

# Family Access Information

## Section 452.400 RSMo

If you believe your rights to custody, visitation or third party custody under a judgment of dissolution, legal separation, paternity or modification have been violated, you may be able to file a Motion for Family Access Order.

### **WHEN CAN YOU FILE?**

You can file a Motion for Family Access Order at any time. You do not need the help of an attorney. But, you must meet each of the following requirements:

1. You and the person against whom you are filing the Motion must be parties to the judgment of dissolution, legal separation, paternity or modification.
2. You must have rights to custody, visitation or third party custody under the judgment of dissolution, legal separation, paternity or modification.
3. The person against whom you are filing the Motion must have denied or interfered with your rights to custody, visitation or third party custody without good cause. (Example: You have rights to visitation with your daughter under a judgment of dissolution on every other weekend, and your former spouse has denied you visitation with your daughter for over four weeks without any explanation.)

### **WHAT SHOULD YOU HAVE WHEN YOU FILE?**

Bring with you a copy of the judgment of dissolution, legal separation, paternity or modification which gives you rights to custody, visitation or third party custody and which you claim has been violated. These documents will assist you and the Circuit Clerk in determining the county in which the judgment was entered, as well as who is the Petitioner and who is the Respondent.

### **WHERE DO YOU FILE:**

You file the Motion for Family Access Order in the county in which the judgment of dissolution, legal separation or paternity was entered. (Example: If your marriage was dissolved in Columbia, you file the Motion for Family Access Order in Boone County even though you now live in Jefferson City and your former spouse now lives in Springfield.)

**NOTE:** If the judgment of dissolution, legal separation or paternity has been modified in a county other than the county in which the judgment was originally entered, you file the Motion for Family Access Order in the county in which the judgment was modified. (Example: If your marriage was dissolved in Boone County, but the judgment of dissolution is modified in Clay County, you file the Motion for Family Access Order in Clay County.)

## HOW DO YOU FILE?

You complete the Motion for Family Access Order, which tells the judge how the person against whom you are filing the Motion has violated your rights to custody, visitation or third party custody without good cause. The Motion for Family Access Order may be obtained from the Circuit Clerk, whose office is located at \_\_\_\_\_

The Circuit Clerk has Instructions for Completion, which you should request when you receive the Motion for Family Access Order. Be certain to follow these Instructions in completing the Motion.

You will also be required to complete the "Family Court Information Sheet" which you will receive from the Circuit Clerk when you receive the Motion for Family Access Order. The Family Court Information Sheet provides the Court with current information on all parties so that they can be served or notified of any change in court date.

## HOW MUCH DOES IT COST TO FILE?

1. Filing Fee: \$ \_\_\_\_\_, which may be paid in cash, by money order or by cashier's check. **NO PERSONAL CHECKS ACCEPTED.**

**NOTE:** If you believe you do not have enough money or property to pay the filing fee, you should request a Motion and Affidavit in Support of Request to Proceed as a Poor Person from the Circuit Clerk. The Motion, when completed by you, will allow the judge to determine whether to permit you to file the Motion for Family Access Order without payment of the filing fee.

### 2. Service Fees:

#### (a) Sheriff:

##### (1) Out of County:

You must call the sheriff of the county where service will be accomplished to inquire about the fee for service. (You will pay the sheriff the cost of service when you deliver the Motion, Summons and Response for service.)

##### (2) In County:

\$ \_\_\_\_\_. (You will pay this sum to the Circuit Clerk when you pay the filing fee for the Motion.)

#### (b) Private Process Server:

You must obtain a judge's approval to use a process server other than the sheriff, and you must identify for the judge the individual whom you wish to serve the Motion, Summons and Response. (You will pay the private process server the cost of service when you deliver the Motion, Summons and Response for service.)

## **WHAT HAPPENS AFTER YOU FILE?**

1. You will receive a copy of the completed Motion and completed Summons at the time the Motion is filed. The Summons advises you of the date, time, and division in which the hearing on the Motion will be held.
2. The Motion and Summons must be personally served on the person against whom you have filed the Motion by the sheriff or private process server. No hearing on the Motion can be held until personal service is obtained.
3. It is important that you give the Circuit Clerk a current address at which the person against whom you have filed the Motion can be found by the sheriff or private process server. Provide both the home and work address for this person.
4. If the Motion and Summons are not personally served, you may have to provide the Circuit Clerk with another address at which to attempt service. You will need to pay an additional service fee for each attempt at personal service.

**NOTE:** You should not file the Motion for Family Access Order by mail. However, if you do, please mail all copies of the Motion back to the Court, along with a stamped, self-addressed envelope, so that a copy of the completed Motion and completed Summons can be returned to you with a case number, court date, time of hearing and division assignment.

## **WHAT ORDERS CAN YOU GET?**

The Motion for Family Access Order lists the types of orders which you may request from the judge. You should check the box on the Motion for each type of order which you wish the judge to consider.

At the scheduled hearing on the Motion, the judge may order alternative dispute resolution (ADR) to assist you and the person against whom you are filing the Motion in resolving the problems which caused the filing of the Motion. You and the person against whom you are filing the Motion may be required to attend more than one ADR session. Any cost of the ADR sessions will be paid by you and the person against whom you are filing the Motion in the proportions determined by the judge.

**NOTE:** The Motion for Family Access Order cannot be used to change or modify any existing terms for custody, visitation or third party custody in a judgment of dissolution, legal separation, paternity or modification.