

Save Immigrant Families USA

Information and Forms

Child Custody

Power of Attorney

These 5 packets have been prepared to help keep your child and property safe if ICE detains you.

- I: Introduction, Instructions, and Timeline
- II: Powers of Attorney for child care, your other business, your car, your real property, and for child's travel
- III: Forms to file in Juvenile Court for custody
- IV: Forms to file in Probate Court for guardianship
- V: Forms to file in Domestic Relations Court for custody

If you are detained by ICE, use these Powers of Attorney for your child, your car, and any other property you own. Forms for the Courts allow you to choose a Custodian or Guardian for your children.

This information and these forms have been prepared by volunteer attorneys licensed in the State of Ohio. This is general legal information. No attorney – client relationship is formed between you and the attorneys who made these forms. This is not specific legal advice for your individual situation. If it is possible, consult with an attorney. You may be able to find volunteer legal assistance through your local Bar Association, your community centers, immigration support service agencies, or through your religious institutions. Please use only a Licensed Attorney or a reputed member of your community. DO NOT use a "Notario" who does not know the law.

Many local Bar Associations can give you the name of an attorney who will assist you for a small fee. If your CHILD has property in his own name, like bank accounts, houses, or cars, you should see an attorney to protect that property. Having such property may affect which court you choose.

It is our opinion that if you use these forms, no attorney should charge you very much to help fill them out because our committee has already done the work of preparing the forms and instructions.

You will need to use a Notary Public (NOT a "Notario") licensed by the State of Ohio and commissioned in your County to attest your signature on some of the forms. Most attorneys licensed in Ohio are also Notaries Public in Ohio.

These forms and instructions are drafted specifically for use in the 88 counties within the State of Ohio. There may be slight variations between the way the law is applied within Ohio. These forms are not valid outside Ohio, since other states will have other forms and documents; however, the process will remain mostly the same. Consult a lawyer (attorney) and NOT a Notario in your specific state for the correct direction and instructions.

**Please email corrections or other comments on these forms to
report@SaveImmigrantFamiliesUSA.com**

- I. Information and directions (This packet)
 - A: Introduction – Terms & Instructions
 - B: Fathers
 - C: Timeline of what to do and when to do it
 - D: List of Documents and information you will need**
 - E: Determining which court to use and how to file
 - F: Filing in Juvenile or Domestic Relations Court
 - G: Filing at Probate Court
 - H: IF SOCIAL WORKERS OR POLICE TAKE THE CHILD
 - I: Testimony for Court

- II. Powers of Attorney
 - A: Power of Attorney for Child Care**
 - B: Powers of Attorney for Property Interests**
 - C: Power of Attorney for Motor Vehicles**
 - D: Power of Attorney for Real Estate**
 - E: Power of Attorney for Arranging Child Travel**

- III. Juvenile Court
 - A: Forms for filing in Juvenile Court**
 - B: SAMPLE of this form for Juvenile Court

- IV. Probate Court
 - A: Forms for filing in Probate Court**
 - B: SAMPLE of this form for Probate Court

- V. Domestic Relations Court
 - A: Forms for filing in Domestic Relations Court**
 - B: SAMPLE of this form for Domestic Relations Court

A: INTRODUCTION: Terms & Instructions

These forms let you choose (1) a Guardian or Custodian for your children and (2) a person to handle your property if you get arrested and detained. They are based upon statutes and forms provided by some courts. They must be filled out NOW, before ICE acts.

Parent = The parent with the child or both parents if both parents have been caring for the child.

Child = Anyone under 18.

In loco parentis = A person acting *In loco parentis* is like the parent for your child.

Applicant = Adult asking the Probate Court to be appointed Guardian of a child.

Guardian = Applicant once Guardianship is established.

Petitioner = Adult asking the Juvenile or Domestic Relations Court for custody of a child.

Legal Custodian = Petitioner once custody is granted by the Court.

Power of Attorney = A document which lets someone else act for you and sign your name.

Principal = The person giving power to another person by signing the Power of Attorney.

Agent = Attorney-in-fact = The person who receives the powers under a Power of Attorney.

These forms all have their name on the bottom of each page. That is what the directions refer to.

These forms are prepared assuming that the mother is the parent with the child. If the child is with the Father or with both parents, see sections II: Fathers.

