

# Custody for the Non-Biological Parent



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# FIRST STEPS FOR A NON-BIOLOGICAL PARENT SEEKING CUSTODY

**If you are filing a new petition, you may get a blank form from your county's Family Court.** As for the contents of your petition: In order to gain custody in New York State, if you are not a biological parent of a child, you must specify in your petition that **“there are extraordinary circumstances in this case”** that warrant you applying for custody. Then you must state what those extraordinary circumstances are. Then you may file the petition with the court (ask for a copy) and wait to be assigned a court date.

**If you are amending (adding to or correcting) a previously-filed petition,** you need to write an “amended petition” (put that on a new petition form that says: AMENDED PETITION) and then say:

“All of the previous allegations in paragraphs \_\_\_\_\_ through \_\_\_\_\_ in my original petition dated, \_\_\_\_\_ are true, but I would like to amend my petition to allege that there are extraordinary circumstances that warrant me filing for custody. Those are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.”

Extraordinary circumstances might be that you have been the primary caregiver for a significant period of time, or that the biological parent is no longer present (incarcerated, rehab, etc.) Be sure to describe this fully.

If you are a grandparent, and you have taken care of your grandchildren for a period of at least 24 months, the law considers this extraordinary circumstances without more.

**Then take that amended petition to court** on your court date.....go a little bit early so it can be filed and you can get copies, that you can distribute (serve) to all of the parties when you are in court.

**As to whether you will get custody or not, the judge will look at all the factors in the case.** He or she will be looking to see what is in the child's best interest. **That means you will need to prove that you can provide a more stable, consistent, nurturing home, where the child's emotional, financial and educational needs are met best.** If this matter goes to trial, you will need evidence (testimony) from others who can attest to what a good “parent” you would be.

**Despite who has custody, it is very important that he or she is able to provide love and support.**

**All parties in the matter need to set aside any personal issues and rally behind this child as he or she grows up.**