

**INSTRUCTIONS FOR SUMMONS AND PETITION IN  
LEGAL CUSTODY AND PHYSICAL PLACEMENT ACTION UNDER  
§ 767.805(3) WIS. STATUTES**

This form is to be used by a parent who wishes to start a court action concerning legal custody, physical placement or support when both parents have signed and filed a statement acknowledging paternity. **IT IS NOT TO BE USED** to start an action to determine paternity in cases where there has not been a signed acknowledgment of paternity. In addition to the Summons and Petition, you should also request a hearing by using the form labeled "Notice of Motion & Motion for Hearing."

**Step 1: Fill out the forms**

Carefully review all of the following instructions before you complete the forms. Type or print neatly using **black or blue ink only**.

The packet includes the following forms:

1. Summons—Action under § 767.805, Stats.
2. Petition for Custody, Placement and Child Support-Action under § 767.805, Stats.
3. Notice of Motion & Motion for Hearing-Action under § 767.805, Stats.
4. Affidavit in Support of Motion for Hearing-Action under § 767.805, Stats.

**SUMMONS**

1. In the caption at the top of page 1, print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".
2. In the middle of the page, print your name on the first blank line. Print your address on the second and third lines.
3. Date and sign the document at the bottom of page 3. Print your address on the last line.

**PETITION FOR CUSTODY, PLACEMENT AND CHILD SUPPORT**

1. In the caption at the top of the page 1, print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".
2. In the first paragraph fill in your name after "I". In the blank at the end of the sentence fill in the date on which the paternity acknowledgment form was filed with the State.
3. Print the child(ren)'s names on the line under the label "NAME" and the child(ren)'s dates of birth on the line under the label "DOB".
4. In the last paragraph which starts out "The Petitioner requests the following relief", cross off the items that you do not want the court to order.
5. Sign the form on the line labeled "Petitioner". Fill in the date below your signature.

**NOTICE OF MOTION & MOTION FOR HEARING AND  
AFFIDAVIT IN SUPPORT OF MOTION FOR HEARING**

This form is to be used by a party who wishes to have the Court hold a hearing and determine issues concerning legal custody, physical placement, child support, health insurance, and payment of uninsured health care expenses for the child. These documents will usually be filed at the same time as the summons and petition commencing the action. If the documents are filed together, the Respondent can be served with the summons, petition and documents concerning the hearing at the same time.

1. Fill in the names of the parties at the top of the form. Print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".
2. Under the sentence which reads "PLEASE TAKE NOTICE THAT the Petitioner moves the court to order" are listed a number of issues which you may request the Court to decide; they are numbered 1-4. Cross off the issues that you do not want the Court to address (Please note that even if you do not want certain issues addressed, the other parent may request at the hearing that an order be entered concerning those issues).
3. Leave blank the lines which state the date, time and place of the hearing and the name of the commissioner who will hold the hearing. The Court Commissioner's Office will give you this information later.
4. Sign your name and fill in the date at the bottom of the page.

### **AFFIDAVIT IN SUPPORT OF MOTION FOR HEARING**

1. Print your name on the line labeled "Petitioner". Print the other parent's name on the line labeled "Respondent".
2. Print your name in the first line after "I".
3. Sign your name and fill in the date **in front of a notary public** who will witness your signature.

MAKE THREE ADDITIONAL COPIES OF THE SUMMONS; PETITION; NOTICE OF MOTION & MOTION; AFFIDAVIT IN SUPPORT OF MOTION; AND UNIFORM CHILD CUSTODY JURISDICTION ACT AFFIDAVIT AFTER YOUR SIGNATURE ON THE UNIFORM CHILD CUSTODY AFFIDAVIT IS NOTARIZED. ONLY ONE (1) COPY OF THE CONFIDENTIAL PETITION ADDENDUM IS NEEDED AT THE TIME OF FILING

#### **Step 2: Go to the Court Commissioner's Office and get a date for hearing**

After making copies, go to the Court Commissioner's Office, to obtain a date for the hearing on your motion.

#### **Step 3: File all of your forms and pay the filing fee**

1. Take the original and three copies of the forms to the Clerk of Courts, Room 309, Douglas County Courthouse, 1313 Belknap Street, Superior, WI 54880 in order to file the case. You will have to pay a filing fee of \$184.50 if there is no request for child support or \$194.50 if there is a request for child support.

If you believe that you are entitled to a waiver of the fee because of poverty, fill out a Petition for Waiver of Filing and Service Fees available at the Clerk of Court's Office. The Court will determine if the fee can be waived. If you ask for a waiver, do so before paying any fees, not after.

2. Optional - If you would like to apply for services from the Douglas County Child Support Enforcement Unit, go to the Child Support Office and complete an "Application for Child Support Services". The application should be completed (including your newly assigned court case number) and dropped off or mailed to the Douglas County Child Support Enforcement Unit at the address listed on the form.