Please sit down immediately with this packet, **“Information and Directions I”** and your chosen Applicant or Petitioner and fill out the required pages. **Sections that have forms that the parent needs to fill out now are in bold.**

B: FATHERS

If the Father is the single parent who has the child fill out these forms as the only parent. If the parents are together, both parents should fill out all of the forms. If the parents were divorced or separated in court, the petitioner files in Domestic Relations Court. If the parents are unmarried AND live in Summit County, the petitioner files in Domestic Relations Court. If the parents are unmarried and live in any other county in Ohio, the petitioner files in Juvenile Court.

C: TIMELINE

For the PARENT

1. **Immediately get a passport for you child from each county where your child has citizenship.**
2. **Immediately** determine an appropriate custodian for your child. This person is the Petitioner or Guardian.
3. **Immediately** determine who will arrange for your child to travel to you if you plan on having your child returned to you in your home country. This does not have to be the same person as the Petitioner or Guardian.
4. **Immediately** determine who should look after your other property interests: home, car, and bank.
5. **Immediately sit down with the Petitioner and any other helper you need and get the information required on pages 4, 5, & 6 of this packet, "Information and Directions I".**
6. **Immediately** fill out, but **DO NOT SIGN**, the "PoA Child Care II-A" and, if your child will travel, "PoA Child Travel II-E".
7. Fill out, but **DO NOT SIGN**, pages 4, 5, & 6 of the "Complaint in Juvenile Court III-A".
8. All of these forms must be **notarized as soon as possible**. *Sign the forms in front of the Notary Public.* Banks have Notaries Public. Take ID with you if you don't know the Notary. **Don't use a "Notario"**.
9. Give the signed, notarized form "PoA Child Care II-A" to the petitioner **immediately to keep with her at all times she has the child.**
10. Give the signed, notarized form "PoA Child Travel II-E" to the person who will make travel arrangements for you child **immediately to keep with her at all times she has the child.**
11. Give the rest of the uncompleted Complaint plus the pages you have filled out, signed, and notarized to the Petitioner or leave them with a lawyer or minister and make sure they and the Petitioner know each other and how to contact each other.
12. Arrange for a way to keep the petitioner informed if you get arrested for any reason. The Police have to let you make a call. **ICE does NOT.**
13. Arrange for daily contact with the Petitioner if you are afraid that you may be arrested and detained by ICE.
14. **Tell the Petitioner that if you do not check in at the arranged time the petitioner should take your child into her or his home immediately and prepare to file in court.**

For the PETITIONER FOR CUSTODY or the APPLICANT FOR GUARDIAN

1. **Immediately sit down with the Parent and any other helper you need and get the information required on pages 4, 5, 6, & 7 of this packet, "Information and Directions I".**
2. If the child has a birth certificate, get a copy of it. Get a certified copy if you can.
3. Determine which court you will use. See page 8, part E: Determining which court to use and how to file, below.
4. Have the parent fill out "PoA Child Care II-A" and
 - a. pages 4, 5, & 6 of the "Complaint in Juvenile Court III-A" or
 - b. pages 4, 5, & 6 of the Complaint in Domestic Relations Court V-A, or
 - c. Form 15.1 of the Application for Appointment of a Guardian
 - d. =>DO NOT SIGN THEM YET<=
5. Take the parent with identification to a Notary Public and have her sign the forms.
6. If you do not hear from the parent at the regular time, pick the child up and take the child to the your home.

7. The POWER OF ATTORNEY FOR CHILD CARE PURPOSES, **“PoA Child Care II-A”**, will allow you to have authority over the child for now. IT IS NOT CUSTODY. CUSTODY ONLY COMES FROM A COURT. It allows you to be in charge of the child immediately until the court can rule.
8. If the parent is arrested or detained, or if you hear that this might be true, pick the child up and take the child to the your home and plan on that being permanent.
9. If you do not hear from the parent at the ordinary time, pick the child up and move the child into your home and plan on that being permanent.. If the parent comes back, that parent can contact you.
10. If you do not hear from the parent for 48 hours OR if you hear that the parent is in custody, OR when you believe that you must take custody, even if only a few hours have passed, the next business day morning complete the remaining pages of the forms for whichever court you are using but DO NOT SIGN THEM YET.
11. Complete those pages with the information you have at the time you are filing the complaint.
12. Use the following checklist to make sure that you have all of the information you need to file the complaint.
13. Sign the documents in front of a Notary Public. Take ID with you. They *may* have one at the court but they may not. Ask the court or use another Notary Public.

