

## How to File for Custody in Cook County

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This document provides an overview of the basic steps to file for custody of a child in Cook County, Illinois. The information is intended to support *pro bono* attorneys in this process in Illinois and is not to be considered as comprehensive legal advice. It is very important to confirm procedures expected by your assigned judge, as expectations may vary by courtroom.

The information found below can be supplemented with other SIJS materials at [www.immigrantjustice.org](http://www.immigrantjustice.org). For any questions regarding preparing an SIJS case, please contact Supervising Attorney, Hillary Richardson, [hrichardson@heartlandalliance.org](mailto:hrichardson@heartlandalliance.org).

### **Basic Steps to filing for custody in Cook County, IL**

#### Preliminary Matters

##### Step 1: File Initial Petition

##### Step 2: Serve Respondent(s)

##### Step 3: Request Default and Final Hearing

##### Step 4: The Final Hearing ("Prove-up")

##### Step 5: Communicate with Immigration Attorney

### **Preliminary Matters**

- As of July 1, 2018, e-filing is mandatory in Illinois. If you do not already have an e-file account, set up an account here: <http://www.cookcountyclerkofcourt.org/NewWebsite/efile-Information-Portal.aspx>.
- Search the docket online by name or case number at:  
<http://www.cookcountyclerkofcourt.org/?section=CASEINFOPage&CASEINFOPage=2400>
- All NIJC clients should be eligible to file without fees pursuant to Illinois Supreme Court Rule 298 and 735 ILCS 5/5-105.5(a), through a fee waiver request called Representation by Civil Legal Services Provider (CLSP). Please see CVLS for most up-to-date procedures on how to e-file [here](#).

### **Step 1: File Initial Petition**

- Cook County Domestic Relations – Chicago. APR. “Case Cross-Reference Number” is your Cook County Attorney number. You may use NIJC’s attorney number.
  - Fill out petitioner & respondent information
  - Type of case is Allocation of Parental Responsibilities

- Upload your packet of docs. Filing is non-confidential. You do not need the clerk to perform service.
- When you choose Waiver Account, you will get a warning that lets you know all of the options for waiving fees, including that you must upload a CLSP if you are filing one. Ignore the first two paragraphs about seeing a judge; you will just upload your form. Save changes.
- Under return date, click Verify to skip. Save changes, agree to submission, review summary.
- You should have the following documents ready to scan and upload into your e-file account:
- Petition for allocation of parental responsibilities (formerly known as custody) or divorce: 750 ILCS 5/600 *et seq*, along with the documents listed below.
  - signed verification by certification (735 ILCS 5/1-109)
- Domestic relations cover sheet  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDR0601.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDR0601.pdf))
- Affidavit of military service  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCG0004.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCG0004.pdf))
- Summons ([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDRN001.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDRN001.pdf))
- Rule 298 Certification for Waiver of Fees/Affidavit of Civil Legal Service Provider  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCGN642.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCGN642.pdf) )
  - The “name of organization or court program” is the National Immigrant Justice Center, and the Attorney Number for NIJC pro bono attorneys is 62653.
- Once you are assigned a judge, look up that judge’s standing order online  
(<http://www.cookcountycourt.org/ABOUTTHECOURT/JudgesInformation.aspx> ) for any procedural rules that may apply in your case

NOTE: Illinois law requires all parents in cases involving custody of children to take a parenting class prior to entry of a custody order. We often find that judges do not apply this requirement to our cases where it is clear that custody is not contested. However, some judges do require it, and in urgent cases it may be best to have the petitioner take the class. More information about Cook County’s classes, which are available online and in English and Spanish, may be found here:  
[http://www.cookcountycourt.org/ABOUTTHECOURT/CountyDepartment/DomesticRelationsDivision/ParentingEducationPrograms/tabid/1107/Agg3384\\_SelectTab/2/Default.aspx](http://www.cookcountycourt.org/ABOUTTHECOURT/CountyDepartment/DomesticRelationsDivision/ParentingEducationPrograms/tabid/1107/Agg3384_SelectTab/2/Default.aspx)

## Step 2: Serve Respondent(s)

Attorneys have a few options to serve respondent(s)

- 1) Place summons with sheriff (if Respondent is in Illinois), **OR**
- 2) File a motion for service by publication (if Respondent is out of IL and address is unknown)  
(Motion [http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCGN013.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCGN013.pdf) and Order [http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDRN024.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDRN024.pdf) ) **OR**
- 3) File a motion for special process server (if Respondent is out of IL and address is known)  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDRN030.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDRN030.pdf))

NOTE: If you file a motion for **publication** or **special process server**, you must schedule it to be heard by a judge before you can proceed with service. The e-file system should prompt you to request a hearing date; if not, follow the instructions to schedule your motion for a hearing.

