

NONREFUNDABLE \$5.00

**HABEAS CORPUS
DOCUMENTS AND
INSTRUCTIONS**

11-7

Sheriff-Assisted Return of Children

THURSTON COUNTY
WASHINGTON
Since 1852

Betty J. Gould, Thurston County Clerk
Family & Juvenile Court
2801 – 32nd Ave SW
Tumwater, WA 98512
(360)409-3269

HABEAS CORPUS

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- You have a pending action in Thurston County Superior Court; OR
- You have a court order from another Court that awards custody of a child or children to you;

AND

- The other party refuses to abide by that order and return the child or children to you as may be specified in that order;
- You need the assistance of law enforcement to help you get your child or children back.

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document or get involved with a court case, it is important that you carefully read the document to make sure you are doing the right thing. You may also want to contact a lawyer for legal advice and help with those issues you do not understand. The Self-Service Center has a list of local attorneys who can give you legal advice and who can help you on a task-by-task basis for a fee. If you need help with the forms, procedures and rules of the court, there is a Family Court Facilitator available to assist you.

HOW TO GET A WRIT OF HABEAS CORPUS

Forms and Instructions

STEP ONE COMPLETING YOUR FORMS

1. Petition for Writ of Habeas Corpus
2. Order to Issue Writ of Habeas Corpus
3. Writ of Habeas Corpus
4. Warrant in Aid of Writ of Habeas Corpus

STEP TWO FILING YOUR DOCUMENTS & HAVING YOUR DOCUMENTS REVIEWED

Instruction: *File Document #1 above at the Clerk's Office. Then you must have remaining documents reviewed by the Court Facilitator before they can be presented to the Judge at an ex parte hearing.*

STEP THREE ATTEND YOUR HEARING WRIT ISSUANCE DELIVERY TO SHERIFF

A WRIT OF HABEAS CORPUS

If you have a court order that awards custody of a child or children to you, but the other party will not return the child or children to you pursuant to that court order, you may petition the Court for a Writ of Habeas Corpus. A Writ of Habeas Corpus instructs the Sheriff to take the child or children into Sheriff's custody and to bring the child or children immediately to Court wherein a hearing will be held to determine what the situation is.

ALL FORMS

Washington has pattern legal forms (contained in this packet) which you **must** use in dissolution and other family law cases. Every document must be completed as follows:

- **Enter your name in the caption, you are the petitioner**
- **Enter the case number assigned (in the caption) for your case on your copies if the clerk has not.**
- **Make certain the *Document Title* appears in the caption (just below the case number).**
- **Enter the name of your spouse (et al) in the caption, he/she is the respondent.**

- **The contents of the document:**

All forms must be completed in ink or be typewritten. Make certain every section is completed. Read through each option for every paragraph and answer each question the best you can. If none of the choices apply to you, mark “other” or “does not apply.” Most sections will allow space for you to write in the answer if none of the choices apply to your situation.

- **Dates & Signatures:**

Remember you are the Petitioner, and many of the forms require your signature. On some forms you will have to sign twice. On the last page of most forms there is a place to fill in the date you are signing and a place for your signature. Be sure you sign, date and complete any other information it asks for such as address, phone number, and printed name. (See Sample on next page.)

- **Enter the date you are signing.**
- **Sign your usual signature**
- **List your address where you can receive mail and phone number where you can be reached during the day on weekdays**
- **Print/Type your name clearly**

In some instances there will be the following declaration and place for you to fill in the city and state where you are signing. This is called a “verification” signature block. Even though this may appear to be duplicating the above signature, it is necessary, so be sure you fill in the information it asks for and sign it.

Sample

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at _____ on _____. ←(Enter the date you are signing)
(City and State) (Date)
(Enter city and state where you are at the time of signing)

Signature ←(Sign your usual signature)

Print or Type Name ←(Print your name clearly)

- **Note:** On those pages where there is a date line and signature line for the judge to sign, **do not sign** or **date** in the space provided for the judge.

Sample

Dated: _____
_____ Court Commissioner/Judge

Presented by: *(Since you are the petitioner, you will be signing the papers as the person presenting them to the judge. Fill in any other information requested such as address, phone, printed name, etc.)*

Presented by:

Approved for Entry and
Notice of Presentation Waived:

Signature

Signature

Address

Address

Print Name

Print Name

(Approved for entry [Notice of presentation waived]): This is where your spouse, et al, will sign approving the papers for entry with the court, and it also means your spouse/et al, is not requiring notice of the date or time you will be presenting these papers to the judge. Fill in other information requested.

STEP ONE

COMPLETING THE FORMS

Make an extra copy (or more) of the forms before you start so if you make a mistake and need to start over, you won't have to buy another form.

