

Superior Court of Washington, County of _____

In re parentage:

Petitioner (person who started this case):

And Respondent:

(presumed parent / acknowledged parent / adjudicated parent)

Children over age 2:

No. _____

Petition to Disestablish Parentage – Criminal or Civil Finding of Sexual Assault
(Filing time limit extended to July 23, 2019)
(Laws of 2017, Ch. 234 §1(4)(b)(ii))
(PTDSA)

Petition to Disestablish Parentage – Criminal or Civil Finding of Sexual Assault

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Use this form if:

- There is an adjudicated parent (the judge has already decided who the legal parent/s are);
- There is a presumed parent and the child is more than 4 years old;
 - If the child is under 4 years old use the Petition to Disprove Parentage, form FL Parentage 355, to make a sexual assault allegation.
- There is an acknowledged father and the child is more than 4 years old;
 - If the child is under 4 years old, use the Petition to Challenge Paternity Acknowledgment or Denial, form FL Parentage 345, to make a sexual assault allegation

1. This Petition asks the court to disestablish or limit the respondent as the parent of the children below because they were conceived as a result of the respondent's sexual assault of the petitioner:

| Child's name (first, middle, last) | Born (month/day/year) | Lives in (county and state) |
|------------------------------------|-----------------------|-----------------------------|
| | | |
| | | |

| | | |
|--|--|--|
| | | |
|--|--|--|

2. Waiver of time limits

Even though there is already an adjudicated parent or the child is more than four years old and there is an acknowledged or presumed parent, the court should determine parentage and parentage rights now because of the sexual assault.

3. Finding of sexual assault in a civil or criminal case

A court found in a separate criminal or civil case that the respondent committed a sexual assault against the petitioner. *(Give details below:)*

| Date of verdict or order | Court and county | Case number | Document title |
|--------------------------|------------------|-------------|----------------|
| | | | |
| | | | |

Documents described above are attached to this petition or filed separately.

4. Request for hearing

I ask the court to schedule and hold a fact-finding hearing on this petition.

I ask that the fact-finding hearing be closed to the public.

5. Proof of sexual assault

At least 14 days before the fact-finding hearing on the sexual assault, I will file and serve declaration/s or other evidence that respondent *(check one)*:

was convicted of or plead guilty to a sexual assault against me under RCW 9A.44.040, 9A.44.050, 9A.44.060 (rape in the first, second or third degree), or a comparable crime of sexual assault in any jurisdiction, and the child was born within 320 days after the sexual assault.

committed sexual assault against me as found by a court in a civil proceeding listed in section 3, and the child was born within 320 days after the sexual assault.

6. Request to seal documents

The court must decide at the fact-finding hearing whether the declaration/s and other evidence filed by both parties should be sealed by the clerk so that they may not be seen by anyone without a court order. *(Each party must still give a copy of their evidence to the other side.)*

I ask the court to order that the declaration/s and other evidence filed by both parties for the fact-finding hearing be sealed because *(give reasons)*:

7. Parties to this case

| | The Petitioner (<i>name</i>): _____ is the | The Respondent (<i>name</i>): _____ is the |
|--|---|---|
| Birth Parent | <input type="checkbox"/> | <input type="checkbox"/> |
| Presumed Parent (see section 9 below) | <input type="checkbox"/> | <input type="checkbox"/> |
| Acknowledged Parent (see section 10 below) | <input type="checkbox"/> | <input type="checkbox"/> |
| Adjudicated Parent (see section 11 below) | <input type="checkbox"/> | <input type="checkbox"/> |

Important! If any of the children are age 2 or older, they must be parties to this case.

8. Guardian ad Litem

The court should appoint a Guardian ad Litem (GAL) for any child.

