

ENFORCE COURT ORDER for PHYSICAL CUSTODY

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HOW TO FILE a PETITION to ENFORCE A PHYSICAL CHILD CUSTODY ORDER

When you have an out-of-state Court Order

**(To have your child, who is being unlawfully withheld from you,
returned to you)**

(Instructions and Forms)

Petition to enforce a physical child custody order

(To have your child, who is being unlawfully withheld from you, returned to you)

CHECKLIST

You may use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You have a current out-of-state (non-Arizona) court order that says you are entitled to the physical custody of the minor child(ren),

AND

- ✓ Your child is presently in the physical custody (essentially “possession”) of the other party without your consent and without lawful authority,

AND

- ✓ The other party has failed to return the child to you,

AND

- ✓ The child(ren) is currently or will be, in the State of Arizona and you know how to find or locate the child(ren).

NOTE: If physical harm to the child is NOT immediate, and you have a legal decision-making, parenting time or physical custody order from Arizona, consider using the “*Petition to Enforce Parenting Time*” packet.

WARNING: If you DO NOT know where the child(ren) are located or the child(ren) are not in Arizona, this procedure will not work. In this procedure, the Judge must be able to tell the Sheriff where to serve the “*Warrant to Take Physical Custody of Children*” and how to pick up the child(ren) if necessary.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

How to file a petition to enforce a child custody order

This packet contains court instructions to file a petition to enforce a child custody order. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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6	DREHC11f	"Petition to Enforce a Physical Child Custody Order"	6

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Instructions: How to fill out the papers for petition to enforce a physical custody order when you have a current out-of-state (non-Arizona) Court Order

NOTICE

- This procedure may only be used by a party with a NON-ARIZONA court order.
- This procedure does not result in the minor children being returned to you immediately.
- The minor children will either remain with the other party until after a hearing, or
- The Judge will order the Sheriff to pick up the minor children immediately, and the children will go to the Arizona Department of Child Safety until after a hearing.

GENERAL INSTRUCTIONS

Complete all of the court forms included in the packet as instructed below. All forms must be typed or neatly printed in black ink. All of the blanks must be filled in or you must write in "N/A" for "*not applicable*". If you have any legal questions, you should see a lawyer for help. Where these instructions refer to "child", it may mean one child or more.

"PETITION TO ENFORCE A CHILD CUSTODY ORDER". Follow these instructions lettered and/or numbered to match the letters/numbers on the form.

STEP INSTRUCTION

- (A) (At top left) Print the name and other information requested for the person submitting this form. If you are representing yourself in this matter, check the box before "Self".
- (B) Case caption: Write in the name of the Petitioner / Party A, the name of the Respondent/ Party B, and the case number. If this is the first document to be filed in Arizona, *you* are the Petitioner / Party A, and the other party or person who has illegally withheld your minor child (or children) from you is the Respondent / Party B.
- 1 Information about me, the applicant. Fill in your name, address, and relationship to the minor children who have been illegally withheld from your custody.
- 2 Information about the other party who has your minor child. Fill in the other party's name, address, and relationship to the minor child(ren) who have been illegally withheld from your custody.

3 Information about children under 18 years old about whom this petition is filed: Fill in the name of each child, each child's date of birth, the age of each child, and the location of each child right now. *WARNING: If you do not know where the children are located, this procedure will not work.* The Judge must be able to tell the Sheriff where to serve the "Warrant to Take Physical Custody of Children" and how to pick-up the children if necessary.

4 Information about current custody order: You must have a current custody order that gives you physical custody of the minor children. Do not use the forms in this packet unless this is true.

Current custody order. Write in the date of the Order, the city and state in which the court is located where the Order was signed, and the name of the Judge who signed the Order. Then, write in the name of the person who was given/awarded physical custody of the minor children. (Note: If you were not awarded physical custody, this procedure will not work for you.) Also, mark the box to show whether the Judge that signed the Order stated the jurisdictional basis it relied on to grant the Order/Decree. If so, state the jurisdictional basis cited by the Judge. If the Order/Decree that awards you physical custody has been vacated, stayed or modified by a court, complete the information requested. Mark the box to show whether you attached a certified copy of the Court Order.