1) If service by sheriff:

- Check in with the sheriff after 30 days to ensure they've served Respondent:  
<http://www5.cookcountysheriff.org/default1.asp>
- If so, they should file an affidavit of service with court
- 30 days after service is perfected, check file for appearance or response.
- If nothing, file certificate and motion for default.

2) If service by publication:

- Bring a) order for publication; b) signed & notarized affidavit for publication; and c) order for fee waiver to Chicago Daily Law Bulletin (Room 802), they will publish and mail you a confirmation notice.
- 30 days after publication, check the file for an appearance or response from Respondent.
- If nothing, file certificate and motion for default.

3) If service by special process server:

- Server must serve Respondent with a copy of the pleadings and the summons in their native language and English
- Server completes and sends you an affidavit of service:  
[http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCGN060.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCGN060.pdf)
- You file that affidavit with the court
- 30 days after affidavit is filed, check file for appearance or response
- If nothing, file certificate and motion for default

If the Respondent consents to service:

- Have them fill out and sign a consent and waiver of appearance (see NIJC for samples and suggestions on how to draft this document)
- Ideally they should sign a version in English and a version in their native language
- If possible, their signature should be notarized and they should return the document with a copy of their ID
- If necessary, you may ask them to fill out and sign a Voluntary Acknowledgement of Paternity

### Step 3: Request Default and Final Hearing

- Fill out and file Certificate and Motion for Default  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDRN103.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDRN103.pdf))
- E-file your motion and schedule motion for a hearing

- File Notice of Motion listing hearing date  
([http://www.cookcountyclerkofcourt.org/Forms/pdf\\_files/CCDRN005.pdf](http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCDRN005.pdf) )
- Send a copy of the Notice of Motion and the Certificate & Motion for Default to the Respondent (if you have served by publication, you do not need to send this out)
- If you are proceeding by consent and waiver of service, you will need to file a slightly different motion to get your case heard – see NIJC for samples.

## Step 4: The Final Hearing (“Prove-up”)

- Default hearings must be transcribed. Clients whose fees have been waived should request the official court reporter, as the fee waiver includes that cost. However, not every judge has a court reporter, so to get the official court reporter you will be sent out to whatever judge has one that morning. If for some reason you need to stay before a particular judge, you can call to find out if they will have an official court reporter that day; if not, the client may need to pay for their own court reporter.
- Courtesy copies of the documents listed below should be provided to the judge prior to the hearing; check the judge’s standing order for how many days in advance to drop them off. Copies can be placed in a manila envelope with the judge’s name and case caption and walked into the judge’s courtroom to be dropped off with the clerk.
- Bring three (3) copies of everything filed with the court, as well as the following:
  - Court reporter information sheet (available in courtroom)
  - Uniform Prove-up Sheet
  - Petition
  - Fee waiver/CLSP
  - proposed Order for Free Transcript (covered by fee waiver)
  - Order on Proveup (28 Day Order)
  - Summons
  - affidavit of service of summons OR notice of completion of service by publication OR signed consent & waiver of service
  - military affidavit
  - certificate & motion for default,
  - proposed final judgment with SIJS findings
- Make sure your proposed judgment has all three required findings for SIJS! It is **ESSENTIAL to review with the immigration attorney** before the final hearing, so that you will not need to come back and request an amended judgment.
- Prepare the client to testify as to the contents of the petition. Remember that hearsay evidence is not admissible, so if the client has no personal knowledge of abuse/abandonment/neglect, look for other ways to get that evidence in (admissible documentary evidence, observations of child’s behavior, occasionally testimony of an older child). Remember the hearsay statements of a child regarding abuse may be admissible if corroborated & reliable. See NIJC’s Sample Proveup Script for suggestions regarding evidentiary issues.

- Prepare to explain to the judge why you are requesting special findings for SIJS, and why she has the authority to enter those findings (judges are now required to consider these requests in Illinois pursuant to Public Act 101-0121). Review sample documents from NIJC: *In Re Nina L*; Memorandum of Law In Support of SIJS Findings.

## **Step 5: Communicate with Immigration Attorney**

- Call immigration attorney to ensure that the order as entered is sufficient for immigration purposes, and determine if there are any next steps
- Send copy of full state court file to NIJC.
- Immigration attorney will file the predicate order with the child's SIJS petition.
- Congratulations! You have helped put an immigrant child on a path to safety and stability in the United States.