

IN THE _____ DISTRICT JUVENILE COURT,
_____ COUNTY, STATE OF UTAH

<p>_____ Petitioner's Name</p> <p>_____ Street Address</p> <p>_____ City, State, ZIP</p> <p>_____ Date of Birth</p> <p>vs.</p> <p>Division of Child and Family Services, Respondent 195 North 1950 West Salt Lake City, Utah 84116 (801) 538-4100</p>	<p>VERIFIED PETITION AGAINST SUBSTANTIATION IN DCFS LICENSING DATABASE</p> <p>(FORM A)</p> <p>Case No. _____</p> <p>Judge _____</p>
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Petitioner swears that the following is true:

(1) Petitioner received notice on or about _____ that the Division of Child and Family Services had made a supported finding of severe abuse or neglect against the Petitioner, and that Petitioner would be included in the Division of Child and Family Services licensing database. (Attach copy of notice from agency).

(2) Petitioner has **NOT** been subject to any of the following court determinations with respect to the alleged incident of abuse or neglect: conviction; juvenile court adjudication; plea of guilty; plea of guilty and mentally ill; or no contest.

(3) Petitioner challenges the finding made by Division of Child and Family Services, and inclusion in the Licensing Database. Petitioner requests a court hearing because: **[Describe in detail facts which you believe contradict the finding of the Division of Child and Family Services, including what happened, where, who was involved (including minor children and family and household members), and if medical or police intervention was required. Attach relevant medical, dental, or police records.]**

NOTICE OF HEARING

THE STATE OF UTAH, JUVENILE COURT TO THE DIVISION OF CHILD AND
FAMILY SERVICES: You are directed to appear at a hearing and answer the above claim:

On Date: _____ At Time: _____ at

Address: _____

Dated _____, 20 _____
Clerk or Deputy

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this proceeding should call the court clerk at (phone) _____, at least three working days prior to the proceeding.

**SUBSTANTIATION PROCEEDINGS:
INSTRUCTIONS TO THE PETITIONER**

Substantiation proceedings are governed by Utah Code 63-46b-15(2), and 78A-6-323. If you have any questions not addressed in these instructions, refer to the Utah Code. You should be able to locate a copy in your local library, on the State Court Website at <http://www.utcourts.gov> (for procedural rules), or the Legislature’s Website at <http://www.state.le.us> (for the Utah Code).

HOW TO FILE FOR A HEARING

1. FILING SUIT. You are the ‘PETITIONER’ in this case and the ‘RESPONDENT’ is the Division of Child and Family Services. If the judge determines that the finding of the Division of Child and Family Services is “unsubstantiated” or “without merit” as defined in Utah Code 62a-4a-101, the judge will order that your name be removed from the Licensing Information System. In this action, no claims can be made for money. The Juvenile Court has exclusive jurisdiction over substantiation proceedings to make a finding of “substantiated”, “unsubstantiated”, or “without merit”. If the court finds that Division of Child and Family Services claim is unsubstantiated, or without merit, the Court will order Division of Child and Family Services to remove your name from the Licensing Database.

2. COURT HEARING. You must prepare the Petition, sign it in the presence of a notary public or court clerk, have your signature notarized, file it with the court clerk, and pay the filing fee listed on the petition cover sheet. The Petition should be typewritten, but will be accepted if legibly handwritten.

The clerk will set two hearing dates (pre-trial, and adjudicatory hearing) and give you a copy of the **Petition** with the hearing dates on it. The first hearing will be a pre-trial hearing, and is intended for parties to inform the court of the legal and factual issues to be presented at the adjudicatory hearing. Any stipulations or agreements between the parties should be presented at the pre-trial hearing. The second hearing, the adjudicatory hearing, is a trial to resolve all of the legal and factual issues.

If you fail to appear at the hearing, your case may be dismissed “with prejudice” and you may not be able to re-file your claim.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this proceeding should call the court clerk at least three working days prior to the proceeding.