5 Pending court cases about the custody/parenting time related to the children. Check only one box. If you do not have any information about any pending court cases about the custody/parenting time related to the minor children, check the second box, and go on to number 6.

If you do have case information, check the second box, and write in the name of each minor child, the name of the court, the court location, the court case number, the current status of the case, how the minor child is involved, and a brief summary of the court order if there is one. If you need more space, attach another piece of paper.

6 Registration of physical custody order from another state (if applicable). If you have a custody order from another state about your minor child(ren) illegally taken from you, you can register that out-of-state custody order in Arizona. For more information on that process, please see Arizona Revised Statutes Section § 25-1055. Please understand that there will be a processing fee to register that out-of-state custody order. The processing fee may be required in full, or may be deferred or waived, depending upon your financial circumstances.

If you have registered an out-of-state custody order in Arizona, please write in the spaces provided the name of the Arizona court where you registered the order, and the date when that was done.

7 Why you need the court to issue an order directing the person(s) with physical custody of the minor children to appear in court. Mark the appropriate box(es). Write in the name of the person who has the minor children without your consent, and without lawful authority.

8 Why you need the Court to issue a warrant to take physical custody of children. If this section applies to you, mark the box(es) that best describes your situation.

Then, explain in writing to the judge how the children are in immediate danger and will suffer harm or why you think the person who has the children will flee with the children if an order is not entered today. If this section does not apply to you, write in N/A for not applicable, and go on to RELIEF REQUESTED. (Note. the form entitled *“Warrant to Take Physical Custody of Children”* is not in your packet, but has been given to the Judges directly. If the Judge believes you are entitled to this Warrant, he or she will sign a *“Warrant to Take Physical Custody of Children.”*)

RELIEF REQUESTED. This is the section of the Petition where you ask the Court to make orders relating to the relief you want. Mark the box(es) that describe what you want the judge to order.

OATH OR AFFIRMATION AND VERIFICATION. You must sign the oath or affirmation and verification section in front of a Notary Public. Make sure you bring picture identification with you. You should only sign the oath and verification section after you have carefully reviewed your Petition and believe that everything contained in the Petition is true and correct. By signing the Petition under oath or affirmation, you swear or affirm, under penalty of perjury, that the information is true.

OTHER FORMS

- *“FAMILY DEPARTMENT SENSITIVE DATA / COVERSHEET” (if required)*
 - Write in the requested information. If you know any party’s address to be protected by court order, write “protected” in the space provided for that party’s address.
 - Case Type: Check the box that matches the legal procedure for which you are filing these documents: “Other”
 - Does any party require an interpreter? If “yes”, write in for what language.

NEXT STEP. Read the document called *“Procedures: what to do with the court documents after you have filled them out.”*

Procedures: What to do with the court forms after you complete them

STEP 1: COPY the following original Petition form after you complete it:

- *"Petition to Enforce a Child Custody Order"* - 3 copies

STEP 2: Separate your documents into four (4) sets:

<p>SET 1 - Originals: for the Clerk of Superior Court</p> <ul style="list-style-type: none">• <i>"Family Department Sensitive Date / Cover Sheet"</i>• <i>"Petition to Enforce Child Custody Order"</i>	<p>SET 2 - Your copies:</p> <ul style="list-style-type: none">• <i>"Petition to Enforce Child Custody Order"</i>
<p>SET 3 - Copy for the Judge:</p> <ul style="list-style-type: none">• <i>"Petition to Enforce Child Custody Order"</i>	<p>SET 4 - Copies for the other party:</p> <ul style="list-style-type: none">• <i>"Petition to Enforce Child Custody Order"</i>

STEP 3: Go to the Superior Court to file your papers: The Court is open from 8:00 a.m. - 5:00 p.m., Monday-Friday. You should go to the Court at least two hours before it closes. You may file your court papers at the following Superior Court locations:

Clerk of Superior Court
Central Court Building
201 West Jefferson, 1st floor
Phoenix, Arizona 85003

Clerk of Superior Court
Southeast Court Complex
222 East Javelina Avenue, 1st floor
Mesa, Arizona 85210

Clerk of Superior Court
Northwest Court Complex
14264 West Tierra Buena Lane
Surprise, Arizona 85374

Clerk of Superior Court
Northeast Regional Court Center
18380 North 40th Street
Phoenix, Arizona 85032

FILE: Go to the Clerk of Superior Court filing counter to file your documents.

