

EMERGENCY CUSTODY

Information for Self-Representing Litigants

Calvert County Circuit Court

The Circuit Court does not have forms for all types of legal issues. Many issues brought to the Circuit Court are very complicated and it is highly recommended that you seek advice from an attorney. However, some forms are available. Family Law Forms regarding the issues of Divorce, Child Support, Custody, Visitation and Change of Name are available at the Clerk's Office or online at www.mdcourts.gov.

FILING FEES: Original Case - \$165.00; Reopen existing case - \$31.00 per filing (e.g. contempt, modification)

BEFORE YOU FILE YOUR COMPLAINT, READ THE GENERAL INSTRUCTIONS REGARDING THE SPECIFIC FORMS YOU ARE USING. COPIES ARE AVAILABLE ON THE COURT WEBSITE OR AT THE CLERK'S OFFICE.

To File a Complaint or Petition:

1. Complete forms fully. Provide addresses and telephone numbers for all parties involved. All plaintiffs must sign the Complaint.
2. Pay filing fees or submit a Request for Waiver of Prepaid Costs. If fees are paid, the Complaint will be date-stamped and processed. If a waiver is requested, only the Request for Waiver will be processed. The case will be initiated, and the Request for Waiver sent to the Judge for ruling. If the Request is denied, in whole or in part, the party may pay the costs within 10 days. If the party pays the costs, the pleading or paper will be deemed to have been filed on the date the Request for Waiver was filed. If the costs are not paid in full within the time allowed, the pleading or paper will be deemed to have been withdrawn and the case closed. **If the Request for Waiver of Prepaid Costs is granted, court costs are due upon termination of the case, unless further ordered.**
3. Always submit an original complaint plus one copy of the complaint for EACH defendant that must be served. Keep a copy of the Complaint and any other papers filed for yourself. If copies have to be made by the Clerk, they are \$.50 per page.
4. Complete a case information sheet. This sheet provides information that the court needs in order to properly schedule your case.

5. The Clerk will prepare three (3) copies of the summons for each Defendant, to be distributed as follows:
 - (1) copy is for the case file;
 - (1) copy is served upon the Defendant (along with a copy of the Complaint and information sheet);
 - (1) copy is returned to the court file along with Sheriff's return of Affidavit of Service/non-service by Certified Mail OR Private Processor OR Sheriff's Return.
6. Give instructions to the Clerk as to how the Complaint will be served. Choose either:
 - Certified Mail – Restricted Delivery
 - Sheriff
 - Private Process

If no alternative instructions are provided, the summons is always returned to the plaintiff for service. **READ THE GENERAL INSTRUCTIONS FOR IMPORTANT INFORMATION REGARDING OBTAINING SERVICE.**

The Sheriff charges \$40.00 for obtaining service. Checks should be made payable to the Sheriff (for the County where the party is located). The Sheriff returns the copies of the summons to the case file and indicates whether or not service has been obtained.

If served by Certified Mail or Private Process, there are affidavits that must be completed for the case file. Those affidavits can be obtained at www.mdcourts.gov or at the Clerk's Office. Attach a copy of the summons (process) issued by the Court, the original of which was included in the certified mail service upon the person served.

7. The case is not at issue and cannot be heard by the Court until the other side has been properly served. Proof of Service must be submitted to the Clerk immediately upon obtaining service. If service is not obtained before the summons expires, you may file a request for a re-issue of the summons. However, if service is not obtained within 120 days after the case is filed, the case is subject to dismissal for lack of jurisdiction. You should contact an attorney for assistance with methods of alternative service.
8. The defendant has 30 days to answer if he or she is served in Maryland, 60 days to answer if he or she is served out of state, and 90 days to answer if he or she is served outside the US.
9. Unless an answer is received, the case will not be scheduled for a hearing. If the defendant has been served properly and the time for filing of the answer has passed *but* the other side has not filed an answer, the case will not move forward until a Request for Order of Default is filed with a copy of the proof of service

attached. If the Judge signs the Order of Default, the other party will be notified of the default and the case can be scheduled for a hearing.

10. Once service has been obtained, a Certificate of Service must appear on all pleadings/papers filed in the Court jacket *regardless* of which party filed the papers. A sample copy of the Certificate of Service is also at www.mdcourts.gov.

READ THE GENERAL INSTRUCTIONS THAT ARE PROVIDED WITH EACH FORM YOU ARE USING. COPIES OF ALL FORMS AND INSTRUCTIONS ARE ALSO AVAILABLE ON THE COURT'S WEBSITE AT www.mdcourts.gov.

If you are unclear about how to fill out the forms, assistance for self-represented litigants is available on the second floor of the Courthouse every Wednesday from 12:30 to 2:30 pm. Assistance is offered on a first come, first served basis. Sign-up begins at 8:30 am. Other assistance is available through the Family Law Hotline – operated every Monday through Friday from 9:00 am to 4:30 pm @ 1-800-845-8550; Maryland Courts Self-Help Center @ 410-260-1392 – operated every Monday through Friday from 8:30 am to 8:00 pm; and mdcourts.gov/legalhelp.

The People's Law Library Website has a wealth of information regarding all types of legal issues. Visit them at: <https://www.peoples-law.org>.