D: DOCUMENTS and INFORMATION

- Child's Name _____
 - Child's Date of Birth _____
 - Child's Sex Male Female
 - Child's birth certificate, certified copy if possible
 - All of the child's documentation: Insurance card, medical records that the parent has, school records that the parent has.
 - Petitioner's or Applicant's Name – This is the person who will take custody or guardianship of the child
 - Petitioner's or Applicant's Address at the time of filing this in Court
 - Mother's Name _____
 - Mother's Address at the time of filing this in Court

 - Birth Father's Name _____
 - Birth Father's Address at the time of filing this in Court

- OR
- Birth Father's last known address

- Are the parents married?
 - Yes
 - If yes, when and where?
 - No
 - If No, Do you know of any court case in the U.S. which gave father any custody of the child?
 - No
 - Yes

- If Yes, get whatever information you can about that case:
- Name of the Court (Examples: Family Court, Juvenile Court, Domestic Relations Court, Probate Court, Guardianship Court)
- Location of the Court as best you can know it (Examples Summit County, OH; Maricopa County, AZ; Indianapolis, IN; Texas)
- Time the court made the order (Examples: actual date; year; best guess – 3 years ago)
- A copy of the order if you have one

- Petitioner's relationship with child (Example. Adult sibling, Aunt, Grandparent, Family Friend)
- Has Petitioner or Applicant spent a significant amount of time with the child Yes No
- Does Petitioner or Applicant share a cultural background with the child Yes No
- Does Petitioner or Applicant share a non-English language with the child Yes No
- Does the parent trust Petitioner's relationship with the child Yes No
- Does the parent appoint the Petitioner or Applicant *in loco parentis* for the child Yes No
- Addresses where the child has lived for the past 5 years. If you do not know the street address, provide the City and State. If it was outside of the US, state the country.

Period of Residence	Check if Confidential	Person(s) With Whom Child Lived (name & address)	Relationship
___/___/___ to present	<input type="checkbox"/>	PETITIONER	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____
___/___/___ to ___/___/___	<input type="checkbox"/>	_____	_____

INFORMATION NEEDED AT TIME OF FILING

- Date when the child moved into Petitioner's home
- Mother's physical, not legal, condition at the time of filing in Court
 - Taken into custody
 - About to be taken into custody
 - Location of mother unknown
- Father's physical, not legal, condition at the time of filing in Court
 - Taken into custody
 - About to be taken into custody
 - Location of father unknown
- Has the Petitioner has been involved in ANY court case involving THE CHILD.

- No
- Yes
 - If Yes, get whatever information you can about that case:
 - Name of the Court (Examples: Family Court, Juvenile Court, Domestic Relations Court, Probate Court, Guardianship Court) _____
 - Location of the Court as best you can know it (Examples Summit County, OH; Maricopa County, AZ; Indianapolis, IN; Texas) _____
 - Time the court made the order (Examples: actual date; year; best guess – 3 years ago) _____
 - A copy of the order if you have one

Has the Petitioner has been involved in ANY court case involving any child.
This means a case involving Child Protective Services, Criminal court where a child was the victim of the offense, or Domestic Violence against anyone.

- No
- Yes
 - If Yes, get whatever information you can about that case:
 - Name of the Court (Examples: Family Court, Juvenile Court, Domestic Relations Court, Probate Court, Guardianship Court) _____
 - Location of the Court as best you can know it (Examples Summit County, OH; Maricopa County, AZ; Indianapolis, IN; Texas) _____
 - Time the court made the order (Examples: actual date; year; best guess – 3 years ago) _____
 - A copy of the order if you have one

Has anyone in the Petitioner's home been involved in ANY court case involving any child.
This means a case involving Child Protective Services, Criminal court where a child was the victim of the offense, or Domestic Violence against anyone.

- No
- Yes
 - If Yes, get whatever information you can about that case:
 - Name of the Court (Examples: Family Court, Juvenile Court, Domestic Relations Court, Probate Court, Guardianship Court) _____
 - Location of the Court as best you can know it (Examples Summit County, OH; Maricopa County, AZ; Indianapolis, IN; Texas) _____
 - Time the court made the order (Examples: actual date; year; best guess – 3 years ago) _____

A copy of the order if you have one

This form, Information and Directions I pages 4, 5, 6, & 7 was made by the Parent and Agent, Petitioner, Applicant, or the person *in loco parentis* this day: ___/___/20___

Parent's Signature

Guardian / Petitioner Signature
Person *in loco parentis*

Parent's Signature

E: DETERMINING WHICH COURT TO USE

There are three courts which can transfer parent duties to another person. They are the Probate Court, the Domestic Relations Court, and the Juvenile Court. Each court has its own rules for who can file.