FEES: There is no filing fee for this procedure.

The Clerk of Superior Court will keep the original of the "*Petition to Enforce a Child Custody Order*" to place in the permanent Court file. The Clerk will then court-stamp the originals and copies you have to show what documents were filed and give them back to you.

STEP 4: DELIVER the "*Petition to Enforce a Child Custody Order*" to the Judge's office if your case is filed in Downtown, Northeast Phoenix, or Surprise, or Family Administration if your case is filed in Mesa. If you are not sure which Judge is assigned to your case, call Family Administration at: 602-506-1561 in Downtown Phoenix, 602-506-2021 in Mesa, 623-372-9403 in Surprise, or 602-372-7700 for the Northeast Court Facility (at 40th Street & Union Hills, Phoenix).

If you filed your Petition in Downtown Phoenix or Surprise, you will be directed to a waiting area outside the Judge's office. If you filed your Petition in Mesa, you will be told by Family Administration to take your papers to the floor where the Judge is located, where you will be met by the Judge's staff. If you filed your Petition at the Northeast facility, you will be directed to use the intercom system to contact the Judge's staff. You will be asked to wait until the Judge has the opportunity to grant or deny your Petition.

WARNING: If you have a custody order the Judge will often ask his or her staff to confirm that it is valid. This takes time. If you take your papers to the Judge late in the afternoon it is not always possible to confirm the validity of the custody order *until the next day*. You should try your very best to take your papers to the Judge as soon as possible *in the morning*.

What the Judge will do: The judge will look over the "*Petition to Enforce a Child Custody Order*," and *may*:

- Order the appearance of the person(s) with physical custody of the child(ren) without seeing you, *OR*
- Ask you to come into the office and explain the situation, *OR*
- Schedule a formal court hearing.

The Judge will then decide one of the following:

- To order the appearance in court of person(s) with physical custody of the child(ren) and schedule a court hearing, *OR*,
- To reject your request and not order the appearance of person(s) with physical custody of the children" right then, *OR*,

- To order whatever else the Judge thinks is proper. This includes orders against you if the Judge thinks you knowingly tried to do something improper by filing the *"Petition to Enforce a Child Custody Order"*.

If the Judge decides to order the person(s) with physical custody of the child(ren) to appear in court, the Judge and court staff will issue an original Court Order, and the courtroom clerk will make a certified copy to give you.

STEP 5: **SERVE OTHER PARTY:** With a certified copy of the Court Order for the appearance of person(s) with physical custody of the child(ren) and a copy of your Petition, you are ready to legally serve the other party. You can hire a private process server for this, or you can go to the Maricopa County Sheriff's Office to have the documents served on the other party. If you go to the Sheriff's Office, someone at that office will ask you to fill out a form, or ask you many questions about the other party and the child(ren), including what they look like, where they live, where they work, and so forth. They may also ask you for pictures of the other party and the child(ren) if you have them, and will conduct a criminal history check on all parties involved. For more information on your options for legally serving the other party with court papers, please see the Law Library Resource Center packet number two (2) on "Service".

STEP 6: **The Court Hearing.** Be on time. Dress neatly. Be prepared to show the Judge proof of why you are entitled to the custody of the child. *Unless you have been ordered to bring your children to court, do not bring any children to Court.*

Person Filing: _____
 Address (if not protected): _____
 City, State, Zip Code: _____
 Telephone: _____
 Email Address: _____
 ATLAS Number: _____
 Lawyer's Bar Number: _____

For Clerk's Use Only

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

 Petitioner / Party A

Case No. _____

 Respondent / Party B

ATLAS No. _____

**FAMILY DEPARTMENT SENSITIVE DATA
 COVERSHEET WITH CHILDREN
 (CONFIDENTIAL RECORD)**

Fill out. File with Clerk of Superior Court. Social Security Numbers should appear on this form only and should be omitted from other court forms. Access Confidential pursuant to ARFLP 43.1(f).