Read all the instructions in this packet, then complete the following documents:

- 1. Petition for Writ of Habeas Corpus**
- 2. Order to Issue Writ of Habeas Corpus**
- 3. Writ of Habeas Corpus**
- 4. Warrant in Aid of Writ of Habeas Corpus**

(Document 1) The **Petition for Writ of Habeas Corpus** is your request for the court to enter an Order to Issue a Writ of Habeas Corpus. You are the petitioning party and the other person who may be keeping the child or children would be the Respondent. If you already have a pending case in Thurston County Superior Court, write in the case number.

Write in the name of the child or children involved and the respective birth date of each child. Additionally, write in the name of the county sheriff's department and the name of the county in which the respondent resides and any other addresses at which the child or children may be found.

Write in the name of the child or children involved and the respective birth dates. Also, write in the date of the current custody order and the county in which it was granted.

On page 2, complete the top part with a detailed summary of the circumstances surrounding this situation...how the children got where they are now.

On page 2, complete the bottom section with a detailed summary of what you fear may happen if the child or children are not returned to you. If you have any attachments or supporting statements to attach to the Petition you should list them on top of page 3.

Sign and date this document.

(Document 2) **Order to Issue Writ of Habeas Corpus:** This is the document the Judge will sign which orders a Writ of Habeas Corpus to be issued. Complete the top heading the same as you did on the first document. Fill in the name of the child or children and the respective birth dates of each.

Do not date this document. The Judge will date it. You sign as the petitioner.

(Document 3) **Writ of Habeas Corpus.** This document commands the law enforcement agency (Thurston County Sheriff) to take custody of the children listed in the Writ. Complete the top heading the same as you did on the first document. Fill in the name of the child or children and the respective birth dates of each.

Complete the form by entering the name(s) of the child or children that you need returned to you and the birth dates of each child.

The Judge will sign this document, and then it is returned to the Clerk's Office where the Clerk will sign it as well.

(Document 4) **Warrant in Aid of Writ of Habeas Corpus.** Complete the top heading the same as you did on the first document.

Fill in the name of the child or children and the respective birth dates of each.

The Judge will sign this document, and then it is returned to the Clerk's Office where the Clerk will sign it as well.

STEP TWO

HAVE YOUR DOCUMENTS REVIEWED BY THE FAMILY COURT FACILITATOR AND FILE YOUR DOCUMENTS

When you have all your papers completed, take them to the Clerk's Office. Your documents should be reviewed by the Family Court Facilitator to assure you have your forms completed properly before you see a Judge. The Thurston County Clerk's Office allows presentation of these types of orders every day of the week at an ex-parte hearing at the following specific times:

8:30 a.m. (Check in **NO LATER THAN 8:00 a.m.**)

AND

4:00 p.m. (Check in **NO LATER THAN 2:30 p.m.**)

You are required to check in **WITH YOUR COMPLETED PAPERS** at the Clerk's Office **by 8:00 a.m. to attend the 8:30 a.m.** ex parte hearing at **2:30 p.m. to attend the 4:00 p.m.** ex parte hearing. Stop at the front counter to let them know you need to see a judge. Turn in your paperwork for review. There is a \$20 fee for this service. You will be directed where to go when the Judge is ready to see you.

STEP THREE

ATTEND YOUR HEARING

You may or may not be allowed to speak to the Judge. That is why it is extremely important that all pertinent information is provided in your Petition. The Judge will sign your Order at the ex parte hearing.

WRIT ISSUANCE FEE

Once the Judge signs the orders, they will be returned to the Clerk's Office for filing. **You will be charged a fee of \$20.00 (cash, credit or debit card only) by the Clerk's Office for issuing your Writ.**

DELIVERY TO SHERIFF

You must then take your Petition for Writ of Habeas Corpus, Order to Issue Writ of Habeas Corpus, Writ of Habeas Corpus, and the Warrant in Aid of Writ of Habeas Corpus to the Sheriff's Office names in the Writ. The Sheriff's office charges a fee or deposit for their services (See the insert page in this packet for more information). You may contact them before you take your documents to them to see exactly what they need from you. Cooperate with them in every way possible to assist them in getting your child or children back to you.

Once the Sheriff's Deputy has custody of your child or children, he or she will return them to the courthouse for a hearing. You must be present at this hearing. Please make sure you give the staff at the Clerk's office accurate phone numbers where they can locate you when they are notified that the children are en route to the courthouse.

2000 Lakeridge Drive SW * Olympia, WA 98502-6048 * (360)786-5500 * (800)624-1234

WRIT OF HABEAS CORPUS

SHERIFF'S OFFICE REQUIREMENTS

1. Pre-paid Sheriff's Fee of \$259.00 for processing/executing the writ.
WE DO NOT ACCEPT FEE WAIVERS.
2. Completion of Missing Child Information Questionnaire.
(This is to assist in the investigation and recovery of the child.)
3. Original or certified copies of Writ of Habeas Corpus, Petition for Writ of Habeas Corpus, Order to Issue Writ of Habeas Corpus, and Warrant in Aid of Writ of Habeas Corpus.
4. Photographs – if available.

