IDAHO LEGAL AID SERVICES

DETAILED CUSTODY PROCESS FOR CUSTODY OR DIVORCE CASES

A **Motion for Temporary Orders** can be filed at any time prior to trial.

A Temporary Order is an order setting a custody and visitation schedule until a final order is entered.

PROCESS:
(1) File Motion with Affidavit, (2) set hearing date, and (3) attend hearing.

FILE
(1) Petition for Paternity, Custody, Visitation and Support or Petition for Divorce with Minor Children, (2) Summons, (3) Family Law Case Information Sheet, (4) Order to Attend Focus on Parenting Class, (5) Affidavit Verifying Income, (6) Child Support Worksheet, and (7) Parenting Plan with the Clerk of the Court.

The Clerk will provide Joint Temporary Restraining Order (Children) and Order to Attend Parenting Class.

Fee Waiver

If the parties agree to all terms right away, they can skip the SERVE step in the flowchart.

SERVE
A copy of the: (1) Petition, (2) Summons, (3) Order to Attend Focus on Parenting Class, and (4) Joint Temporary Restraining Order (Children) on the other parent.
FILE
Affidavit of Service with the Clerk of the Court.

Consider MEDIATION

at any time throughout the court process.

ATTEND
Focus on Parenting Class

DEFAULT
When other parent does not file a **Response** or **Counterclaim** within **21** days of being served.

If the other parent or his/her attorney appeared, **SERVE** the other parent or his/her attorney and **FILE** with the Clerk a Notice of Intent to Take Default.

CONTESTED
When other parent files a **Response** and **Counterclaim** within **21** days of being served.

RESPONSE & COUNTERCLAIM
When other parent asks for something different, **FILE** a **Reply** within **21** days and serve it on other parent.

RESPONSE
When other parent only files a Response, no Reply is necessary.

UNCONTESTED/ SETTLEMENT
When parties agree on **all** aspects of the Divorce. This can occur any time prior to final judgment.

FILE
A Stipulation for Entry of Order, Judgment, or Decree.

PROCEED TO PAGE 2

Can file a Motion and Affidavit for Fee Waiver in order to have filing fees waived

See https://courtselfhelp.idaho.gov/Forms/Divorce for all referenced documents

CUSTODY PROCESS DETAILED FOR CUSTODY OR DIVORCE CASES

Wait **3** days (**6** if you served the other parent via mail) then **FILE:** (1) Motion & Affidavit for Default; (2) Order for Default; (3) Child Support Transmittal Form; and IF A DIVORCE, FILE: (4) Certificate of Divorce; and (5) Decree of Divorce.

ATTEND DEFAULT HEARING
Here, the judge will ask you questions regarding custody of your children and domestic violence if relevant.

ATTEND A SCHEDULING CONFERENCE
where you will receive a list of deadlines to follow.

SERVE MANDATORY DISCLOSURES on other parent within **35** days. This includes: (1) Mandatory Child Support Disclosures and (2) Certificate of Service; IF A DIVORCE, ALSO SERVE: (3) Inventory of Property and Debts.

FILE
Certificate of Service with the Clerk.

CONDUCT DISCOVERY
Here, you will request information from your spouse to support your argument and discover what they will use at trial. Generally, as long as the information is relevant, the responding party must provide an answer within **30** days (see Form 2 at https://isc.idaho.gov/irflp for examples of relevant questions).

PREPARE FOR AND ATTEND TRIAL

FILE
A Decree of Paternity, Custody, Visitation and Support or a Divorce Decree.

FILE
Child Support Transmittal Form

NOTE: Custody or Divorce Decree should include accurate and specific language regarding visitation, holidays, payment for extracurricular activities, who is carrying medical insurance for the children, etc. For example, it is helpful to have specific days, times, and locations for pick up and drop offs of children.

DECREE OF PATERNITY, CUSTODY, VISITATION, & SUPPORT or DIVORCE DECREE SIGNED BY JUDGE – CUSTODY IS FINAL