

# **SELF-REPRESENTED LITIGANT**

## **PETITION FOR VOLUNTARY TRANSFER OF CUSTODY**

### **This form is intended for litigants who:**

- ✓ Wish to voluntarily transfer custody of a child for a specified period of time to a legal guardian defined by Ch.C. Art. 1511 (1).

### **Information you will need:**

1. The exact name and address of the other party in this matter (i.e. guardian)
2. The exact name(s) and date(s) of birth of all children included in the Petition for Voluntary Transfer of Custody

These instructions are meant to guide you through the process of **asking the court to voluntarily transfer custody for your minor child(ren)**.

This packet of forms is not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action. **When you represent yourself in court, you must follow all the proper procedures and the law. It is your responsibility to see your case through the whole process.**

1. Be sure you have the correct form.
2. Read all instructions before you begin.
3. Fill in the blanks with 100% accurate information. *Any false statement made in court or written in a court document may constitute perjury.*
4. Check all options that pertain to your situation.
5. If you have trouble reading, writing, or understanding what is in this motion, seek help at the 25<sup>th</sup> Judicial District Clerk of Court's Office at 301 Main Street, Suite 108 in Belle Chasse, in the Government Annex Building, (504) 934-6610.

## INSTRUCTIONS FOR FILING PETITION TO ESTABLISH CUSTODY

### **1** STEP ONE THE PETITION

*The first step is to fill out and file the “Petition for Voluntary Transfer of Custody” form with the attached “Affidavit of Acceptance.” Read everything carefully, double check the information you fill in, and make sure you fill out the forms completely.*

These instructions will guide you through the petition paragraph by paragraph.

- The top part of this form is your case information.
  - Fill in your child’s name under the language entitled “In the Interest of the Minor”. When you file this form in the Clerk of Court’s office, they will give you the docket number and Division. For now, leave the blanks on the left and right empty
- The beginning paragraph asks you to fill in your name and domicile as well as all other legal custodians of the minor child unless otherwise indicated in Paragraph 3 of the petition. Your domicile is the parish/county and state where your current permanent address is.
- Paragraph 1 asks you, petitioner, to fill in your residential address.
- Paragraph 2 asks you to fill in the name and date of birth of your minor child(ren) which you are seeking to transfer custody.
- Paragraph 3 is a statement asking for other legal custodian names who are UNABLE to join in the petition and the reasons for which they are unable to join.
- Paragraph 4 asks you to indicate if your child(ren) is/are an Indian Child and to acknowledge your responsibility to the Court for any changes as well as your right to a Court Appointed Attorney if you are indigent.
- Paragraph 5 asks you to name the guardian who you are transferring voluntary custody to with their residential address and relationship to the minor child.
- Paragraph 6 asks you to fill in the name of the minor child you are voluntarily transferring custody of, the length of time of custody and the terms and conditions of the custody of the minor child.
- Paragraph 7 asks for you to list the reasons for the voluntary transfer of custody.
- Paragraph 8 asks you to fill in the name of the guardian
- Finally, sign and provide your name, address, and telephone number at the top, under where it says “Respectfully submitted.” The petition is to be signed in the presence of a notary.

Along with your petition, you will also have to have the guardian complete the “Affidavit of Acceptance” form, which states that the guardian is knowingly and voluntarily accepting guardianship of the minor child [enter child’s name].

- This step requires you to go to a notary.
- Write in the parish that you will get the form notarized in the first blank. Write the name of the guardian in the center blank but **do not have the**

**guardian sign the form until they are directly in front of the Notary.** The notary will fill in the bottom part of the form.

Finally, you will have to fill out the last two pages in your form packet titled “Rule to Show Cause” and “Judgment.” All you have to do is fill in the top part with the name of the minor child.

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## 2 STEP TWO FILING

After you’ve filled out all of the documents, you must file them with the Clerk of Court’s office.