Juvenile and Domestic Relations courts place the child into the **legal custody** of the **Petitioner**. To change custody back there must be a change in the home where the child is living. This can happen when the child returns to the parent's home while the child is still in the custody of the Legal Custodian. After that return home ask the court to return custody.

Probate Court will grant a Guardianship of a Minor. This will let the Guardian do all things a parent could do. The Court can terminate is when the child returns to the parent. It also ends when the child is age 18. **If the child has his own money, accounts, a house in his name, or other property worth at least \$5,000, you must file as Guardian of the Person and Estate. If filing for the Estate, you must get your own legal advice.**

To be allowed to file In Probate Court:

- __1. Must have a signed waiver and the consent of **one** parent. (Form 15.1)
- __2. Marital Status doesn't matter.
- __3. The other parent also signing Form 15.1 **or** that parent's address if known.
- __4. Must be filed in the county where the child is presently residing **with the Applicant**.
- __5. Applicant **MUST** be citizen or green card holder.
- __6. Applicant **MUST NOT** have criminal convictions for Crimes of Violence (Murder, Manslaughter, Assault, Permitting Child Abuse, Domestic Violence, or Child Endangering)
- __7. Applicant **MUST NOT** have criminal convictions for Sex Crimes (Rape, Sexual Imposition, Indecency, Sexual Battery, Soliciting, Pandering)
- __8. Applicant **MUST NOT** have criminal convictions for Drugs or Theft
- __9. Applicant must have a BCI background Check.
- __10. **Each child must have his own set of forms and birth certificate.**

If you cannot pass all of these requirements, file in Juvenile Court

To be allowed to file In Juvenile Court:

- __1. Marital Status doesn't matter, but a **father** must file in **Domestic Relations Court**.
- __2. You must have an address for the father **OR** be able to prove that you tried but can't find him.
- __3. If there was a prior Juvenile case you **MUST** file here.
- __4. The Petitioner's Immigration status doesn't matter for filing, but might affect the outcome.
- __5. The Petitioner's Criminal background doesn't matter for filing, but might affect the outcome.
- __6. **Each child must have his own set of forms.**

To be allowed to file In Domestic Relations Court:

- __1. If the parents are still married to each other, you **MUST** file in Juvenile or Probate Court.
- __2. If there was a prior divorce, paternity, visitation, or child support action, you **MUST** file in the Domestic Relations Court that order came from.
- __3. You must have an address for the father **OR** be able to prove that you tried but can't find him.
- __4. **Each case will have a single set of forms for all children from one couple. If there are two fathers or two mothers, there will be two cases to file.**

F: FILING AT DOMESTIC RELATIONS OR JUVENILE COURT

1. Take the original signed documents and 2 complete copies of the documents to court with you for filing.
2. You will need a filing fee. Call your local Court to find out how much that is. If you cannot afford the filing fee, ***or if you do not know the father's address*** fill out the Document called Motion to File *In Forma Pauperis*. It is page 10 of the **“Complaint in Juvenile Court III-A”** or page 10 of the **“Complaint in Domestic Relations Court V-A”**.
3. You will need to arrange for the father to be served with a copy of what you file in Juvenile or Domestic Relations Court.
4. If you know where the father is, use his address and ask the clerk to serve him by certified mail using page 11 of the **“Complaint in Juvenile Court III-A”** or the **“Complaint in Domestic Relations Court V-A”**.
 - (a) If the father or someone at his house signs for the mail, you are done.
 - (b) If it is returned as unclaimed or refused, the Clerk of Court should notify you of that in the mail. Fill out and file page 12 of the **“Complaint in Juvenile Court III-A”** or the **“Complaint in Domestic Relations Court V-A”**. THIS MUST BE THE SAME ADDRESS AS THE ONE USED ON PAGE 10 (FILING AT THE COURT Instruction #2)
5. If you do not know the present address but know of a prior address, fill out and file page 13.
6. If you do not know the present address but know of a prior address, fill out and file page 13 but put “General Delivery” and the last known city or town of residence as the last known address.
7. Make 2 copies of everything you are going to file with the court. This applies for EACH CHILD YOU ARE FILING ON.
8. Go to the clerk in the morning and file the matter. Be prepared to wait all day. **Do NOT take the child with you.**
9. It is possible that the court will do an emergency hearing that day or within the next several days.
10. At that hearing the court will probably ask you what you know about both parents and where they are.
11. The court is able to place the child into your temporary custody and set a hearing in order to allow the father to be served.
12. They will set another hearing probably 30 to 45 days in the future.
13. At that hearing you will be allowed to testify. Fill out and take with you the form on page 110, following. Also take a copy of **pages 4, 5, & 6 of the “Complaint in Juvenile Court III-A”** or the **“Complaint in Domestic Relations Court V-A”**.
14. Take copies of the child's birth certificate and the Power of Attorney the parent gave you to all court hearings with you.