9. Is there a presumed parent?

No

Yes, respondent is the presumed parent of the children listed in section **1** because
(check all that apply):

- Respondent and the birth parent were married or in a registered domestic partnership when these children were born, or within the 300 days before these children were born.
- Respondent and the birth parent *believed* they were in a *valid* marriage or registered domestic partnership when these children were born or within the 300 days before these children were born, even though the marriage or partnership was (or could have been) invalidated by a court.
- After* these children were born, the respondent and the birth parent married or became registered domestic partners (or believed their marriage or partnership was valid, even if it was or could have been invalidated). Respondent willingly said s/he was these children’s parent and (check at least one):
 - promised in a written or electronic record to support these children as his/her own. See RCW 26.26.011(23).
 - agreed to be and is listed as the parent on these children’s birth certificates.
 - filed a statement claiming s/he was these children’s parent with the Registrar of Vital Statistics.
- Respondent lived in the same home as these children and openly held out these children as his/her own children for the first 2 years of the children’s lives.

And the children are more than 4 years old.

10. Is there an acknowledged parent?

- No.**
- Yes.** The respondent signed a *Paternity Acknowledgment* about the children named in section **1** and filed the *Paternity Acknowledgment* on (date): _____ with the:
 - Washington State Registrar of Vital Statistics or
 - appropriate agency in (state): _____

And the children are more than 4 years old.

11. Is there an adjudicated parent?

- No.**
- Yes.** A court signed a *Final Parentage Order* or other order that established that respondent is the parent of the children named in section **1**, in (county/state): _____ in case number: _____ on (date): _____.
- Yes.** A court signed a *Final Divorce Order or Decree of Dissolution* that determined that respondent was the parent of the children named in section **1**, in (county/state): _____, in case number: _____ on (date): _____.

12. Waiver of time limits

Even though there is already an adjudicated parent or the child is more than four years old and there is an acknowledged or presumed parent, the court should determine parentage and parentage rights now because of the sexual assault.

13. Personal Jurisdiction

Does a Washington State Court have personal jurisdiction (authority to make decisions) over *respondent*?

- Yes**, because s/he (check all that apply):
 - will be personally served in this state with a *Summons and Petition* for this case.
 - lives in this state now.
 - lived in this state with the children.
 - lived in this state and paid for pregnancy costs or support for the children.
 - did or said something that caused the children to live in this state.
 - had sex in this state, which may have produced the children.
 - signed an agreement to join this *Petition* or other document agreeing that the court can decide his or her rights in this case.
 - other (specify): _____
- No. (None of the reasons listed above apply.)**

14. Jurisdiction over the children (RCW 26.27.201 – .221, .231, .261, .271)

- The court **can** decide a *Petition to Disestablish Parentage* for the children named in section 1 and decide the legal parentage of the children because (*check all that apply*):
 - Exclusive, continuing jurisdiction** – A Washington Court has already made a custody order or parenting plan for the children, and the court still has authority to make other orders for the children.
 - Home state jurisdiction** – Washington is the children’s home state because (*check all that apply*):
 - The children lived in Washington with a parent or someone acting as a parent for at least the 6 months just before this case was filed, or if the children are less than 6 months old, they have lived in Washington with a parent or someone acting as a parent since birth.
 - There were times the children were not in Washington in the 6 months just before this case was filed (or since birth if they are less than 6 months old), but those were temporary absences.
 - The children do not live in Washington right now, but Washington was the children’s home state some time in the 6 months just before this case was filed, and a parent or someone acting as a parent of the children still lives in Washington.
 - The children do not have another home state.
 - No home state or home state declined** – No court of any other state (or tribe) has the jurisdiction to make decisions for the children, **or** a court in the children’s home state (or tribe) decided it is better to have this case in Washington **and**:
 - The children and a parent or someone acting as a parent have ties to Washington beyond just living here, **and**
 - There is a lot of information (substantial evidence) about the children’s care, protection, education, and relationships in this state.
 - Other state declined** – The courts in other states (or tribes) that might be the children’s home state have refused to take this case because it is better to have this case in Washington.
 - Temporary emergency jurisdiction** – The court can make decisions for the children because the children are in this state now **and** were abandoned here **or** need emergency protection because the children (or the children’s parent, brother or sister) were abused or threatened with abuse. (*Check one*):
 - A custody case involving the children was filed in the children’s home state (*name of state or tribe*): _____. Washington should take temporary emergency jurisdiction over the children until the petitioner can get a court order from the children’s home state (or tribe).
 - There is **no** valid custody order or open custody case in the children’s home state (*name of state or tribe*): _____. If no case is filed *in the children’s home state (or tribe)* by the time the children have been in Washington for 6 months, (*date*): _____, Washington should have final jurisdiction over the children.
 - Other reason** (*specify*): _____

- The court **cannot** decide a *Petition to Disestablish Parentage* for the children named in section **1** or decide who the children should live with most of the time because the court does not have jurisdiction over the children.

