

**Pro Se (Do It Yourself) Instructions for:
How To Get Child Custody, Visitation, and Support Orders When There Has Been A
Voluntary Establishment of Paternity**

PLEASE NOTE: Rule 9 of the Hawaii Court Record Rules; Parties' Responsibility to Protect Personal Information and Account Numbers; Effective September 1, 2012

This packet includes the forms necessary to get child custody, visitation, and/or child support orders when there has been a Voluntary Establishment of Paternity. These forms are for you ONLY IF:

1. The child(ren) was/were born on July 1, 1999 or after; and
2. You are the parent or caretaker of the child(ren); and
3. The parents of the child(ren) were not married to each other at the time of the child(ren)'s birth; - **AND** -
4. Both parents signed a Voluntary Establishment of Paternity by Parents (VEP) form at the hospital or at the Department of Health. *If you're not sure about this requirement, get a copy of the child(ren)'s birth certificate from the Department of Health. If the father's name is listed on the birth certificate and the child was born on or after July 1, 1999, then a VEP form was signed by both parents.*

You can use this packet for more than one child as long as all the children have the same parents and each child meets each of the requirements listed above.

To complete this process, you will have to take the following steps (these steps are described in more detail in this packet):

1. Get a certified copy of the child(ren)'s birth certificate(s).
2. If you are low-income, request a waiver of filing fees from the Court. Otherwise, filing this action will cost **\$180.00**.
3. File a Petition and other necessary documents with the Family Court requesting a child custody, visitation, and child support order.
4. Serve the other party(ies) with the necessary documents, and provide the court with proof that you served the other party(ies).
5. Serve the Family Support Branch of the Child Support Enforcement Agency (CSEA).
6. Go to your hearing and represent yourself if you cannot get an attorney.
7. After the hearing, prepare the orders which reflect the court's decision(s).
8. Deliver the documents to the necessary parties.

This packet includes most of the forms you need to complete this process, along with general instructions on the process. See the bottom left corner of each form for the VEP Form Number. Look through the packet before you start to get an idea of what steps you will need to take.

If you are low-income, you may be able to get legal help with this action. The following agencies offer legal assistance to people who cannot afford an attorney:

Domestic Violence Clearinghouse & Legal Hotline
(for domestic violence victims only)
(800) 690-6200/(808) 242-8745
Monday-Thursday 8:00 a.m.-7:00 p.m., Friday 8:00 a.m. - 5:00 p.m.

Legal Aid Society of Hawai`I
(808) 242-0724
Monday-Friday 9:00 a.m.-11:30 a.m. & 1:00 p.m.-3:30 p.m.

Volunteer Legal Services of Hawai`I
(800) 839-5200/(808) 528-7046
Monday-Friday 9:00 a.m.-3:00 p.m.

STEP ONE: Get a certified copy(ies) of the child(ren)'s birth certificate(s).

Request a certified copy of the child(ren)'s birth certificate from the Department of Health. You can request the birth certificate in person or in writing. If you request it in writing, it takes 4-6 weeks. On Maui, the Department of Health is located in the State Building, 54 High Street, 3rd Floor, Wailuku, Hawai`i 96793, and is open from 7:45 a.m. to 4:30 p.m. Monday - Friday. The birth certificate costs \$10.00. Call 984-8210, as this information may change.

STEP TWO: If you are low-income, request a filing fee waiver from the Family Court.

The filing fee for this action is **\$180.00**.

If you show the court you have low income and assets, the court may not require you to pay the filing fee. Complete the enclosed *Ex Parte Motion and Affidavit to Waive Filing Fees Under Hawai`I Revised Statutes Section 607-5(b)*.

IMPORTANT: When you ask the court to waive your filing fee, you should be ready to file the rest of your papers too (see Step Three).