- You must go to Clerk of Court’s office in the parish where you are bringing your case (Plaquemines Parish).
- You must file the original forms that you filled out. It’s also a good idea to make 2 copies of your filled out forms and bring them with you. When you file the originals, ask the Clerk of Court’s office to stamp your copies for your records.
- The Clerk of Court’s office can also provide your case information, such as the name of your case, your case number, and your division. Write this information down and keep it because you will need it to check the status of your case.
- Anytime you file something with the Clerk of Court’s office, you will have to pay a filing fee, unless you have been granted pauper status. There are different fees for different documents. The Clerk of Court’s office can tell you how much the fees are.
- If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the second box. You also have to fill out and file a separate “In Forma Pauperis” form, which you can get from the Self-Help Resource Center or the Clerk of Court’s office. **\*IMPORTANT-** Pauper status doesn’t make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

Once you file your documents with the Clerk of Court’s office, the Rule to Show Cause date will be set and you will be provided the hearing date to come before the judge.

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## 3 STEP THREE COMING TO COURT

*This is the final step in setting your Petition for Voluntary Transfer of Custody. You will have to come to court to put on your case and explain to the judge why you should get the custody arrangement you are requesting.*

Be sure to bring any evidence or witnesses that will help you prove your case. Remember, it is your responsibility to show the court why you should get the

custody arrangement you requested. You have to prove this in court using testimony from the witnesses and any evidence that you have that is relevant.

Make sure you are present in the courtroom on the day and time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, and getting through security.

Go to the courtroom and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will allow you to call your witnesses and testify first. The judge will also allow the other side to question you and your witnesses. Make sure to introduce any evidence that you brought with you when it's your turn.

25<sup>TH</sup> JUDICIAL DISTRICT COURT

PARISH OF PLAQUEMINES

STATE OF LOUISIANA

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

DIV. \_\_\_\_\_

IN THE INTEREST OF THE MINOR:

\_\_\_\_\_

FILED: \_\_\_\_\_

DEPUTY CLERK: \_\_\_\_\_

**PETITION FOR VOLUNTARY TRANSFER OF CUSTODY**

The petition of \_\_\_\_\_ (*all legal custodians of the child unless otherwise indicated in Paragraph III of the petition*), of full age of majority domiciled in the Parish/County of \_\_\_\_\_, State of \_\_\_\_\_, (*parish & state where you permanently reside*) respectfully represent(s):

**I.**

That petitioner(s) reside at the following address(es):

\_\_\_\_\_  
\_\_\_\_\_

**II.**

That petitioner(s) is/are the parent(s) and legal custodian(s) of the minor child(ren), namely, \_\_\_\_\_, whose date of birth is \_\_\_\_\_ (add same information for all children subject to the petition), as more fully appears from the attached certificate(s) of birth.

**III.**

That there are no other legal custodians of the child(ren) OR that a legal custodian, namely \_\_\_\_\_, is unable to join in this petition for the following

reasons: \_\_\_\_\_.

**IV.**

The above-named child(ren)  is/are  is not/are not an Indian Child (Ch.C. Art. 1515).  
Petitioner(s) acknowledge they have an ongoing duty to the Court if information later arises concerning the Indian Child Welfare Act (ICWA) status of the above-named child(ren).

Petitioner(s) further acknowledge, if they are indigent as parent/custodian of an Indian Child, the Court **shall** appoint counsel for the parent/custodian (Ch.C.Art. 1518).

**V.**

That petitioner(s) desire(s) to knowingly and voluntarily transfer custody of the above named child(ren) to \_\_\_\_\_, which individual(s), institution or agency reside(s) at the following address: \_\_\_\_\_ and who have the following relationship with the child(ren): \_\_\_\_\_.

**VI.**

That petitioner(s) desire to transfer physical custody OR legal custody of the person of the children (indicate one) for the period of time \_\_\_\_\_ (*specify intended duration*) in accordance with the following terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

(may include provisions for support and/or visitation)

**VII.**

That petitioner(s) desire this transfer of custody for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_.

Has the Department of Children and Family Services recommended to you that this petition be filed?      \_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, state the name of the Department of Children and Family Services worker making  
*Forms prepared by the Louisiana State Bar Association Access to Justice Department and the 25th Judicial District Court. No representation or enrollment as counsel is expressed or implied.*

the recommendation and the reasons for the recommendation with particularity.

