48.435](#).

**Trial de novo:** The re-hearing of an issue. Basically an appeal of a circuit court commissioner's decision to a judge for a completely new trial as if the original trial had never taken place.

## U

**Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA):** [Wis. Statutes Chapter 822](#).

**Uniform Interstate Family Support Act (UIFSA):** [Wis. Statutes Chapter 769](#).

## V

**Variable costs:** The reasonable costs above “basic support costs” incurred by or on behalf of a child including, but not limited to the cost of child care, tuition, a child’s special needs, and other activities that involve substantial cost.

**Vital Records Office:** State agency (Wisconsin Vital Records Office) that is responsible for filing, preserving, protecting, changing, and issuing copies of birth, death, marriage, and divorce certificates for events that occur in Wisconsin; office located at [1 W. Wilson St. Room 158](#), (608) 266-1373.

**Vital statistics form:** See “Certificate of Divorce or Annulment.”

**Voluntary Paternity Acknowledgment (VPA):** A form signed by the parents which is a conclusive determination of paternity and has the same effect as a judgment of paternity entered by a court. It allows parents to establish paternity without having to go to court. The father's name is added to the birth certificate. The VPA may be rescinded within 60 days of filing it or before a court makes an order in the family matter, whichever comes first.

## W

**Waiting period:** In a divorce or legal separation action, the court may not schedule the final hearing until 120 days after service of the summons and petition upon the respondent or 120 days after the filing of the joint petition. The court may only schedule the final hearing within the *120 day waiting period* for emergency reasons. See [Wis. Stat. §767.335](#).



## **Works Consulted**

### Content

3 *Wisconsin Judicial Benchbooks: Family* (Wis. Judicial Benchbook Editorial Committee eds., 3d ed. 2010).

*Black's Law Dictionary* (9th ed. 2009).

*Frequently Asked Questions about Family Court*, Dane County Clerk of Courts, (last visited January 9, 2012).

*Glossary of Common Legal Terms Used in Dane County Circuit Court*, Dane County Clerk of Courts, <http://www.countyofdane.com/court/prepare/glossary.aspx> (last visited January 9, 2012).

*Self-Help Center*, Wis. Court System, <http://wicourts.gov/services/public/selfhelp/index.htm>, (last visited January 9, 2012).

*Self-Representation (pro se)*, Wis. Court System, <http://wicourts.gov/services/public/prose.htm>, (last visited January 9, 2012).

Sharon A. Drew et al., *System Book for Family Law: A Forms and Procedures Handbook* (6th ed. 2010).

[Wis. Admin. Code ch. DCF 150](#) (current through 647 Wis. Admin. Reg. (Dec. 2009)).

[Wis. Stat. ch. 48](#) (2009-10).

[Wis. Stat. ch. 767](#) (2009-10).

[Wis. Stat. ch. 769](#) (2009-10).

[Wis. Stat. ch. 785](#) (2009-10).

### Graphics

Cover image purchased from [www.istockphoto.com](http://www.istockphoto.com).

## **Parental Guidelines (Created by FCCS Staff)**

Both parents agree to abide by the following guidelines for the best interests of their child:

- To provide each child with an emotional environment in which he or she is free to continue to love and spend time with the other parent
- To encourage good feelings in each child about the other parent and his or her extended family.
- To encourage each child to remember the other parent on special occasions, allowing him or her to telephone on a reasonable basis and for the time and length of phone calls to be in accordance with family rules.
- To communicate with the other parent openly, honestly, and regularly to avoid misunderstandings harmful to the child.
- To plan together as parents rather than through the children.
- To plan and consult with the other parent in advance for time with the children.
- To not take sides or take issue with decisions or actions made by the other parent, especially in front of any of the children.
- To present a united front on the handling of any problems with any of the children.
- To refrain from fighting, arguing, or degrading the other parent in the presence of any of the children.
- To refrain from withholding time with the other parent as a punishment to the child or the other parent.
- To take a consistent and predictable role in the child's life and devote time to strengthening the relationship with each child.
- To use discretion as to the time and frequency of phone calls to the child during the other parent's time.
- To realize that time with the child and financial support are two separate areas and that one has no legal effect on the other.
- Except for emergencies, to make changes in plans by mutual agreement, with reasonable notice to the other parent.
- To be flexible in arranging dates and times with the child so these plans do not interfere with the other parent's important family events or prior planned activities.
- To strictly observe time schedules with the child and call ahead if unable to follow the schedules.
- To refrain from burdening the child with adult worries, whether financial, occupational, or social.
- To behave discreetly with other people in the child's presence.
- To treat the child as a unique person with respect to their feelings and needs.

**Last Revised January 2012**