Instructions for getting the fee waived:

- Complete the form (either type or write neatly in black ink).
- DO NOT SIGN the form until you take it and a current photo I.D. to a notary public. Notary Publics are available at most banks for a fee and at the Legal Aid Society of Hawai`i for no cost. Call Legal Aid first to make sure a notary is available (244-0724).
- Make 2 xerox copies of Form 1.
- Take the original + 2 copies of Form 1 to Legal Documents, 2145 Main Street, Wailuku, Suite 106.

STEP THREE: Submit your Petition and other required documents to the Court.

1. Complete the documents.

General rules for completing the documents:

- Type or handwrite **neatly** in black ink.

- Use the exact same case name and number for all documents you file with the court.
- See the grey instructions on the forms for tips on how to complete them.
- Complete everything on the forms to the best of your ability; try not to leave anything blank.

A. *Petition for Custody, Visitation, Support Orders After Voluntary Establishment of Paternity.* This document tells the court and other party(ies) you want custody, visitation, and/or child support orders. Either parent can file the Petition. The filing parent is called the Petitioner, and the other parent is called the Respondent. If the child has been living with someone else (a third party caretaker), you should also name him/her as a Respondent.

NOTE: Page 3 of this form discusses both kinds of custody (legal and physical).

- *Legal custody* means who makes important decisions for the child. Legal custody can be joint (usually this means both parents must decide together) or sole (one person gets to make the decisions).
- *Physical custody* means who the child lives with. Physical custody can be joint (usually this means the child spends equal time with both parents) or sole (usually this means the child lives with one parent, and the other gets to visit).

B. *Exhibit Sheets.* For each child, you need a separate Exhibit sheet with a certified copy of the child's birth certificate attached to it. Label each Exhibit sheet in chronological order (1, 2, 3, etc.). On the first page of the Petition, under "Attachments," write in the blank how many Exhibit sheets are included, depending on how many children are covered by this Petition (e.g. 1, or 1-2, or 1-3, etc.).

C. *Summons.* This document tells the Respondent(s) when to come to the hearing.

D. *Paternity Financial Information Sheet.* This tells the Court about your household's monthly income, expenses and assets.

E. *Child Support Guidelines Worksheet.* See the *Instruction for the Child Support Guidelines Worksheet* for instructions on how to complete the necessary child support calculations.

* **F. *Motion for Service by Mail and Affidavit; Order for Service by Mail*** You only need to complete this document if the other parent or the third party caretaker does not live in the State of Hawai'i (see STEP FOUR below for more information). This asks for permission to serve the other party(ies) by mail since they are out of the State.

2. Make copies. The Court will keep your original documents, so make enough copies for each party. You will need at least 3 copies: one for yourself, one for the other parent, and one for the Child Support Enforcement Agency (CSEA). If a third party has been taking care of the child(ren) at issue for 60 or more days before you file the *Petition*, then make a copy for him/her also. Make at least one extra copy just in case.

3. Put your originals and copies into packets. Put the documents together in the following order: *Petition* on top, then *Exhibit(s)*, *Summons*, *Income and Expense Statement*, *Asset and Debt Statement*, *Child Support Guidelines Worksheet(s)*, and *Motion for Service by Mail and Affidavit; Order for Service by Mail* (if you are requesting permission to serve by mail). Keep your originals documents together. Staple each packet together.

4. File your documents and pay the **\$180** filing fee if you are not requesting a filing fee waiver. Take your original + copies to the filing clerks, Legal Documents, 2145 Main Street, Wailuku, Suite 106. The clerk will file (date-stamp) your documents, keep the originals for the court, and return the copies to you. *Ask the clerk to certify all copies of the Petition.*

STEP FOUR: Serve the Respondent(s) with the documents and submit proof to the Court.

You must properly give (“serve”) the other parent a certified copy of the documents. If there is a third-party caretaker named as a Respondent, s/he must also be served.

How to serve the Respondent(s):

If Respondent is in the State: Someone (other than you) 18 years or older must hand-deliver the *Petition* + attachments to the Respondent(s). Either hire a private process server or get a friend or relative to serve him/her. The server must fill out and sign the *Proof of Service*, which tells the court the Respondent was served. If you hire a process server, give the process server 3 blank copies of the *Proof of Service* to complete. If you don’t hire a process server, make 3 copies of the completed *Proof of Service*. File the original and copies with the filing clerks.