THE CLERK'S OFFICE CANNOT PROVIDE ANY LEGAL ADVICE OR TELL YOU WHAT YOU SHOULD SAY ON THE FORMS.

GUIDELINES FOR EX-PARTE EMERGENCY RELIEF

General

1. All requests for **ex parte** relief should be filed in accordance with Md. Rule 1-351. While this rule does not specify a time limit, the court requires that the opposing party be given 24-hour notice. The motion must include a written certification that the proper notice has been given.
2. The motion must be based on a verified affidavit in accordance with the holding in *Magness v. Magness*, 79 Md. App. 668, appeal dismissed, 317 Md. 641 (1989).

Standard for Relief

1. There must be sufficient showing that there is an **imminent** risk of harm or harassment to a party or minor child, **unless** there is sufficient showing that there will be an imminent loss of jurisdiction or removal of the child from the state.
2. Purely speculative evidence of harm is insufficient to grant emergency relief.

Other Expedited Relief

1. Certain situations, while not meeting the above-listed standards, may warrant judicial intervention. These situations may include:

- (a) unreasonable deprivation of visitation for an extended period
- (b) unreasonable deprivation of residential custody
- (c) severe financial hardship to one party
- (d) inability to enroll a child in school because of lack of a custody order
- (e) inability to provide medical care because of lack of a custody order

In these instances, counsel/or if self-represented, the party, may file a Motion for **Pendente Lite** Relief.

If the matter is urgent enough, counsel may file a Motion for Expedited **Pendente Lite** Relief, a Request for a Hearing and a Motion to Shorten Time. The latter must be filed in accordance with Md. Rule 1-204(b) and must include a written certification of failure to reach agreement to shorten time and notice or otherwise be in compliance with Md. Rule 1-204. The court will require 24-hour notice be provided the opposing party before the Motion to Shorten Time can be granted **ex parte** .

If a matter was filed as an emergency petition but failed to meet the above listed standards for an emergency and the court feels the matter is urgent, the court may set the matter for an expedited hearing on the earliest available date

on the court's calendar. In this instance, at least 24-hour notice will be afforded the opposing party.

NOTICE TO PERSONS WHO FILE DOCUMENTS WITH A COURT

Parties and attorneys MUST comply with Rule 1-322.1. The new rule instructs attorneys or other persons who file documents with a court to keep unnecessary personal identifier information out of the court records, unless there is a legal obligation to include such information. Under Rule 1-322.1(b), the following personal identifier information shall not be included in any electronic or paper filing with a court:

- (1) an individual's Social Security number and/or taxpayer identification number; or
- (2) the numeric or alphabetic characters of a financial or medical account identifier.

Accordingly, please do not include any unnecessary personal information or personal identifying information in a document filed with a court. If it is necessary, take the proper measures to ensure that the information remains confidential.

Finally, with respect to case records that are being filed with a court, the filer should remember that there is an obligation in Rule 16-913 for the filer to notify the custodian if there is confidential information included in that record. The notification should specifically inform the clerk what information is confidential.

If you are an MDEC filer, you must be in compliance with Maryland Rules 20-100 et seq.

I want the Court to consider these facts in granting my request (be specific, including dates, times and places if appropriate):

If the Court, after reviewing the information that I have provided, does not feel that an emergency situation exists, I would like the Court to consider giving me the earliest available court date.

I SOLEMNLY SWEAR OR AFFIRM UNDER PENALTIES OF PERJURY THAT THE INFORMATION THAT I HAVE GIVEN THE COURTS IS TRUE AND ACCURATE.

Signature

Date

TAKE NOTICE!

You *MUST* give the opposing party at least 24 hours' notice before a hearing will be set.

AFFIDAVIT

I, _____, solemnly swear or affirm under penalties of perjury that I notified _____, on _____, at _____ (opposing party) (date) _____ am/pm that I was filing this motion and asking the Court for help as stated above. I gave the opposing party notice in the following manner:

(e.g. in person, text, voice mail, phone call) at the following address or phone number as appropriate _____ and stated as follows:

Signature

Date

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 20____, in addition to the above notice, I mailed a copy of the Motion for Emergency/Expedited Relief, postage prepaid, to: _____

(opposing party)

at the following address: _____

Signature

Date

IN THE CIRCUIT COURT FOR CALVERT COUNTY

Name

Address

City State Zip

Telephone Number
(Where party can be reached)

Case # _____

VS.

Name

Address

City State Zip

Telephone Number
(Where party can be reached)

MOTION TO SHORTEN TIME

I, _____, pursuant to MD Rule 1-204 ask the Court to shorten the time for the opposing party, _____, to respond to the Motion for Emergency/Expedited Relief filed herein on

(date)

Signature

Date

TAKE NOTICE

You *MUST* give the opposing party at least 24 hours' notice before a hearing will be set.

AFFIDAVIT

I, _____, solemnly swear or affirm under penalties of perjury that I
(Your name)

notified _____, on _____ at _____ am/pm that I was
(Opposing party)

filing this motion and asking the Court for help as stated above. I gave the opposing
party notice in the following manner: _____

(e.g. in person, test, voice mail, phone call) at the following address or phone number

as appropriate _____ and stated as follows:

Signature

Date

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2_____, in addition to the
above notice, I mailed a copy of the Motion to Shorten Time postage prepaid,
to: _____

(Opposing party)
at the following address: _____

Signature

Date