

FAQs: Filing a Parent SAPCR (Custody) Case

What is the difference between a SAPCR case and a paternity case?

A SAPCR case asks a judge to make a custody, visitation, child support, medical support, and dental support order for your child.

A paternity case can ask a judge to make a custody, visitation, child support, and medical support order for a child **AND** establish paternity (name the legal father of your child).



I need a custody, visitation and support order for my child. The other parent and I are not married. Should I file a SAPCR case or paternity case?

If you and the other parent have signed an *Acknowledgment of Paternity*, you should usually file a SAPCR case. The legal father of your child is already named in the *Acknowledgment of Paternity*.

If you and the other parent have **not** signed an *Acknowledgment of Paternity*, you should usually file a paternity case. A paternity case will ask the judge to establish paternity (name the legal father of your child) **AND** make custody, visitation, child support and medical support orders.

Use this toolkit if you want to file a paternity case: **I need a paternity order.** (<https://texaslawhelp.org/family-divorce-children/paternity/toolkit/paternity-i-need-paternity-order>) [1]

Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [2] to chat online with a lawyer or law student, if you have questions.

What is an Acknowledgment of Paternity (AOP)?

An *Acknowledgment of Paternity* (AOP) is a legal form signed by a man and the child's mother that states (under penalty of perjury) that the man **is the child's genetic father**. An AOP is usually used when the parents aren't married but agree on the identity of the child's father.

When the completed AOP is filed with the Texas Vital Statistics Unit, the genetic father becomes the child's legal father with all the rights and duties of a parent.

Exception: If the child's mother is married to someone else when the child is born (or the child is born within 300 days of the date of divorce) then the

husband (or ex-husband) is the child's presumed father. You cannot use the AOP form to establish paternity **unless** the presumed father also signs a *Denial of Paternity* (DOP).

Read this article to learn more: **Acknowledgment of Paternity & Denial of Paternity** (<https://texaslawhelp.org/article/acknowledgment-paternity-denial-paternity>) [3]



How do I get a copy of an Acknowledgment of Paternity?

You will need a copy of the *Acknowledgment of Paternity* form for your SAPCR case. To get a copy, fill out an *Acknowledgment of Paternity Inquiry Request* form. Get the form here: **Texas Vital Statistic Forms** (<https://www.dshs.texas.gov/vs/reqproc/forms.shtm>) [4]. Instructions are included on the form. You can also contact the Vital Statistics Unit at (512) 776-7111.

Can I file my SAPCR case in Texas?

You can file a SAPCR case in Texas if:

- the child has lived in Texas for at least the last 6 months (or since birth) or
- Texas was the child's home state and the child has been gone less than 6 months.

See *Texas Family Code Section 152.201*.

There are a few exceptions to this rule. Talk with a lawyer if this is an issue.

What if the other parent doesn't live in Texas?

If the other parent lives out-of-state, you can still file your SAPCR case in Texas if:

- the child has lived in Texas for at least the last 6 months (or since birth) or
- Texas was the child's home state and the child has been gone less than 6 months.

However, the court must have **personal jurisdiction** over the other parent to make orders that impose a personal obligation on the other parent — such as ordering the other parent to pay child support. The *Original Petition in Suit Affecting the Parent-Child Relationship* form includes a list of situations that give the court personal jurisdiction over an out-of-state parent. Check any that apply

to your case. Talk to a lawyer if none apply or you have questions about personal jurisdiction.

Where should I file my SAPCR case?

You must file a SAPCR case in the Texas county where the child lives.

Do I need a lawyer to help me with my SAPCR/custody case?

You do not *have* to have a lawyer to file or respond to a SAPCR case. However, SAPCR cases can be complicated and your rights as a parent may be at risk. It's a good idea to talk with a family law lawyer about your particular situation. A family law lawyer can explain your rights and options.

It's **really** important to talk with a family law lawyer if any of the following are true.

- You are afraid for your or your child's safety.
- Your case is contested.
- The other parent has a lawyer.
- Your child has a disability.

If you need help finding a family law lawyer, you can:

- Use our **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [5] to search for a lawyer referral service, legal aid office or self-help center in your area.
- Check our **Legal Clinic Calendar** (<https://texaslawhelp.org/legal-clinic-calendar>) [6] for free legal clinics in your area.
- Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [2] to chat online with a lawyer or law student.

Can I hire a lawyer just to give me advice?

Yes! You can hire a family law lawyer just to give you advice, review your forms, draft a document or help you prepare for a hearing. You may then be able to handle the other parts of your case yourself. Hiring a lawyer for a limited purpose is called "limited scope representation."

What if I'm concerned about my safety or my child's safety?

If you are concerned about your safety or the safety of your children, call the



National Domestic Violence 24 Hour Hotline (<http://www.thehotline.org/>) [7] at **1-800-799-SAFE (7233)**. They can refer you to help in your community.