PLEASE NOTE: Once the documents are received by our office, the civil unit will conduct a review to determine if there is adequate time and staffing to enforce the writ that day or the following business day.

EXPEDITE (if filing within 5 court days of hearing)

Hearing is set:

Date: _____

Time: _____

Judge/Calendar: _____

**Superior Court of Washington
County of
Family & Juvenile Court**

In Re the Custody of:

_____, born
_____, born
_____, born
Minor Children,
_____,
Petitioner,

And

_____,
Respondent.

No.

Petition for Writ of Habeas Corpus

(PTWHC)

(RCW 7.36.190 & 7.36.200)

This is a petition for a Writ of Habeas Corpus pursuant to RCW 7.36.190 and 7.36.200 to return the custody of the following child(ren):

_____, born _____,

_____, born _____,

_____, born _____,

_____, born _____,

to the Petitioner, _____, the lawful custodian and to issue a warrant for the arrest of _____ who holds them illegally.

This Petition seeks/requests the assistance of the _____ County Sheriff's Department in executing the order. The Respondent resides in _____ County. The Respondent (and the children) may be found at the following address(es): _____

PRIOR CUSTODY ORDER

The children's names and dates of birth are:

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

I obtained custody of the minor children on _____ in _____, County, State of _____. A copy of that custody order is attached.

NATURE OF ABDUCTION

(Describe how the children were abducted or what incidents occurred to get them where they are now)

FEAR OF DANGER

(Describe what danger, if any, the children may be in if not returned to you)

ATTACHMENTS

(Optional – Attach any supporting declarations or reports regarding this abduction/hiding)

I certify under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that I have read the above petition for a Writ of Habeas Corpus and the information it contains is true and correct.

DATED this ____ day of _____, 20__, in the County of _____, WA.

(Signature)

(Printed Name)

(Address)

(City & State) (Zip Code)

EXPEDITE (if filing within 5 court days of hearing)

Hearing is set:

Date: _____

Time: _____

Judge/Calendar: _____

**Superior Court of Washington
County of
Family & Juvenile Court**

In Re the Custody of:

_____, born
_____, born
_____, born
Minor Children,
_____,
Petitioner,

And

_____,
Respondent.

No.

Order to Issue Writ of Habeas Corpus

(ORIS)

(RCW 7.36.190 & 7.36.200)

THIS MATTER having come on before the Court on the Petitioner's Petition for issuance of a Writ of Habeas Corpus, the Court having reviewed the records, files, affidavits and argument of counsel/petitioner and deeming itself fully advised, now, therefore, it is hereby

ORDERED, ADJUDGED AND DECREED that a Writ of Habeas Corpus be issued directing the Sheriff of Thurston County, Washington or any other peace officer of the State of Washington to locate and take the following child(ren):

_____, born _____;

_____, born _____;

_____, born _____;

_____, born _____;

into immediate custody and to deliver said person as soon as reasonably possible to the Thurston County Superior Court, State of Washington, at the Thurston County Family and Juvenile Court Building, 2801 – 32nd Avenue SW, Tumwater, Washington. It is further

ORDERED, ADJUDGED AND DECREED that said officers may arrest any individual who stands in the way or obstructs their rightful attempts to obtain the immediate custody of said child(ren) above-named; and it is further

ORDERED, ADJUDGED AND DECREED that in the event the Thurston County Superior Court is not in session at the time said children are placed into custody, said officers shall place the said child(ren):

_____, born _____;

_____, born _____;

_____, born _____;

_____, born _____;

into the care and custody of Child Protective Services until the first date court is in session following the date of the recovery of said child(ren); and it is further

ORDERED, ADJUDGED AND DECREED that Child Protective Services shall place said children above-named into protective custody upon request of said peace officers until such time as this matter may be heard in Superior Court of Washington for Thurston County.

Further, the child(ren) shall not be released to any person other than the Thurston County Sheriff or any peace officer in the State of Washington acting in accordance with this order, or upon a Return of Service on this Writ of Habeas Corpus and further order issued from Thurston County Superior Court authorizing the release of said children to the above-named person designated by this Court.

DATED: _____

JUDGE/COMMISSIONER

Presented by:

Signature: _____

(Petitioner's Printed Name):

Address: _____

Phone: _____

EXPEDITE (if filing within 5 court days of hearing)

Hearing is set:

Date: _____

Time: _____

Judge/Calendar: _____

**Superior Court of Washington
County of
Family & Juvenile Court**

In Re the Custody of:

_____, born
_____, born
_____, born
Minor Children,
_____,
Petitioner,

And

_____,
Respondent.

No.

