

DECLARATION OF SOLE CUSTODY PACKET

IMPORTANT NOTE ABOUT THIS PACKET

This packet is intended for mothers attempting to obtain a passport for a minor child born out of wedlock. These forms cannot be used if there is already a child custody order in place.

HELPFUL HINTS:

“Petitioner”: The first and last name of the person who is filing this action

“Respondent”: The other party’s first and last name

“Case Number”: Leave this field blank if you are preparing to file a new case

OPTIONAL FORM:

If you are unable to afford the filing fees, you may ask the Court to waive the fees by completing the [Affidavit of Indigence and Eligibility to Proceed in Forma Pauperis \(Pauper’s Packet\)](#) and submit along with your other completed forms to the Clerk of Superior Court.

General Civil and Domestic Relations Case Filing Information Form

☒ Superior or ☐ State Court of GWINNETT County

For Clerk Use Only

Date Filed _____
MM-DD-YYYY

Case Number _____

Plaintiff(s)

Last	First	Middle I.	Suffix	Prefix
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Defendant(s)

Last	First	Middle I.	Suffix	Prefix
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Plaintiff's Attorney _____

Bar Number _____

Self-Represented ☐

Check One Case Type in One Box

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contract
- ☐ Garnishment
- ☐ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Dissolution/Divorce/Separate Maintenance
- ☐ Family Violence Petition
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☒ Other Domestic Relations

Post-Judgment – Check One Case Type

- ☐ Contempt
 - ☐ Non-payment of child support, medical support, or alimony
- ☐ Modification
- ☐ Other/Administrative

- ☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

_____ Case Number

_____ Case Number

- ☐ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

- ☐ Is an interpreter needed in this case? If so, provide the language(s) required. _____
Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

**IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

Civil Action No. _____

Plaintiff

v.

Defendant

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby required to file with the Clerk of said Court and serve upon the plaintiff or plaintiff's attorney, whose name, address and email address are:

an answer to the complaint which is hereby served on you. You must make your answer within 30 days after service of this summons upon you. This time excludes the day of service. If you fail to answer, the court will issue a default judgment against you for the relief sought in the complaint.

If this action pertains to a Protective Order, the answer is to be filed and served on or before the scheduled hearing date attached.

This _____ day of _____, 20____.

Tiana P. Garner
Clerk of Superior Court

By _____
Deputy Clerk

[Attach addendum sheet for additional parties, if needed. You must make a notation on this sheet if used.]

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

_____,

Petitioner,

vs.

_____,

Respondent.

Civil Action

Case Number _____

PETITION FOR DECLARATION OF CUSTODY

My name is _____ and I am filing this Petition for a Declaration of Custody pursuant to O.C.G.A. § 9-4-2 and § 19-9-61. In support of my case, I show the following:

1. I am a resident of Gwinnett County and have been a resident of Georgia for the past six months.
2. The Respondent is _____, and is the father of my child(ren). We are not married and were never married.
3. The Respondent ☐ has ☐ has not signed an acknowledgment of paternity at the time of the child(ren)'s birth or within one year of the child(ren)'s first birthday.
4. The Respondent and I ☐ have ☐ have not voluntarily consented to legitimation at the time of the child(ren)'s birth, or within the child(ren)'s first birthday.

5. The Respondent ☐ has ☐ has not filed a court action for legitimation.
6. The Respondent ☐ is ☐ is not listed on the child(ren)'s birth certificate(s) as the father.
7. **Service of Process:** The Defendant shall be served as provided under OCGA § 9-11-4, in the following manner:
[Check only one of the following, either (a), (b), or (c).]
- ☐ (a) The Respondent has acknowledged service of process. I am filing the *Acknowledgment of Service* (which has been signed by the Defendant) with this *Complaint*.
- ☐ (b) The Respondent may be served by the Sheriff's Department at the Defendant's residence/work address, which is:
- _____
- _____
- _____
- ☐ (b-1) *[Check only if the Defendant lives outside Gwinnett County.]* The Respondent resides outside of Gwinnett County, and shall therefore be served by second original, as provided under OCGA § 9-10-72. Service shall be made by the sheriff's department of the county where the Defendant resides.
- ☐ (c) The Respondent's whereabouts are unknown to me. I am filing my *Affidavit of Due Diligence* with this *Complaint*. The Defendant shall be served by publication as provided under OCGA § 9-11-4(e)(1) for those who cannot be found within the State of Georgia. To the best of my knowledge, the Defendant's last known address is:

8. **Children.** The Respondent and I are the parents of _____minor children, who is/are:

Name	Male/Female	Year of Birth

9. **Children's Current Residence:**

Child(ren's current address: _____

City, State ZIP _____

County: _____

The child(ren) has/have lived at this address since
approximately (month and year): _____

10. **Children's Past Residences:**

During the past five years, the children have lived at the following addresses:

<u>Dates at Address</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____

11. People With Whom Children Have Lived:

During the past five years, the children have lived with the following people:

Name of Person

Person's Current Address

12. Other Court Cases About Children:

[Check only one of the following, either (a) or (b).]

☐ (a) I have never participated as a party or a witness or in any other capacity in any other litigation concerning the custody of or visitation with the minor children in this or any other state.

☐ (b) I have participated in other litigation concerning the custody of the minor children in Georgia or another state. The court, case number and date of any order concerning custody or visitation under the other litigation are as follows: _____

13. Other Proceedings That Could Affect Custody or Visitation in This Case:

[Check only one of the following, either (a) or (b).]