15. Parentage

I ask the court to find that the children listed above were born as a result of sexual assault and that the respondent who committed the sexual assault (*check one*):

- is **no longer** a legal parent of the children.
- may continue to be** a legal parent, but his/her rights to the child must be limited as required by law. (RCW 26.26.---.)

Warning! If the court finds that the child was born as a result of sexual assault, unless the birth parent expressly agrees in writing, the person who committed the sexual assault will **not** have the right to:

- residential time with or decision-making for the child
- inherit from the child
- be notified about or object to adoption of the child.

16. Children's name change

- No request.
- I ask the court to change the children's names to: _____
- _____

17. Parenting plan or residential schedule

- I do **not** want the court to order a *Parenting Plan* or *Residential Schedule*. The respondent should have no residential time with or decision-making authority for the children. Any existing order providing parenting time to the respondent should be terminated.
- The court should approve my proposed *Parenting Plan* (form FL All Family 140). The respondent should have residential time and decision-making authority only as proposed in my *Parenting Plan*.

18. Child support

- I ask the court to order the respondent to pay child support and/or birth related costs.
- I do **not** want the court to order the respondent to pay child support and/or birth related costs.
- I ask the court to end respondent's obligation to pay child support for the children. (*To suspend child support before this case is finished, a party must file a motion and show good cause.*)

19. Protection order

Do you want the court to issue an Order for Protection as part of the final orders in this case?

- No.** I do not want an *Order for Protection*.

- Yes.** (You must file a Petition for Order for Protection, form DV-1.015 for domestic violence, or form UHST-02.0200 for harassment. You may file your Petition for Order for Protection using the same case number assigned to this case.)

Important! If you need protection **now**, ask the court clerk about getting a Temporary Order for Protection.

- There already is an Order for Protection between respondent and me.** (Describe):
Court that issued the order: _____
Case number: _____
Expiration date: _____

20. Restraining order

Do you want the court to issue a Restraining Order as part of the final orders in this case?

- No.** (Skip to **14**.)
- Yes.** (Check the type of orders you want)
- Do not disturb** – Order respondent not to disturb my peace or the peace of any child listed in **1**.
- Stay away** – Order respondent not to go onto the grounds of or enter my home, workplace, or school, or the daycare or school of any child listed in **1**.
- Also, not knowingly to go or stay within _____ feet of my home, workplace, or school, or the daycare or school of any child listed in **1**.
- Do not hurt or threaten** – Order respondent:
- Not to assault, harass, stalk or molest me or any child listed in **1**, and
 - Not to use, try to use, or threaten to use physical force against me or the children, where the physical force would reasonably be expected to cause bodily injury.

Warning! If the court makes this order, the court must consider if weapons restrictions are required by state law. Federal law may also prohibit the Restrained Person from possessing firearms or ammunition.

- Prohibit weapons and order surrender** – Order respondent:
- Not to possess or obtain any firearms, other dangerous weapons, or any concealed pistol license until the order ends, and
 - To surrender any firearms, other dangerous weapons, and any concealed pistol license that he/she possesses to (check one): the police chief or sheriff his/her lawyer other person (name): _____.
- Other restraining orders:** _____

Important! If you want a restraining order **now**, you must file a Motion for Temporary Family Law Order and Restraining Order (form FL Parentage 323) or a Motion for Immediate Restraining Order (Ex Parte) (form FL Parentage 321).

21. Fees and costs

- No request.

Order respondent to pay court costs, Guardian ad Litem fees, lawyer fees, and other reasonable fees.

22. Other (if any)

Petitioner fills out below:

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at (*city and state*): _____ Date: _____

▶ _____
Petitioner signs here *Print name*

Petitioner's lawyer (if any) fills out below:

▶ _____
Petitioner's lawyer signs here *Print name and WSBA No.* *Date*