PROCEDURAL GUIDE E-BOOK

Court Procedure for Divorce & Custody

A step-by-step guide on Family Court procedure & process

North Carolina

WRITTEN BY: **TRACEY BEE**

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Strategy is not the consequence of planning, but the opposite: its the starting point.

Henry Mintzberg

WHAT IS NORTH CAROLINA'S FAMILY COURT PROCEDURE?

This purpose of this guide is to familiarize you with the Family Court process and procedure for the state of North Carolina.

Knowing NC's court process and its rules are extremely important.

- **Where do I start?**
- **Is my state's court Pro se friendly?**
- **Are there free resources?**

Court procedure is how a court proceeds on a case from the initial filing to final resolution. Its procedure is usually written in a set of rules or laws that apply based on the type of case. Family Court cases usually follow civil procedure rules set forth by the state's legislative body. In addition, courts usually adopt its own set of local rules that are based on what works best for the specific location. Each court has a different set of needs based on its specific population, its location, its size and so on.

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COURT PROCEDURE

INITIAL PHASE

I. FILING DOCUMENTS:

1. File your papers (Petition) with clerk of your court (specific district). Create an account on the court's portal for e-filing. Once you file, the court will notify you when it was "accepted".

II. SERVICE OF PROCESS:

1. You will need to have the other party "served" in person (except in cases where they have an attorney.) File "proof of service" with the clerk before court date.

III. CALENDAR OF CASE, CASE TRACKING:

1. Your case will be assigned to the court's case tracking system. You should be able to access the portal to check status.
2. All notices for court action will be sent to all the parties (and/or the attorneys) on the case.

COURT PROCEDURE

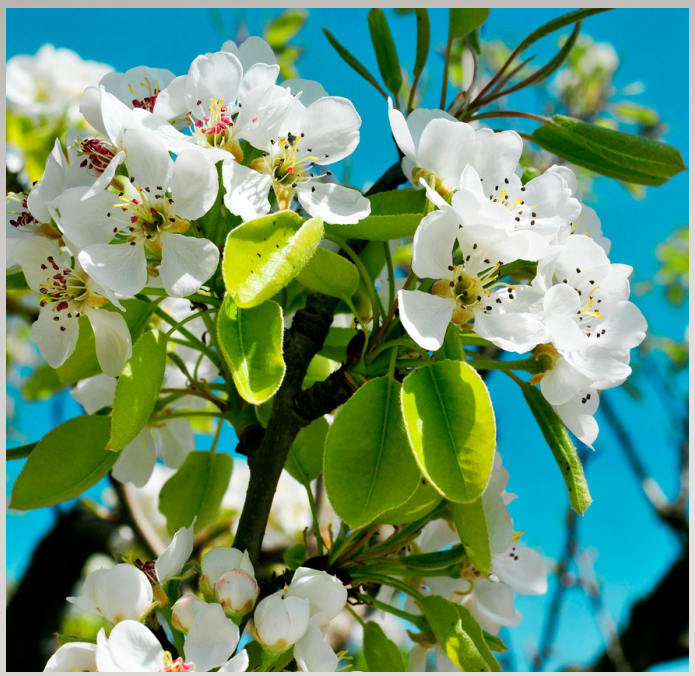
PRE-COURT PHASE

IV. MANDATORY MEDIATION:

1. Most Districts in NC have a mandatory mediation process. Litigants go through Mediation Orientation, then Mediation. ADR is NC's primary goal in all cases, except where domestic violence is present. If successful, the a court order is issued at that point. No further court is necessary.

V. COURT ROUTE:

1. If mediation did not resolve the case, then it's placed on the Court's active calendar. A judge will be assigned and the litigants ordered to complete Parenting Education. Issues of child support or divorce go before a different judge to "hear" them.
2. Judges will do what they can to keep to get prompt resolutions of family law issues. This means they try to get all cases resolved within one year.
3. A Family Court Case Manager will schedule all future appearances.