Writ of Habeas Corpus

(WRHC)

(RCW 7.36.190 & 7.36.200)

THE STATE OF WASHINGTON TO: The Sheriff of Thurston County and each And every peace officer in the State of Washington.

YOU ARE COMMANDED TO SECURE custody of the bodies of the minor child(ren):

_____, born _____;

_____, born _____;

_____, born _____;

_____, born _____;

wherever they may be detained and bring said child(ren) before the Presiding Judge of the Superior Court of Washington in and for the County of Thurston in the designated courtroom at the Thurston County Juvenile and Family Court Facility at Tumwater, Washington, to do those things which shall then and there be considered concerning said child(ren).

YOU ARE FURTHER ORDERED to break and enter any outer or inner door or other opening of any building, vehicle, or other enclosure as necessary to secure the bodies of said child(ren):

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

and bring them before this Court.

In the event that the Thurston County Superior Court is not in session at the time the said child(ren) is/are placed into law enforcement custody, the Thurston County Sheriff or any other peace officer in the State of Washington is hereby commanded to place said child(ren):

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

into the care and custody of Child Protective Services until the first date court is in session following the date of recovery of the child(ren).

In the name of the State of Washington, pursuant to the above order, Child Protective Services is hereby commanded to take custody of said child(ren):

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

and place the child(ren) into protective custody until such time as this matter may be heard in the Superior Court of Washington for Thurston County. The child(ren) shall not be released to any

person other than the Thurston County Sheriff or any other peace officer in the State of Washington acting in accordance with this order; or, upon a Return of Service of this Writ of Habeas Corpus, and further order issued from the Thurston County Superior Court authorizing the release of said child(ren) to a person designated by this Court.

WITNESSED: _____
Commissioner/Judge of the Superior Court of the State
Of Washington, in and for the County of Thurston this
_____ Day of _____, 20__.

ATTEST: My hand and seal of said Superior Court
the day and year last written above.

BETTY J. GOULD, Thurston County Clerk

By: _____, Deputy

[] **EXPEDITE** (if filing within 5 court days of hearing)

[] Hearing is set:

Date: _____

Time: _____

Judge/Calendar: _____

**Superior Court of Washington
County of
Family & Juvenile Court**

In Re the Custody of:

_____, born

_____, born

_____, born
Minor Children,

_____,
Petitioner,

And

_____,
Respondent.

No.

**Warrant in Aid of
Writ of Habeas Corpus**

(WARO)

(RCW 7.36.190 & 7.36.200)

THE STATE OF WASHINGTON TO: The Sheriff of Thurston County and each And every peace officer in the State of Washington.

YOU ARE COMMANDED TO SECURE custody of the bodies of the minor child(ren):

_____, born _____;

_____, born _____;

_____, born _____;

_____, born _____;

wherever they may be detained and bring said child(ren) before the Presiding Judge of the Superior Court of Washington in and for the County of Thurston in the designated courtroom at the Thurston County Juvenile and Family Court Facility at Tumwater, Washington, to do those things which shall then and there be considered concerning said child(ren).

IN THE NAME OF THE STATE OF WASHINGTON, YOU ARE HEREBY AUTHORIZED to break and enter any outer or inner door or other opening of any building, vehicle, or other enclosure as necessary to secure the bodies of said child(ren):

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

to the expressed order of this Court, and bring them before this Court.

In the event that the Thurston County Superior Court is not in session at the time the said child(ren) is/are placed into law enforcement custody, the Thurston County Sheriff or any other peace officer in the State of Washington is hereby commanded to place said child(ren):

_____, born _____;
_____, born _____;
_____, born _____;
_____, born _____;

into the care and custody of Child Protective Services until the first date court is in session following the date of recovery of the child(ren).

In the name of the State of Washington, pursuant to the above order, Child Protective Services is hereby commanded to take custody of said child(ren) and place the child(ren) into protective custody until such time as this matter may be heard in the Superior Court of Washington for Thurston County. The child(ren) shall not be released to any person other than the Thurston County Sheriff or any other peace officer in the State of Washington acting in accordance with this order; or, upon a Return of Service of this Writ of Habeas Corpus, and further order issued from the Thurston County Superior Court authorizing the release of said child(ren) to a person designated by this Court.

WITNESSED: _____
Commissioner/Judge of the Superior Court of the State
Of Washington, in and for the County of Thurston this
_____ Day of _____, 20__.

ATTEST: My hand and seal of said Superior Court
the day and year last written above.

BETTY J. GOULD, Thurston County Clerk

By: _____, Deputy