WHILE YOU ARE WAITING FOR COURT TO RULE:

Give a copy of the Power of Attorney to the child's doctors, school, and health insurance company.

WHEN YOU RECEIVE TEMPORARY ORDER OF CUSTODY:

Give a copy of Order of Temporary Custody to the child's doctors, school, and health insurance company.

WHEN YOU GET CUSTODY:

Provide copies of the court's order granting you custody to the child's school, doctors, any care providers, and any other person who needs a parent's permission to do anything with the child.

G: FILING AT THE PROBATE COURT

1. Take the original signed documents to court with you for filing.
2. You will need a filing fee. Call your local Court to find out how much that is.
3. If you do not have father's consent on form 15.1 you need to provide an address for father if known.
4. Go to the clerk in the morning and file the matter. Be prepared to wait all day. **Do NOT take the child with you.**
5. It is likely that the court will issue a Temporary Order of Guardianship to you that day.
6. At that hearing the court will probably ask you what you know about both parents and where they are.
7. The court is able to place the child into your temporary custody and set a hearing in order to allow the father to be served.
8. They will set another hearing probably 30 to 45 days in the future.
9. At that hearing you will be allowed to testify. Fill out and take with you the form on page 10, following.
10. Take copies of the child's birth certificate and the Power of Attorney the parent gave you to all court hearings with you.

WHILE YOU ARE WAITING FOR COURT TO RULE:

Give a copy of the Power of Attorney to the child's doctors, school, and health insurance company.

WHEN YOU RECEIVE TEMPORARY ORDER OF GUARDIANSHIP:

Give a copy of Order of Temporary Custody to the child's doctors, school, and health insurance company.

WHEN YOU GET AN ORDER CREATING THE GUARDIANSHIP:

Provide copies of the court's order granting you custody to the child's school, doctors, any care providers, and any other person who needs a parent's permission to do anything with the child.

H: IF SOCIAL WORKERS OR POLICE TAKE THE CHILD

1. There should be a court hearing IMMEDIATELY in the Juvenile Court of the county where the child was taken.
2. Contact that court to find out when the hearing is. It will probably be the next day.
3. Go to court with all of the paperwork you have filled out and collected.
4. Take proof of income if you have any, ID, and the birth certificate of the child.
5. If you are the parent you have a right to an attorney. Ask for that.
6. If you are the care taker of the child, you are *in loco parentis* and have the same right to an attorney. Show them the Power of Attorney for Child care and ask to have an attorney appointed for you.

I: TESTIMONY BEFORE THE COURT

Bring this entire set of paperwork to court with you. It has the information the court needs. You will be asked to talk in court. They may let you read this or they may ask you to testify from your memory. If you need help to remember all of this, tell the court that you wrote dates down and ask if you can use this paper to **REFRESH YOUR MEMORY.**

My name is _____.

The child's name is _____ and the child's birth date is ____/____/_____.

I have known the child since ____/____/_____.

The child's mother's name is _____.

I have known the mother since ____/____/_____.

The child's father's name is _____.

I have known the father since ____/____/_____ **or** I have never met the father.

The last contact I know that the father had with the child was ____/____/_____ **or** I have never known the father to have contact with or support the child.

The child is presently living with me at : State Your Address

The mother gave me a Power of Attorney for Child Care so I can handle school and medical issues for the child.

The child has been with me since ____/____/_____.

If you or someone in your house have any criminal convictions and the court asks you if the parent knew that, show them the information pages with yours and the parent's signatures at the bottom of page 6.

TELL THE COURT WHY IT IS BEST FOR THE CHILD TO BE WITH YOU: These are some ideas.

_____ You share a culture with the child.

_____ You share a language with the child.

_____ You know the child's extended family.

_____ You know the child's church family.

_____ You have other children from the family in your care.

_____ You can afford to care for the child.

_____ You will be willing to keep the child until the child is an adult.

_____ You will keep the child in school.

_____ You will keep the child in church, if the parents want that.

_____ You will make sure that the child continues to learn English **or** The child is already fluent in English.

_____ The child is a U.S. Citizen, if that is true.

_____ You will keep the parents informed about where the child lives, goes to school and church, and allow what ever contacts the parents can legally have with the child.