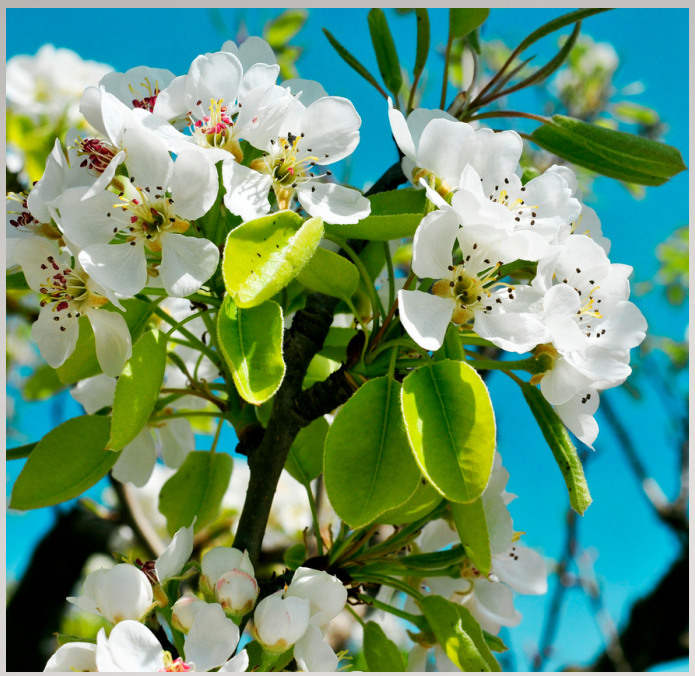


COURT PROCEDURE

COURT PHASE PT.1

VI. INITIAL CONFERENCE:

1. If no temporary orders have been issued yet, this is the time. NC courts aim to have a temp order for custody/visitation in place within 45 days from the date of filing the Petition. This conference is perfect to implement a parenting schedule and/or plan that meets the objectives of all parties involved.
2. The court will attempt to resolve any issue it can but will really focus on identifying issues that were incapable of settling during mediation. At any time, the court can recommend mediation again.
3. The court will also inquire about the parties' intentions to hire an attorney if they haven't already.
4. Although your evidence or proof is not the intention of this court appearance, you should always show the court that you are ready to "settle" the case by having all of your documents, audio, video, pics, etc. with you.



COURT PROCEDURE

COURT PHASE PT.2

VII. STATUS CONFERENCE:

1. The Status Conference is the parties opportunity to discuss recurring issues, unresolved issues and new issues that stem from temporary orders. The purpose is to "check-in" with all parties to see how things are going. Motions are also addressed here.
2. Interim services (like drug testing, psychological examinations, etc.) are usually requested, ordered and/or followed up.
3. Assignment of Guardian ad Litems usually happen at this phase depending on the claims, allegations, etc. of any of the parties. Either party (or their attorney) can request the appointment of a GAL. The GAL fees can be apportioned between both parties or paid by only one. (NC does have a GAL volunteer program available in limited cases.
4. Attorneys and self-represented parties must attend unless waived in advance by the court.

COURT PROCEDURE

COURT PHASE PT.3

VIII. PRE-TRIAL CONFERENCE

1. The Pre-Trial meeting is not the court's aim. NC strongly encourages settlement or resolution of custody cases through means other than trial. But if the case made it to this point, the court will endeavor to narrow the issues for trial down to as few as possible.
2. The court will implement its authority to encourage ADR even at this point. But, it will also use this time to plot out the logistics of trial using the court's timeline.
3. Pre-trial Conferences are required in NC custody cases.
4. The form to place the case on the court's Non-Jury Trial calendar must be filed four weeks before this date.
5. At least 21 days prior to trial date, Plaintiff's attorney shall arrange a pre-trial conference with the Defendant's attorney to be held not later than seven days before trial date. At such conference a pre-trial order shall be prepared and signed by the attorneys.

HELPFUL RESOURCES & INFORMATION:

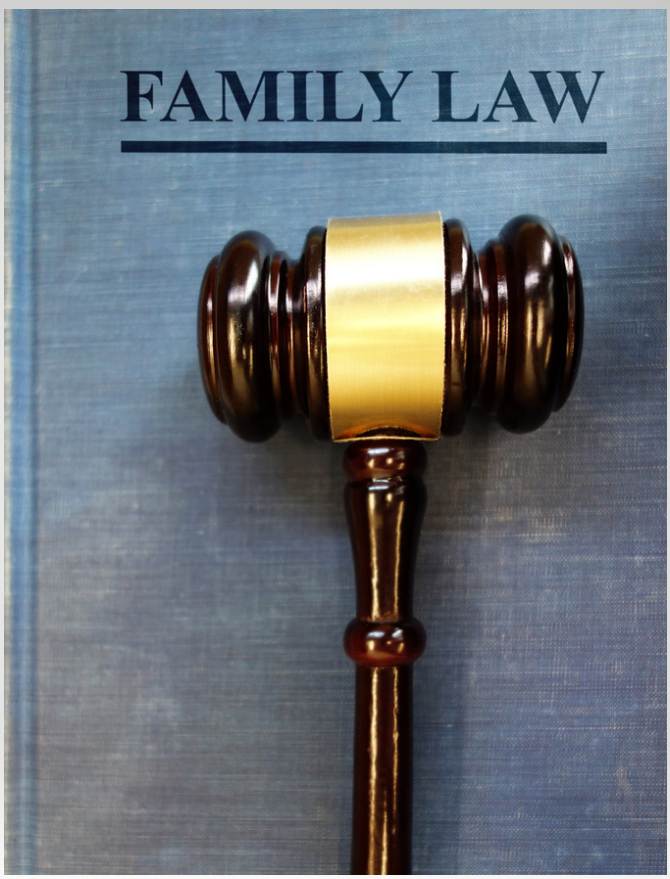
Family Court forms:
https://nccourts.gov/documents/forms

Divorce & Custody laws:
https://www.ncleg./enactedlegislation/statutes/html/bychapter/chapter_50.html

Family Court Civil Procedure laws:
https://www.ncleg.gov/laws/GeneralStatuteSections/Chapter1A

Free Legal Advice:
https://www.lawhelpnc.org

Mediation Program info:
https://www.nccourts.gov/programs/child-custody-and-visitation-mediation-program/child-custody-and-visitation-mediation-program-publications-forms-and-resources



If your case needs specific procedural help...

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