

Establishing Custody at the 24th Judicial District Court

This guide is *not* legal advice. It provides you with information regarding the process of filing a Petition to Establish Custody as a **self-represented litigant**. It is always in your best interest to speak with a lawyer before taking any legal action. As a self-represented litigant, you are presumed to know the law. This also means you must follow all legal procedures. It is your responsibility to see the case through the entire process. We recommend visiting the Louisiana State Bar Association website for hiring private counsel: www.lsba.org

You are seeking a judgment from the court regarding the custody of your children. This resource will assist you with scheduling a hearing (aka mediation) with a hearing officer at the 24th Judicial District Court (JDC). Together, you will develop a custody arrangement that meets your child's best interest. If you do not agree with the terms outlined in the mediation, you will need to object to the hearing officer's findings. This document will briefly review the process.

Matters to consider before filing to establish custody at the 24th JDC

If you have an open matter with the Department of Children and Family Services, you will need to confirm it is no longer open with the juvenile court.

If you have or have had ongoing protective order matters before the Commissioner, you will need to notify the clerk prior to filing. It is our understanding that the hearing officers cannot mediate custody with open or extensive protective order history.

If you have a custody arrangement filed in another state, you will need to modify that existing order with that court or transfer the judgment into the 24th JDC, the jurisdiction where the child presently resides. Documentations for executory judgments are not available at the help center.

If you are seeking to relocate the child, this may require a hearing in addition to the mediation.

If you are a third party or grandparent (i.e. not biologically related to the child), the help center does not provide forms for this custody arrangement.

If you have an existing custody arrangement with the 24th JDC and you would like to change it, you will need to file a modification of custody request.

If you have an existing custody judgement and a parent is in violation of the orders, you will need to file a motion for contempt.

If you have had a child and you are not on the birth certificate and you are being denied visitation, please see the Petition for Paternity and Visitation form.

If you are filing a 103 divorce (living separate and apart for requisite amount of days) and requesting a custody hearing, you can bundle the requests using the Petition for a 103 Divorce with Minor Children. If you and your partner have an agreed custody pattern, you do not necessarily have to have a hearing. Please see our Joint Custody Stipulation form. You can file for the divorce and mark that you do not need to have a hearing (see article 9 of the divorce petition).

Questions? Volunteers available: 504-581-4043 or email selfhelp@probono-no.org

Your children must have resided in Jefferson Parish for at least 6 months prior to filing for the 24th JDC to have jurisdiction over your case. If your child resides in another state, you may want to seek legal counsel on how to proceed.

For more information on custody in Louisiana, visit www.LouisianaLawHelp.org

The petition notifies the defendant of what to prepare for at the hearing. You must include all details as it relates to the discussion that will be had before the hearing officer. Please note this document will be scanned and made available to the public via JeffNet.

The case heading will be the header from now on. It does not change because this is the first petition on this legal issue. Any future headings will be the same, petitioner versus defendant. As the one initiating the action, you are the petitioner. The other party will be the defendant. You will receive the docket number and division letter at time of filing with clerk.

As for Joint custody, Sole custody, and domiciliary status, visit www.LouisianaLawHelp.org to learn more.

The Verification page is a document where you swear before a notary that all statements in the petition are true and correct. You are also confirming your identity; bring a state issued identification when going to notary.

File the document with the clerk and pay filing fees. If you cannot afford the filing fees today or you would like the defendant to pay because you do not have the money, you can file an *In Forma Pauperis* document. Please visit the 24th Self Help webpage for more information on this topic.

After you file, the Clerk of Court will mail you a packet. It will contain:

Two Hearing Dates: One hearing date before the Domestic Commissioner or the Hearing Officer *and* another hearing date before the District Judge. The second hearing in front of the District Judge is only necessary if you object to something in the hearing.

The Hearing Officer Conference Affidavit and Statement of Income and Expenses: These documents must be completed and delivered to the opposing party and to the hearing officer no later than five (5) days prior to the domestic hearing officer conference.

It is your responsibility to ensure your defendant is served. For more information on service, visit the 24th JDC Self Help website for instructions.

You CANNOT get your *Day in Court* without proper service!

*Ensuring service is crucial. It allows you to have a valid hearing.
Review the following to learn more about service.*

Call **504-363-5621** to check if the Defendant was issued service by the Jefferson Parish Sheriff's Department.

It is your responsibility to reset the hearing date if your defendant is not served in time (see Motion to Reset Hearing).

If your Defendant's location is unknown, you may need to hire a **Private Process Server**. You will need to file a "Motion to Appoint a Private Process Server"

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Key Things to Remember for Court

- Be sure to **bring any evidence or witnesses** that will help you prove your case.
- **Remember:** it is your responsibility to show the court why you should get the custody arrangement you requested.
- **Get to court early** to allow time for traffic, parking, walking to the courthouse, and getting through security.
- Go to the courtroom or hearing officer's office, check in and wait quietly until your case is called.
- **If your hearing is virtual using Zoom, visit:**
<https://www.courtonline.us/judge/schlegel/videoconference/help>

How to Object to Hearing Officer Mediation: *You file two documents to properly object.*

If you object to the Hearing Officer's recommendations, you will need to file an Objection Form with the Clerk of Court. This form is where you explain which recommendations you disagree with and are objecting to. The form should have been provided to you by the hearing officer or domestic commissioner. It can also be found on the 24th JDC website. You must complete and file this form within **five (5) working days** of receiving the recommendations from the hearing officer or domestic commissioner. (The five (5) days begin when you receive the recommendations in person, by mail, or by verbal or written receipt of the judgment from the domestic commissioner. The first day begins the day after your hearing.)