A. Personal Information:	Petitioner / Party A	Respondent / Party B
Name	_____	_____
Gender	<input type="checkbox"/> Male or <input type="checkbox"/> Female	<input type="checkbox"/> Male or <input type="checkbox"/> Female
Date of Birth (Month/Day/Year)	_____	_____
Social Security Number	_____	_____

Warning: DO NOT INCLUDE MAILING ADDRESS ON THIS FORM IF REQUESTING ADDRESS PROTECTION

Mailing Address	_____	_____
City, State, Zip Code	_____	_____
Contact Phone	_____	_____
Receive texts from Court to contact phone number above?	<input type="checkbox"/> Yes <input type="checkbox"/> No texts	<input type="checkbox"/> Yes <input type="checkbox"/> No texts
Email Address	_____	_____
Current Employer Name	_____	_____
Employer Address	_____	_____
Employer City, State, Zip Code	_____	_____
Employer Telephone Number	_____	_____
Employer Fax Number	_____	_____

B. Child(ren) Information:

Child Name	Gender	Child Social Security Number	Child Date of Birth
_____	_____	_____	_____
_____	_____	_____	_____

C. Type of Case being filed: Mark only one (1) category below. (*) Mark this box only if no other case type applies.

<input type="checkbox"/> Dissolution (Divorce)	<input type="checkbox"/> Paternity	<input type="checkbox"/> Order of Protection
<input type="checkbox"/> Legal Separation	<input type="checkbox"/> *Legal Decision-Making / Parenting Time	<input type="checkbox"/> Register Foreign Order
<input type="checkbox"/> Annulment	<input type="checkbox"/> *Child Support	<input type="checkbox"/> Other

D. Do you need an interpreter? Yes or No. If Yes, what language? _____
DO NOT COPY this document. DO NOT SERVE THIS DOCUMENT to the other party.

Person Filing: (A) _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

_____(B)
Name of Petitioner / Party A

CASE NUMBER _____(B)

PETITION TO ENFORCE A PHYSICAL CHILD CUSTODY ORDER (A.R.S. § 25-1058)

_____(B)
Name of Respondent / Party B

STATEMENTS MADE TO THE COURT UNDER OATH OR BY AFFIRMATION:

1. INFORMATION ABOUT ME, THE APPLICANT:

Name: _____

Address: _____

Relationship to child(ren): I am Mother Father Other _____

2. INFORMATION ABOUT THE OTHER PARTY WHO HAS YOUR MINOR CHILD(REN):

Name: _____

Address: _____

Relationship to child(ren): He/she is Mother Father Other _____

3. INFORMATION ABOUT THE CHILD(REN) UNDER THE AGE OF 18 YEARS FOR WHOM THIS PETITION IS FILED:

Child's Name: _____

Date of Birth: _____ **Age:** _____

Current Location (Address): _____

Child's Name: _____

Date of Birth: _____ **Age:** _____

Current Location (Address): _____

(If there are additional children, provide that information on a separate piece of paper)

4. INFORMATION ABOUT CURRENT PHYSICAL CHILD CUSTODY ORDER:

Date of Order: _____

Location of court issuing order (city & state): _____

Name of Judge who signed Order/Decree: _____

According to the Order/Decree, who was awarded physical custody? _____

Yes No **Did the Judge who signed the Order/Decree state the jurisdictional basis it relied on in exercising jurisdiction (i.e. minor child lived in the State for 6 months or greater prior to the filing of the Petition)?**

If yes, what was the jurisdiction stated in the Order/Decree by the Judge?

Yes No Has the Order/Decree that awards you physical custody been vacated, stayed or modified by a court? If yes, complete the following information:

Case Number: _____

Name/Location of court: _____

Date the Order/Decree was vacated, stayed or modified:

Order/Decree was (check one) vacated stayed modified

Explain _____

A Certified Copy of the Order/Decree MUST BE attached to this “*Petition to Enforce a Physical Child Custody Order.*”

Yes No I attached a Certified Copy of the Order as stated above.