If Respondent is on the mainland, or in another country: Ask the court for permission to serve by mail (*Motion for Service by Mail and Affidavit; Order for Service by Mail*). Once you get permission, send the *Petition* + attachments, along with a file-stamped copy of the *Motion for Service by Mail and Affidavit; Order for Service by Mail* to the Respondent by registered or certified mail, return receipt requested, restricted delivery to the addressee only. Keep the receipt from the Post Office and wait for the return receipt card to come back, signed by the Respondent, indicating that the Respondent received the documents. Complete the *Statement of Mailing* and staple both Post Office receipts to the second page, then make 3 copies and file *Statement of Mailing* with the filing clerks.

STEP FIVE: Serve CSEA

Once you get a hearing date, you must inform CSEA’s attorneys of that date. Complete the *Memorandum to Family Support Division* and deliver it along with a copy of the *Petition* + all attachments either in person, by mail, or by fax to:

**Department of the Attorney General
Family Support Branch
35 Lunalilo Street Suite 203
Wailuku, Hawai’i 96793
Fax: (808) 243-5161**

STEP SIX: Prepare for and attend the hearing.

Think about what you requested in your Petition and why you should get it. If you have any written documentation that helps you prove your arguments (e.g. police reports, medical records, etc.), bring at least 3 copies with you to court. Take the rest of your blank VEP Forms with you to the hearing.

STEP SEVEN: Prepare necessary orders.

After the hearing, complete whatever orders the judge tells you to in black ink. These orders will usually be (1) *Order Re: Custody, Visitation, Support After Voluntary Establishment of Paternity* and (2) *Order/Notice to Withhold Income for Child Support*. Blank copies of these orders are included in this packet. After you complete the orders, file them with the filing clerks in Suite 106 at the Courthouse.

STEP NINE: Deliver the Orders to the Necessary Parties

It is your responsibility to make sure the Orders are given to the necessary people and agencies.

- If you know where the non-custodial parent works: send the *Order/Notice to Withhold Income for Child Support* to the non-custodial parent's employer. Send a certified copy via certified or registered mail, return receipt requested. Keep both receipts from the Post Office. Complete the *Statement of Mailing* and mark the box on the middle right side of the form next to "EXHIBITS "1" and "2"." Complete the section on the bottom of page 1 of Form 11. Attach both receipts from the Post Office to page 3 of the *Statement of Mailing*, above where it says "Exhibit 1" and "Exhibit 2."
- If the Child Support Enforcement Agency DID NOT get the *Order Re: Custody, Visitation, Support After Voluntary Establishment of Paternity* and the *Order/Notice to Withhold Income for Child Support*: send both forms to the Child Support Enforcement Agency via regular mail at P.O. Box 1860, Honolulu, Hawai'i 96805-1860. Mark the box at the top of page 2 and fill in the appropriate date.
- If the Respondent(s) DID NOT get the *Order Re: Custody, Visitation, Support After Voluntary Establishment of Paternity* and the *Order/Notice to Withhold Income for Child Support*: send both forms to the Respondent(s) via regular mail. Mark the box at the middle of page 2 of Form 11, and complete that section.

After you deliver the appropriate documents to the appropriate party(ies), complete and sign the Statement of Mailing, make 2 copies, and file the original and copies with the filing clerks at court.

If you have any questions, please contact: ***Service Center, Hoapili Hale, 2145 Main Street, Suite 141, Wailuku, (808) 244-2706 (Monday-Friday 8:00 am to 4:00 pm)***

Americans with Disabilities Act Notice

If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as soon as possible to allow the court time to provide an accommodation:



Call (808) 244-2855 FAX (808) 244-2932 OR Send an e-mail to: adarequest@courts.hawaii.gov. The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.