If the department has recommended that this petition be filed, you have the right to counsel. Have you consulted with an attorney? \_\_\_\_\_ Yes \_\_\_\_\_ No

**VIII.**

That \_\_\_\_\_ (guardian) has/have agreed to and does/do desire to accept custody of the child(ren) to the extent and under the terms and conditions stated in this petition, as more fully appears in the attached Affidavit of Acceptance.

**PETITIONER FURTHER PRAYS** that: *(please select one of the following)*

- \_\_\_\_\_ Petitioner be allowed to proceed *In Forma Pauperis*
- \_\_\_\_\_ Petitioner be cast with the costs of these proceedings.
- \_\_\_\_\_ The parties share the costs of these proceedings in equal amounts.

**WHEREFORE** petitioner(s) pray(s) that there be judgment herein transferring custody of the child(ren), \_\_\_\_\_, to \_\_\_\_\_ (guardian), to the extent and under the terms and conditions set forth in this petition.

Respectfully submitted,

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(PRINTED FULL NAME)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(CITY/STATE/ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC

**AFFIDAVIT OF ACCEPTANCE**

**STATE OF LOUISIANA**

**PARISH OF \_\_\_\_\_**

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in this state and parish, personally appeared:

\_\_\_\_\_  
GUARDIAN'S NAME

who after being first duly sworn, did depose and state that he/she is a person of the full age of majority and resides at \_\_\_\_\_, Louisiana in the Parish of Plaquemines, State of Louisiana; that he/she does knowingly and voluntarily accept physical custody OR legal custody of the person of the child(ren) of \_\_\_\_\_ (names of child(ren) for the period of time \_\_\_\_\_ (specify intended period) in accordance with the following terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_.

(may include provisions for support and/or visitation)

\_\_\_\_\_  
AFFIANT SIGNATURE

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC



**25<sup>TH</sup> JUDICIAL DISTRICT COURT**

**PARISH OF PLAQUEMINES**

**STATE OF LOUISIANA**

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

**DIV.** \_\_\_\_\_

**IN THE INTEREST OF THE MINOR:**

\_\_\_\_\_

**FILED:** \_\_\_\_\_

**DEPUTY CLERK:** \_\_\_\_\_

**RULE TO SHOW CAUSE**

Considering the above and foregoing Petition for Voluntary Transfer of Custody filed herein:

**IT IS ORDERED** that a Rule to Show Cause be set on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_ o'clock a.m./p.m. why the Petition for Voluntary Transfer of Custody should not be granted.

**THUS DONE AND SIGNED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at Pointe-a-la-Hache, Louisiana.

\_\_\_\_\_

**JUDGE, 25<sup>TH</sup> JUDICIAL DISTRICT COURT**

**25<sup>TH</sup> JUDICIAL DISTRICT COURT**

**PARISH OF PLAQUEMINES**

**STATE OF LOUISIANA**

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

**DIV.** \_\_\_\_\_

**IN THE INTEREST OF THE MINOR:**

\_\_\_\_\_

**FILED:** \_\_\_\_\_

**DEPUTY CLERK:** \_\_\_\_\_

**JUDGMENT**

The Court considering the pleadings, evidence, argument of Counsel and finding that all necessary parties are involved, the transfer is knowing and voluntary, there is a legitimate purpose and a factual basis to support that purpose, all parties have been advised of and understand the nature and extent of the transfer, including any terms and conditions and of the respective rights and the proposed change of custody is in the best interest of the child(ren), the Court considering plaintiff entitled to the relief and for the reasons this day orally assigned;

**IT IS ORDERED, ADJUDGED AND DECREED** that \_\_\_\_\_ is hereby relieved of the care, custody and control of the minor child(ren) \_\_\_\_\_.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the said guardianship of \_\_\_\_\_ is granted to, \_\_\_\_\_, located at \_\_\_\_\_ in accordance with Ch.C. Art. 1511(1).

**THUS DONE AND SIGNED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at Pointe-a-la-Hache, Louisiana.

\_\_\_\_\_  
**JUDGE, 25<sup>TH</sup> JUDICIAL DISTRICT COURT**