For legal help, you can also call:

- **Texas Advocacy Project Hope Line** (<https://www.texasadvocacyproject.org/free-legal-services/legal-phone-lines>) [8] at 1-800-374-HOPE (4673)
- **Advocates for Victims of Crime** (<http://www.tlsc.org/victims-of-crime.html>) [9] at 1-888-343-4414



For situations involving sexual assault, you can also call:

- **Legal Aid for Survivors of Sexual Assault** (<http://www.legalaidforsurvivors.org/>) [10] at 1-800-991-5153

If you are an immigrant, you can also call:

- **Refugee and Immigrant Center for Education and Legal Services** (<http://www.raicestexas.org/>) [11] (RAICES) 512-994-2199

In an emergency, please call 911.

Find out more in the **Protection from Violence or Abuse** (<https://texaslawhelp.org/protection-from-violence-or-abuse>) [12] section of this website.

How much does it cost to file a SAPCR case?

When you file a court case, you must usually pay a “filing fee.” If you need to have the other parent served, you must also pay an “issuance fee” and a “service fee.” These fees vary by county. Contact the district clerk’s office in the county where you plan to file your case to learn the fees.

If you don’t have enough money to pay the fees, you can ask a judge to waive the fees by completing and filing a *Statement of Inability to Afford Payment of Court Costs*. Read this article to learn more: **Court Fees & Fee Waivers** (<https://texaslawhelp.org/article/court-fees-fee-waivers>) [13].

How long does a SAPCR case take?

That depends. If everyone agrees and is willing to sign the necessary forms, a SAPCR case can be finished in a matter of days.

If everyone does not agree, your case is contested. Contested SAPCR cases will take much longer.

Is my SAPCR case contested or uncontested?

TexasLawHelp has instructions for **uncontested** SAPCR cases. Your SAPCR case is uncontested if it can be finished by agreement or by default.

- Your SAPCR case can be finished by **agreement** if you and the other parent agree about all the issues and are both willing to sign the court forms.
- Your SAPCR case can be finished by **default** (without the other parent) if the other parent is served and the other parent does not file an answer or otherwise appear in court.



Your SAPCR case is **contested** if the other parent files an answer (or waiver of service only) and will not sign an agreed Order in Suit Affecting the Parent-Child Relationship. To finish a contested SAPCR case, you must set your case for final hearing and give the other parent at least 45 days' notice of the hearing. Read this article to learn more: **How to Set a Contested Final Hearing (Family Law)** (<https://texaslawhelp.org/article/how-set-contested-final-hearing-family-law>) [14].

It's important to talk with a lawyer if your case is contested.

Do I have to tell my child's other parent that I'm filing a SAPCR case?

Yes. The instructions included in this toolkit explain how to give the other parent proper legal notice. If your child lives with a grandparent or other non-parent, that person must also be given proper legal notice.

What if I can't find my child's other parent?

If you cannot find the other parent (after looking really hard) you may be able to serve the other parent by publication in a local newspaper, by publication on the state's citation by publication web site (<https://www.txcourts.gov/judicial-data/citation-by-publication/>) [15], or both.

Read this article to learn more: **Service by Publication (when you can't find the other parent)** (<https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent>) [16].

What if my child's other parent is in the military?

Talk to a lawyer if the other parent is on active military duty.

Get more information here: [www.StatesideLegal.org \(http://statesidelegal.org/library/2652\)](http://statesidelegal.org/library/2652) [17]



What if my child's other parent is in prison?

You must still notify the other parent about the SAPCR case.

If your case is agreed, the other parent can sign the necessary court forms in jail or prison and return them to you. Follow these instructions: **Instructions & Forms for an Agreed SAPCR** (<https://texaslawhelp.org/checklist/instructions-forms-agreed-sapcr-filed-parent>) [18].

If your case is not agreed (or you don't want to have contact with the other parent), you must have a constable or sheriff serve the other parent with the initial court papers in jail or prison. Follow these instructions: **Instructions & Forms for a Default SAPCR** (<https://texaslawhelp.org/checklist/instructions-forms-default-sapcr-filed-parent>) [19].

Note: If the other parent must be served, you will need the physical address of the jail or prison. If the other parent is in a county jail, call the jail or sheriff's office in that county to get the address. If the other parent is in prison, you may be able to use one of the following websites to get the address.

- Use this website if the other parent is in a Texas prison: **Texas Department of Criminal Justice Offender Search** (<https://offender.tdcj.texas.gov/OffenderSearch/>) [20].
- Use this website if the other parent is in a federal prison: **Federal Bureau of Prisons Inmate Locator** (<https://www.bop.gov/inmateloc/>) [21].
- Use this website if the other parent is being held by U.S. Customs and Immigration Enforcement (ICE): **ICE Detainee Locator** (<https://locator.ice.gov/odls/homePage.do>) [22].

What orders will the judge make in a SAPCR case?

The judge will make custody, visitation, child support and medical support orders. The judge can make other orders if the orders are in the child's best interest.

What is custody?