#### **Step 4: Serve the summons and petition and notice of motion for hearing on the Respondent.**

You must serve the other party within 90 days of the date the case is filed. Service may be accomplished in one of the following three ways:

1. Service by Sheriff. If the other party lives in Douglas County, you may have a copy of the paperwork served on the other party by the Douglas County Sheriff's Department. The Sheriff will need two copies for service. There is a charge for every service or attempted service, plus fees per mile that the deputy travels. There will be no fee if you qualify for a fee waiver. Once the Sheriff has served the forms, you will be sent a Proof of Service form. Make a copy for your records and return the original to the Clerk of Courts Office, Room 309 of the Douglas County Courthouse.

If the person to be served lives outside of Douglas County, call the Sheriff in the county where the person lives for instructions on serving the papers.

2. Service by Private Process Server. You may use a private process server to serve the other party. To locate a private process server, look in the phone book yellow pages under "Process Servers." Once the forms have been served, you will be sent a Proof of Service form. Make a copy for your records and return the original to the Clerk of Court's Office.
3. Admission of Service. If you believe the Respondent will be willing to admit that he or she received the Summons and Petition, you can have the Respondent sign an Admission of Service available online at [wicourts.gov](http://wicourts.gov). If an Admission of Service form is signed by the Respondent, you do not need to have the Respondent served by the sheriff or a private process server. If the Respondent signs an Admission of Service form, make a copy for your records and return the original to the Clerk of Court's Office.

\_\_\_\_\_  
Petitioner,

**SUMMONS - LEGAL CUSTODY  
AND PHYSICAL PLACEMENT  
ACTION UNDER § 767.805(3), STATS.**

\_\_\_\_\_  
Petitioner's address and date of birth

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

Code No. #40803

\_\_\_\_\_  
Respondent's address and date of birth

**TO THE PERSON NAMED ABOVE AS RESPONDENT:**

You are notified that the Petitioner named above has filed a legal action against you. The petition, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the petition. The court may reject or disregard any answer that does not follow the requirements of the statutes. The answer must be sent or delivered to:

Douglas County Clerk of Court  
Douglas County Courthouse  
1313 Belknap Street, Room 309  
Superior, WI 54880

Douglas County Child Support Agency  
Douglas County Courthouse  
1313 Belknap Street, Room 202  
Superior, WI 54880

and to the Petitioner at the address listed above.

You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the petition, and you may lose your right to object to anything that is or may be incorrect in the petition. A judgment may be enforced as provided by law.

As required by § 767.215(2m)(a)(2), Stats., accompanying this Summons will be a document setting forth the percentage standard for child support established by the Department of Workforce

Development under § 49.22(9), Stats, and listing the factors that a court may consider for modification of that standard under § 767.511(1m), Stats.

You are hereby notified that violation of the following criminal statute is punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both (Class F felony); or by a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both (Class I felony):

Section 948.31 Interference with custody by parent or others.

(1)(a) In this subsection, "legal custodian of a child" means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.

2. The department of health and family services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody or supervision of the child has been transferred under ch. 48 or 938 to that department, person or agency.

(b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

(2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child's parents or, in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.803, from the child's mother or, if he has been granted legal custody, the child's father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class I felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.

(3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class F felony:

(a) Intentionally conceals a child from the child's other parent.

(b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(14).

(c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period.

(4)(a) It is an affirmative defense to prosecution for violation of this section if the action:

1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;

2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;

3. Is consented to by the other parent or any other person or agency having legal custody of the child; or

4. Is otherwise authorized by law.

(b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(5) The venue of an action under this section is prescribed in s. 971.19 (8).

(6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s. 973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

You are also notified that, under § 767.105(2), Stats., you may request, and may have to pay for, the following written information from the Court Commissioner:

1. The procedure for obtaining a judgment or order in this action.
2. The major issues usually addressed in such an action.
3. Community resources and family court counseling services available to assist the parties.
4. The procedure for setting, modifying, and enforcing child support awards or modifying and enforcing legal custody or physical placement judgments or orders.
5. A copy of the statutory provisions in Chapter 767 generally pertinent to this action for inspection or purchase.

You are further notified of the availability, upon request of the Court Commissioner and with or without charge, of written information on the procedures in this action and any community resources and counseling services available to assist the parties.

Attached to this document is an affidavit concerning custody which is given in compliance with § 822.29, Stats.

If you require services because of a disability, please call 715-395-1203.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Full Name-Typed or Handwritten

\_\_\_\_\_  
Address

\_\_\_\_\_  
 Petitioner,  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Petitioner's address and date of birth

**PETITION FOR LEGAL CUSTODY,  
 PHYSICAL PLACEMENT AND SUPPORT  
 ACTION UNDER § 767.805, STATS.**

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_  
 Respondent.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Respondent's address and date of birth

Code No. #40803

\_\_\_\_\_ is the father of the below-named child(ren)  
 based on signed acknowledgments for said child(ren).