After filing your Objection Form, you will need to draft and file a memorandum on the law and facts with the District Court Judge assigned to your case. A **memorandum** is a document that supports your objection. It is the relevant laws applied to your facts. You must file the memorandum with the District Court Judge that is assigned to your case. You must complete and file memorandum within five (5) working days of the date the objection was filed.

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After your hearing, you will receive all of the hearing officer's recommendation. You must draft a Final Judgment. This document will consolidate all of the recommendations and stipulations into a single, easy to read agreement.

Final Judgment Document Requirements

1. **Typed** using **12 - point Times New Roman** font.
2. **Double Spaced.**
3. Have **1" margins** on all sides.
4. Be sized and printed on **8 ½ x 14"** paper (legal size paper).
5. Have the **proper heading** for the 24th JDC

What should I Include in Final Judgment? You should include the plan for custody determined during the conference with the Hearing Officer/Judge.

This includes, but is not limited to, the following:

1. **The type of custody agreed upon (Joint/Sole) and who the domiciliary parent is**
2. **Visitation/Physical Custody schedule**
3. **Vacation/Summer Schedule**
4. **Holiday and Special Days Schedule**
5. **Child Support payment plan (if applicable)**

*Use the "Stipulations and/or Recommendations of Hearing Officer" Packet to determine what information to include.

When should I file the Final Judgment?

- Your Final Judgment shall be submitted within **ten (10) days** of the hearing
- A copy of the Final Judgment **must also be provided to the other party.**

Where to file the Final Judgment?

- You shall file your Final Judgment with the Clerk of Court (2nd Floor of the Court)

NOTE: *All final judgments are reviewed for accuracy by the Hearing Officers and approved. Final Judgments signed by the court **must be served on the opposing party.***

After your Final Judgment is submitted, the process of Establishing Custody is completed.

If you need to change the custody arrangement with the Court, you will need to file a *Rule to Modify Custody* – which can be found on the 24th JDC website.

Louisiana Civil Code Article 134. Factors in determining child's best interest

A. Except as provided in Paragraph B of this Article, the court shall consider all relevant factors in determining the best interest of the child, including:

- (1) The potential for the child to be abused, as defined by Children's Code Article 603, which shall be the primary consideration.
- (2) The love, affection, and other emotional ties between each party and the child.
- (3) The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child.
- (4) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs.
- (5) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment.
- (6) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- (7) The moral fitness of each party, insofar as it affects the welfare of the child.
- (8) The history of substance abuse, violence, or criminal activity of any party.
- (9) The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody.
- (10) The home, school, and community history of the child.
- (11) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference.
- (12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child's safety or well-being while in the care of the other party.
- (13) The distance between the respective residences of the parties.
- (14) The responsibility for the care and rearing of the child previously exercised by each party.

B. In cases involving a history of committing family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse, as defined in R.S. 14:403(A)(4)(b), whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with R.S. 9:341 and 364. The court may only find a history of committing family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence.

Acts 1988, No. 817, §2, eff. July 18, 1988; Acts 1990, No. 361, §1, eff. Jan. 1, 1991; Acts 1993, No. 261, §1, eff. Jan. 1, 1994; Acts 2018, No. 412, §1, eff. May 23, 2018.

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Glossary: *Familiarize yourself with the terms below to help you with the process of filing for Custody*

SHRC: Self-Help Resource Center – located on the second floor of the courthouse on Tuesdays and Thursdays from 10 to 12 – the SHRC can provide you with legal information and forms. No legal advice is given.

24th JDC: 24th Judicial District Court, located at 200 Derbigny Road in Gretna

IFP: *In Forma Pauperis*; allows you to file your petition without *pre-paying* the fees.

Domicile: the parish/country and state of your current permanent address

Jurisdiction: the court's power to hear and decide a case. Different courts have different kinds of jurisdiction. It is your responsibility to find out which court is right for your issue.

Verification: a document a person signs before a Notary Public. The verification swears the things said in the court papers are true and confirms the identity of the person filing.

Best Interests: the factors that the Judge considers when determining a child custody case. The best interest of the child is always top priority. (*Refer to pg. 8 for the 12 factors a Judge considers in a Custody case*)

Service: the official way court papers are delivered to someone. The court has rules about how court papers must be served and who must be served with the papers. Some papers must be served by the Sheriff's office; other papers can be mailed (*Refer to Step 3 for more information regarding Service*)

Hearing Officer: The Hearing Officer is not a judge but an administrative officer. The Hearing Officer tries to resolve the issues between the parties, especially if the parties can come to an agreement. If not, the Hearing Officer helps parties make findings of facts and recommendations to the Judge.

Order: the Court's ruling on a specific issue. An Order may also tell people what to do, like to show up in court at a specific day and time.

Legal Custody: the right or authority of a parent to make decisions that affect the child as the result of a court order. (*Refer to Page 5 for more information regarding different custody options*)

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