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FAMILY COURT CASES

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1

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

(To Have Your Child, Who is Being Illegally Withheld From You, Returned to You)

(Forms Packet)

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Self-Service Center

INSTRUCTIONS: HOW TO FILL OUT THE PETITION TO ENFORCE A CHILD CUSTODY ORDER and OTHER COURT PAPERS

GENERAL INSTRUCTIONS

Complete all of the court forms included in the form's packet as instructed below. All forms must be 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 "children", 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:** Fill in the name of the Petitioner, the name of the Respondent, and the case number. If you have an Arizona custody decree or order, use the same information as appears on your previous court documents ("pleadings"). If this is the first pleading/ document to be filed in Arizona, ***you*** are the Petitioner and the other party or person who has illegally withheld your minor child (or children) from you is the Respondent.

STATEMENTS MADE TO THE COURT, UNDER OATH (or by affirmation)

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 Situation**: You must have a current custody order that gives you custody of the minor children. Do **not** use these forms unless this is true.

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Current Custody Order. If you have a current custody order that gives you custody of the minor children, 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 custody of the minor children. (Note: If you were not awarded custody, this procedure will not work for you.)

5 **Pending Court Cases Regarding the Custody/Parenting Related to the Children.** Check only one box. If you do not have any information about any pending court cases regarding the custody/parenting time related to the minor children, check the first box, and go on to number 6.

If you do have any 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 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.** 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, explain 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 section of the Petition asks the Court to make orders relating to the relief you are asking for.

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.

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NOTICE

- **This procedure does <u>not</u> 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 Child Protective Services until after a hearing.**

<u>OTHER FORMS</u>

"FAMILY COURT / SENSITIVE DATA COVERSHEET" (<u>if</u> required. *See below)*

NOTE: If you already have a court case and case number in this county concerning the custody of the same children who are being illegally withheld from you, you do <u>NOT</u> need to fill out and file this form.

- 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: **"Custody"**
- Does any party require an interpreter? If "yes", write in for what language.

This document is not a part of the public record and is not available for public viewing – but may be accessible to other parties to the case.

"ORDER FOR APPEARANCE OF PERSON(S) WITH PHYSICAL CUSTODY OF THE MINOR CHILDREN" *(REQUIRED)*

Fill in the information about the Petitioner, the Respondent, and the case number as on the Petition. Leave the rest of the Order blank for the court to fill out.

NEXT STEP. Read the document called ***"Procedures: What to do With the Court Documents After You Have Filled Them Out".***

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PROCEDURES: WHAT TO DO WITH THE COURT DOCUMENTS AFTER YOU HAVE FILLED THEM OUT

STEP 1: **Make copies of the following documents after you have filled them out:**

DOCUMENT	NUMBER OF COPIES
▪ ***"Petition to Enforce a Child Custody Order"***	**3**
▪ ***"Order for Appearance of Person(s) With Physical Custody of the Children"***	**3**

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

SET 1 - ORIGINALS: ***"Family Court Cover Sheet"*** ***"Petition to Enforce Child Custody Order"*** ***"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"***	**SET 2 - YOUR COPIES:** ***"Petition to Enforce Child Custody Order"*** ***"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"***
SET 4 - COPY FOR THE JUDGE: ***"Petition to Enforce Child Custody Order"***	**SET 3 - COPIES FOR THE OTHER PARTY:** ***"Petition to Enforce Child Custody Order"*** ***"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"***

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STEP 3: **GO TO THE SUPERIOR COURT TO FILE YOUR PAPERS:** The court is open from 8:00 am-5:00 pm, 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:

The Clerk of the Superior Court
800 W. Main Street
Safford, Arizona 85546

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

WHAT THE FILING CLERK WILL DO:
The Clerk 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 all the originals and copies you have, to show what documents were filed, and give them back to you.

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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 Court 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***.

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

- Sign the ***"Order for Appearance of 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 sign the ***"Order for Appearance of Person(s) with Physical Custody of the Child(ren),"*** which will schedule a court hearing.
- OR to reject your request and not sign the ***"Order for 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 deliberately tried to do something improper by filing the ***"Petition to Enforce a Child Custody Order".***

If the Judge signs the ***"Order for Appearance of Person(s) with Physical Custody of the Child(ren)",*** the Judge or his or her staff will keep the original and the courtroom clerk will make a certified copy to give you.

STEP 4: **Get a certified copy of the completed *"Order for Appearance of Person(s) with Physical Custody of the Child(ren)"* and a copy of your petition legally served on the other party.** You can hire a private process server for this. For more information on your options for legally serving the other party with court papers, please see the Self-Service Center packet Number Two on "**Service**".