CHILD(REN)'S NAME(S)

DOB

_____	_____
_____	_____
_____	_____

1. Upon information and belief, no other action for custody, placement and support of the child(ren) has been commenced by either of the parents or is pending in any other court or before any judge in this state or elsewhere.

2. The Petitioner is a fit and proper person to have the care and custody of the minor child(ren).

3. The father acknowledged parentage of the minor child(ren) on \_\_\_\_\_  
 \_\_\_\_\_

4. Upon information and belief, the parents have not entered into any written agreement as to custody, placement and support for the child(ren).

5. The Petitioner requests the following relief: (Check whichever provisions you think apply)

- An order determining legal custody and physical placement.
- An order for child support.
- An order for health care expenses and insurance.
- The costs of this action.
- Other: \_\_\_\_\_
- Any other relief that is appropriate.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
Petitioner,

**NOTICE OF MOTION AND  
MOTION – CUSTODY AND PLACEMENT  
ACTION UNDER § 767.805(3), STATS.**

\_\_\_\_\_  
Petitioner's address and date of birth

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

Code No. #40803

\_\_\_\_\_  
Respondent's address and date of birth

PLEASE TAKE NOTICE THAT the Petitioner moves the Court to order: (Check all provisions that apply)

- Issues of legal custody and physical placement.
- Issues of child support.
- Issues of health insurance and payment of uninsured health care expenses.
- Issues of the costs of this action.
- Other: \_\_\_\_\_

And such other and further relief as may be just, equitable and necessary.

This motion will be heard:

DATE: \_\_\_\_\_  
 TIME: \_\_\_\_\_  
 BEFORE: REBECCA J. LOVEJOY, COURT COMMISSIONER  
 ADDRESS: ROOM 301, DOUGLAS COUNTY COURTHOUSE  
 1313 BELKNAP STREET  
 SUPERIOR WI 54880

If you have a disability and need help in court, please call 715-395-1203.

If you fail to appear the court may proceed without you and an order may be entered.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Petitioner,  
\_\_\_\_\_  
\_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF MOTION  
ACTION UNDER § 767.805, STATS.**

\_\_\_\_\_  
Petitioner's address and date of birth

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.  
\_\_\_\_\_  
\_\_\_\_\_

Code No. #40803

\_\_\_\_\_  
Respondent's address and date of birth

I, \_\_\_\_\_, being first duly sworn state the following:

- 1. I am a parent of the above-named child(ren) in the Summons and Petition in this case. A paternity acknowledgment has been signed and filed regarding the child(ren).
- 2. The issues of legal custody, physical placement, child support, health insurance and payment of birth expenses have not been resolved.
- 3. I request that a hearing be held to address these issues.
- 4. I request the Court address the following other issues: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
State of Wisconsin  
My commission expires: \_\_\_\_\_

Petitioner/Joint Petitioner A: \_\_\_\_\_

Respondent/Joint Petitioner B: \_\_\_\_\_

Enter the name of the county in which this case is filed.

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**This form is used for family and paternity case types. Some information may not apply to your case.**

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Enter the case number and child support IV-D KIDS number, if known.

STATE OF WISCONSIN, CIRCUIT COURT,  
\_\_\_\_\_ COUNTY

**Petitioner/Joint Petitioner A:**

Name (First, Middle and Last) \_\_\_\_\_

**Respondent/Joint Petitioner B:**

Name (First, Middle and Last) \_\_\_\_\_

Case No. \_\_\_\_\_

IV-D KIDS Case No. \_\_\_\_\_

### Confidential Petition Addendum

Enter the name, date of birth [month, day, year], and social security number of each party.

**1. Parties**

- A. Petitioner/Joint Petitioner A/Alleged Parent: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ SS#: \_\_\_\_\_ Phone No. \_\_\_\_\_
- B. Respondent/Joint Petitioner B/Alleged Parent: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ SS#: \_\_\_\_\_ Phone No. \_\_\_\_\_
- C. Other party: (If any) \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ SS#: \_\_\_\_\_ Phone No. \_\_\_\_\_

See attached

Enter the name, date of birth [month, day, year], and social security number of each minor child. If there are no minor children, check none. Attach additional pages if necessary.

**2. Minor Child(ren) that we have together**

- A. The minor child(ren) of the other party and me (born or adopted) before or during the marriage/relationship are:

None

Name of Minor Child	Date of Birth	SS#

See attached

**B. Other Minor Child(ren)**

If this is a divorce or legal separation, list other minor child(ren) born to either party during this marriage, but not fathered by the other party:

None

Name of Minor Child	Date of Birth	SS#	Parent

See attached

The party(s) filing this addendum must sign and print your name and date the document.

▶ \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address                      Telephone Number

\_\_\_\_\_  
Date                                      State Bar No. (if any)

▶ \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address                      Telephone Number

\_\_\_\_\_  
Date                                      State Bar No. (if any)