5. DO YOU HAVE a PENDING COURT CASE(S) about LEGAL DECISION-MAKING/PHYSICALCUSTODY/PARENTING TIME RELATED TO THE MINOR CHILD(REN)? (Check one box):

I do I do NOT have information about court case(s) about legal decision-making/ physical custody/parenting time for any of the minor child(ren) that is pending in this state or in any other state. (If you do have information, explain here, if not, go on to next question)

Name(s) of child(ren): _____

Name(s) of court(s): _____

Location(s) of court(s): _____

Court case number(s): _____

Current status of case(s): _____

How is/are the child(ren) involved? _____

Summary of court order(s): _____

6. REGISTRATION OF PHYSICAL CUSTODY ORDER FROM ANOTHER STATE (A.R.S. § 25-1055) (If applicable)

If you have a Physical Custody Order from another state, have you registered the Out-of-State Physical Custody Order in Arizona?

Yes, it has been registered No, It has not been registered.

(If you marked yes, please complete the information below.)

The name of the court in Arizona where the physical custody order is registered is:

The case was registered in Arizona on: _____
(Date of registration)

7. WHY YOU NEED THE COURT to ISSUE an ORDER DIRECTING THE PERSON(S) WITH PHYSICAL CUSTODY of the MINOR CHILD(REN) to APPEAR IN COURT (A.R.S. §§ 25-1040 and 1058):

The minor child(ren) is/are presently in the physical custody of _____ without my consent, in violation of the court order, and without lawful authority and he/she has failed to return the minor child(ren) to me.

To ensure the safety of the child(ren), under section A.R.S. § 25-1061.

8. WHY YOU NEED THE COURT TO ISSUE A WARRANT TO TAKE PHYSICAL CUSTODY OF MINOR CHILD (or "CHILDREN") (A.R.S. § 25-1061):

The minor child(ren) is likely to suffer imminent serious physical harm - OR -

The minor child(ren) is being or is likely to be removed from the State of Arizona.

On the following blank lines, explain to the Judge how the minor child(ren) are in immediate danger and will suffer serious physical harm or why you think the person who has the minor children will flee from Arizona with the minor children if an order is not entered today.

RELIEF REQUESTED: (Check any that you wish to request.)

That an ***"Order for Appearance of Person(s) With Physical Custody of the Minor Child(ren)"*** be issued and directed to the other party (the party holding the minor child(ren), commanding him/her to produce the minor child(ren) before this Court at the time and place stated in that Order.

That a Court issue a **“Warrant to Take Physical Custody of Minor Child(ren)”** to the Sheriff of Maricopa County or other law enforcement officers, commanding the Sheriff or other officers that the minor child(ren) shall be picked up immediately and delivered to me or turned over to the Court or to Arizona Department of Child Safety prior to the hearing AND/OR if the Court deems necessary that the person who has illegally detained and/or restrained the minor children be picked up and arrested pursuant to A.R.S. § 25-1061 and brought before the Court.

For the Court to grant the relief in the **“Petition to Enforce a Physical Child Custody Order”**, and

- I. That the minor child(ren) be immediately delivered to my physical custody; and,
- II. For any other order that is in the best interest of the minor child(ren); and,
- III. That the Court award the Applicant all costs, including but not limited to, necessary travel expenses, investigator’s fees and other costs and fees incurred in this matter.

UNDER OATH OR BY AFFIRMATION

I, being duly sworn and under oath or by affirmation state that I am the Applicant in the matter above. I have read the Petition and all the statements are true and complete to the best of my knowledge and belief. I am not filing this Petition to harass or to cause unnecessary delay or to increase the cost of litigation. I understand that if the Judge finds that I filed this Petition for an improper purpose, the Judge may make an “Order of Contempt” or other sanctions against me, including all reasonable costs, attorney fees, or other expenses caused by my filing of this petition.

The contents of this document are true and correct to the best of my knowledge and belief.

Date

Signature

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

(Notary seal)

Deputy Clerk or Notary Public