STEP 5: **The Court Hearing.** Be sure to write down the date, time and place of the court hearing, and come to the hearing. Be on time. Dress neatly. Be prepared to show the Judge why you are entitled to the custody of the child. ***Unless you have been ordered to bring your children to court,*** **do <u>not</u> bring any children to Court.**

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SELF-SERVICE CENTER

PETITION TO ENFORCE A PHYSICAL CHILD CUSTODY ORDER

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

CHECKLIST

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

- ✓ You have a current legal decision making or child custody order from this State (Arizona) or from any other state that says you are entitled to the physical custody of one or more minor children,

AND

- ✓ The minor children are presently in the physical custody of the other party without your consent and without lawful authority and the other party has failed to return the minor children to you,

AND

- ✓ The minor children are currently, or will be, in the State of Arizona and you know how to find or locate the minor children.

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 Self-Service Center website.

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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 GRAHAM COUNTY

_____
Petitioner

_____
Respondent

Case No. _____

ATLAS No. _____

FAMILY COURT / SENSITIVE DATA COVERSHEET WITH CHILDREN
(CONFIDENTIAL RECORD)

Fill out. File with Clerk of Court. Social Security Numbers should appear on this form only and should be omitted from other court forms. Access Confidential pursuant to ARFLP 43(G)(1).

A. Personal Information:	**Petitioner**	**Respondent**
Name		
Gender	☐ **Male or** ☐ **Female**	☐ **Male or** ☐ **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		
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 - Check only one category.
Check only if no other category applies

Interpreter Needed: ☐ **Yes** ☐ **No**

☐	**Dissolution (Divorce)**	☐	**Paternity**	**If yes, what language?**
☐	**Legal Separation**	☐	***Legal Decision Maker (Custody)/Visitation**	
☐	**Annulment**	☐	***Child Support**	
☐	**Order of Protection**	☐	**Other**	

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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 GRAHAM COUNTY

_____ (B)
Name of Petitioner

_____ (B)
Name of Respondent

CASE NUMBER_____(B)

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

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 ABOUT 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)

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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? _____

A Certified Copy of the Order/Decree is attached to the *"Petition to Enforce a Physical Child Custody Order."*

5. PENDING COURT CASES REGARDING LEGAL DECISION MAKING /CUSTODY/PARENTING TIME RELATED TO THE MINOR CHILD(REN). (Check one box):

☐ **I do** ☐ **I do NOT have information regarding a legal decision making/custody/parenting time court case** relating to any of the minor child(ren) that is pending in this state or in any other state. (If so, 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)

☐ **There is OR** ☐ **There is <u>not</u> a physical custody order from another state** that has been issued about the minor child(ren) listed above. *(If there is a physical custody order from another state, please complete the information below.)*

The out-of-state order ☐ **has OR** ☐ **has <u>not</u> been registered in Arizona.** *(Complete the information below **if** the order has been registered in Arizona.)*

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

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/are immediately likely to suffer serious physical injury OR be removed from the State of Arizona. Explain to the Judge how the minor child are in immediate danger and will suffer harm or why you think the person who has the minor children will flee 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 ***"Warrant to Take Physical Custody of Minor Child(ren)"*** be granted by this Court, directed to the Sheriff of Graham County, commanding the Sheriff that the minor child(ren) shall be picked up immediately and delivered to me or turned over to the Court or to Child Protective Services 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.

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☐ 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

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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 GRAHAM COUNTY

_____ (A)
Name of Petitioner

CASE NUMBER_____(A)

ORDER FOR APPEARANCE OF PERSON(S) WITH PHYSICAL CUSTODY OF THE CHILD(REN)
(A.R.S. 25-1040)

_____ (A)
Name of Respondent

THE COURT ORDERS THAT: _____
(name(s) of person(s) charged with illegal detention of child(ren)

1. Appear before the Honorable _____,
Judge of the Superior Court of Graham County, Family Court Division, located at:

☐ 800 W. Main Street
☐ Safford, Az 85546

on _____(month/date/year)

at _____ o'clock ☐ a.m. OR ☐ p.m.

for _____ minutes

to show cause why you have restrained and detained the minor child(ren) and why the relief requested in the ***"Petition to Enforce a Physical Child Custody Order"*** should not be granted.

2. Produce the minor children: _____

_____

_____

at the time and location stated above for the hearing unless the child(ren) are in the custody of the Arizona Department of Economic Security or the Child Protective Services. The CPS shall then produce the child(ren) at the time and place stated above for the scheduled hearing.

3. If you fail to appear or fail to produce the child(ren) at the above scheduled hearing, a Civil Arrest Warrant may be issued for your arrest.

Done in Open Court: _____

_____
JUDGE OF THE SUPERIOR COURT

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