In Texas, the legal word for custody is “conservatorship.”

Custody/conservatorship describes your relationship with a child when there is a court order. Read this article to learn more: **Child Custody & Conservatorship** (<https://texaslawhelp.org/article/child-custody-conservatorship>) [23]



What is a visitation or possession order?

A visitation or possession order says when each parent (or sometimes a nonparent) has the right to time with a child. Read this article to learn more:

Child Visitation & Possession Orders (<https://texaslawhelp.org/article/child-visitation-possession-orders>) [24]

What is child support and medical support?

Child support is money a parent pays to help with the cost of raising a child, such as the cost of food, housing, clothing, school supplies, daycare and activities. A parent can be ordered to pay child support by a judge. Even if there is no court order, both parents are expected to financially support their child. A parent who does not live with a child and does not help support the child may be ordered to pay “back” or “retroactive” child support to the person who cared for the child.

Medical support is additional child support a parent is ordered to pay to cover the cost of health insurance and uninsured medical expenses for a child.

Dental support (<https://texaslawhelp.org/faq/what-dental-support>) [25] is like medical support. It is additional child support that a parent is ordered to pay to cover the reasonable cost of dental insurance and uninsured dental expenses for a child.

Read this article to learn more: **Child Support, Medical Support, and Dental Support** (<https://texaslawhelp.org/article/child-support-medical-support-and-dental-support>) [26].

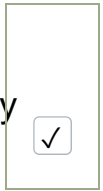
Can the other parent and I make our own custody, visitation and child support agreement?

Maybe. If the judge decides your agreement is in the child’s best interest, the judge will sign an order based on your agreement. The agreement must be in

writing and included in the order.

What if I need orders right away?

If you need orders right away, you may be able to ask a judge to make a temporary restraining order (TRO) and/or temporary orders. A temporary restraining order lasts until you can have a temporary orders hearing. Temporary orders typically last until the SAPCR case is finished. Read this article to learn more: **Temporary Orders & Temporary Restraining Orders** (<https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>) [27].



Note: A family violence protective order is different from a temporary restraining order. If you need a family violence protective order call the National Domestic Violence 24 Hour Hotline at 1-800-799-SAFE (7233).

What is mediation?

If you and the other parent don't agree on the orders that would be best for your child, you may want to consider mediation. In mediation, an independent person (the mediator) will try to help you reach an agreement. The court process is usually easier when you have an agreement. Be sure to talk to a lawyer first. A lawyer can help you understand your options and negotiate a fair agreement.

Should I agree to mediation if the other parent has been abusive?

Mediation can be helpful when both people have equal power. Both people must be able to say what they want without being afraid or pressured.

Threats and control are common in relationships where one person is abusive. If the abuser is used to being in charge and making all the decisions, mediation probably won't work very well.

Mediation may be even more of a problem if the other parent abused you and you don't have a lawyer.

What if I want to dismiss my case?

You *may* be able to dismiss your case by filing a notice of nonsuit or an agreed motion.

Read this article to learn more: **How to Dismiss a Case You Filed** (<https://texaslawhelp.org/article/how-dismiss-case-you-filed>) [28].

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Links

- [1] <https://texaslawhelp.org/family-divorce-children/paternity/toolkit/paternity-i-need-paternity-order>
- [2] <https://texaslawhelp.org/ask-question>
- [3] <https://texaslawhelp.org/article/acknowledgment-paternity-denial-paternity>
- [4] <https://www.dshs.texas.gov/vs/reqproc/forms.shtm>
- [5] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [6] <https://texaslawhelp.org/legal-clinic-calendar>
- [7] <http://www.thehotline.org/>
- [8] <https://www.texasadvocacyproject.org/free-legal-services/legal-phone-lines>
- [9] <http://www.tlsc.org/victims-of-crime.html>
- [10] <http://www.legalaidforsurvivors.org/>
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- [14] <https://texaslawhelp.org/article/how-set-contested-final-hearing-family-law>
- [15] <https://www.txcourts.gov/judicial-data/citation-by-publication/>
- [16] <https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent>
- [17] <http://statesidelegal.org/library/2652>
- [18] <https://texaslawhelp.org/checklist/instructions-forms-agreed-sapcr-filed-parent>
- [19] <https://texaslawhelp.org/checklist/instructions-forms-default-sapcr-filed-parent>
- [20] <https://offender.tdcj.texas.gov/OffenderSearch/>
- [21] <https://www.bop.gov/inmateloc/>
- [22] <https://locator.ice.gov/odls/homePage.do>
- [23] <https://texaslawhelp.org/article/child-custody-conservatorship>
- [24] <https://texaslawhelp.org/article/child-visitation-possession-orders>
- [25] <https://texaslawhelp.org/faq/what-dental-support>
- [26] <https://texaslawhelp.org/article/child-support-medical-support-and-dental-support>
- [27] <https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>
- [28] <https://texaslawhelp.org/article/how-dismiss-case-you-filed>