☐ (a) I do not have any information of any proceeding that could affect this case, including proceedings for enforcement and proceedings relating to family violence, protective orders, termination of parental rights, and adoptions in this or any other state.

- ☐ (b) I have information about a proceeding that could affect this case, including proceedings for enforcement and proceedings relating to family violence, protective orders, termination of parental rights, or adoptions in this or another state. The court, the case number and the nature of the proceeding are as follows:

14. Pursuant to O.C.G.A. § 19-7-25, Only the mother of a child born out of wedlock is entitled to custody of the child, unless the father legitimates the child as provided in Code Section 19-7-21.1 or 19-7-22. Otherwise, the mother may exercise all parental power over the child.
15. O.C.G.A. § 19-7-21.1 (e) provides further, “[v]oluntary acknowledgment of legitimation shall not authorize the father to receive custody or visitation until there is a judicial determination of custody or visitation.”
16. I am a fit and capable parent and otherwise qualified to have sole legal and physical custody of the child(ren) and act in the best interest of the child(ren). Therefore, I am asking this Court to issue an order declaring my right to sole legal and physical custody of the child.

WHEREFORE, the Petitioner requests relief as follows:

- a) That this Court enter an order pursuant to O.C.G.A. § 19-7-25 declaring Plaintiff’s right to sole legal and physical custody of the minor child(ren) of the parties;

- b) That a Rule Nisi be set to grant the relief sought; and
- c) That the Court order any and all other relief that the Court finds appropriate.

Dated: _____

Petitioner, Pro se (Signature)

Name: _____

Address: _____

Phone: _____

Email: _____

SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

<div style="text-align: center; margin-bottom: 10px;">_____, Petitioner,</div> <div style="text-align: center; margin-bottom: 10px;">vs.</div> <div style="text-align: center;">_____, Respondent.</div>	<div style="margin-bottom: 10px;">Civil Action</div> <div>Case Number _____</div>
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VERIFICATION

PERSONALLY APPEARED BEFORE ME, the undersigned officer authorized to administer oaths, the above-named Petitioner, who after having been duly sworn, on oath depose and states that the facts contained in the foregoing *Petition for Declaration of Sole Custody* are true and correct.

Dated: _____

Petitioner *Pro se* (Signature)

Subscribed and sworn before me on

_____, 20____.

Notary Public

**SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 10px;"></div> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <div style="border-bottom: 1px solid black; height: 1.2em; margin-top: 20px;"></div> <p style="text-align: center;">Defendant.</p>	<p>Civil Action File No.: <div style="border-bottom: 1px solid black; width: 200px; display: inline-block;"></div></p>
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FINAL DECLARATORY JUDGMENT OF SOLE CUSTODY

HAVING CONSIDERED the Plaintiff's *Petition for Declaration of Sole Custody*, the Defendant having been notified of this action in accordance with Georgia law, it is HEREBY DECLARED AND DECREED:

Under provisions of the Uniform Child Custody Jurisdiction Enforcement Act, the state of Georgia is the home state of the child(ren) and this Court has sole and exclusive jurisdiction over all custody actions concerning the minor child(ren) listed below:

NAME	GENDER	YEAR OF BIRTH

The Court finds that the Mother has sole right to legal and physical custody of the child(ren). The child(ren) was/were born out of wedlock. The Defendant has no custodial rights to the child(ren).

Pursuant to the provisions of the Uniform Child Custody Jurisdiction Enforcement Act, and O.C.G.A. § 19-7-22, the Court declares the mother, _____, has sole and exclusive legal and physical custody of the minor child(ren). The Mother is allowed to obtain passport for the minor child(ren) without Respondent's consent.

SO ORDERED this the _____ day of _____, 20____.

Judge
Gwinnett County Superior Court

General Civil and Domestic Relations Case Disposition Information Form

☐ Superior or ☐ State Court of GWINNETT County

For Clerk Use Only

Date Disposed _____
MM-DD-YYYY

Case Number _____

Case Style _____

Plaintiff(s)

Last	First	Middle I.	Suffix	Prefix
____	____	____	____	____
____	____	____	____	____
____	____	____	____	____
____	____	____	____	____

Defendant(s)

Last	First	Middle I.	Suffix	Prefix
____	____	____	____	____
____	____	____	____	____
____	____	____	____	____
____	____	____	____	____

Reporting Party _____

Plaintiff's Attorney _____

Bar Number _____

Self-Represented ☐

Defendant's Attorney _____

Bar Number _____

Self-Represented ☐

Manner of Disposition

Check Only One

- ☐ Jury Trial
- ☐ Bench/Non-Jury Trial
- ☐ Non-Trial Disposition
- ☐ Alternative Dispute Resolution

- ☒ Check if any party was self-represented at any point during the life of the case.
- ☐ Check if the court ordered an interpreter for any party, witness, or other involved individual.
- ☐ Was the case referred/ordered to a court-annexed alternative dispute resolution (ADR) process?

NEXT STEPS... GETTING THE OTHER PARTY SERVED

The following links provide additional instructions for filing your case and having the father served with notice of your petition. For a complete list of service instructions, visit <http://gwinnettflc.atlantalegalaid.org/category/filing-instructions/>

Child's father lives in Gwinnett County

- ☐ Complete the *Sheriff Entry of Service* form. This form is a 3-part carbon copy which is available at the Gwinnett Justice and Administration Center.

Child's father lives outside of Gwinnett County

Father's whereabouts are unknown: You must document your search efforts and request permission from the Court to publish notice of your *Petition* through the local newspaper.

- ☐ Complete the **Publication Packet** located at <http://gwinnettfamilylawclinic.org/> in the "list of every document" section.