3. SERVICE. Once you receive hearing dates from the court, it is your responsibility to serve notice of the hearings on the Division of Child and Family Services. The Petition must be served on the Division of Child and Family Services at least **45** calendar days before the adjudicatory hearing. You cannot serve the petition yourself. Service can be made in one of two ways:

a) MAIL (with proof of receipt). Mail a copy of the Petition to the Division of

Child and Family Services by registered or certified mail with return receipt requested to be signed by an agent of the Division of Child and Family Services authorized to accept service. If you serve the Respondent by mail, you must fill out and file with the court the **Proof of Service** (Form B). The Proof of Service Form must be filed with the court within 10 calendar days of service and must have the original receipt signed by the Respondent attached.

b) DELIVERY. Have the Petition served on the Division of Child and Family Services by the Sheriff's department, a Constable, or any person regularly engaged in the business of serving process, and pay for the service. You will need to make sure the Petition has been served and proof of the service has been filed with the Court Clerk.

4. POSTPONING THE ADJUDICATORY HEARING. If you want to change an adjudicatory hearing date, you must request a "Continuance." The judge is not obligated to grant you a continuance. Fill out the **Request for Continuance** form available at the court. You must serve a copy of your request for a continuance on the Division of Child and Family Services (see instructions for "Service" above). The court may grant your request if both parties agree, or for good cause. The court must receive your **Request for Continuance** at least five calendar days before the hearing.

5. EVIDENCE AND WITNESSES. **Bring with you to the adjudicatory hearing all witnesses and papers necessary to prove your claim or defense. If you fail to do this, the case may be decided against you.** No later than **30** days prior to the adjudicatory hearing, the parties shall provide to each other information they will rely upon to support their claim or defense. Irrelevant or unduly repetitious evidence will be excluded. Evidence should be offered through the statements of live witnesses at the adjudicatory hearing, or as otherwise permitted by the Utah Rules of Evidence.

If you need the testimony of a witness who will not attend the adjudicatory hearing voluntarily, you should ask the court or your attorney to issue a **Subpoena (Form C)** requiring that person to attend. It is your responsibility to have the **Subpoena** served and to pay the witness fee and service fee. A subpoena must be served at least 5 calendar days before the adjudicatory hearing. You may have a witness appear voluntarily without a subpoena, but the judge will not continue the adjudicatory hearing if the witness fails to appear.

6. FINDINGS AND APPEAL. At the conclusion of the adjudicatory hearing, the judge will make a finding that the determination of abuse or neglect is **substantiated, unsubstantiated, or without merit**. Either party may appeal the findings within 30 calendar days before the Utah Court of Appeals.

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<p>_____ Petitioner's Name</p> <p>_____ Street Address</p> <p>_____ City, State, ZIP Date of Birth</p> <p>vs.</p> <p>Division of Child and Family Services, Respondent 195 North 1950 West Salt Lake City, Utah 84116 (801) 538-4100</p>	<p>PROOF OF SERVICE OF PETITION</p> <p>(FORM B)</p> <p>Case No. _____</p> <p>Judge _____</p>
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Petitioner certifies that the Petition was mailed to the Division of Child and Family Services. The original document acknowledging receipt signed by Respondent is attached to the bottom of this form.

Dated _____, 20 _____

Petitioner

**THIS FORM MUST BE FILED WITH THE COURT
PLEASE FOLLOW THE INSTRUCTIONS THAT ACCOMPANY THIS FORM**

INSTRUCTIONS FOR PROOF OF SERVICE OF PETITION

If you served notice of hearing by mail, you must prove that the Division of Child and Family Services received notice at least 45 calendar days before the adjudicatory hearing. By filing proof of service with the court, you may be able to get a default judgment if the representatives of the Division of Child and Family Services do not appear for the hearing.

The Proof of Service (Form B) must be filed with the court within 10 days of service. To do so, you must provide the document (not a copy) signed by the other party indicating receipt. The document must show the date that the Division of Child and Family Services received the **Petition**. This document must be attached to the bottom left corner of the **Proof of Service** form in a way that still allows anything under the document to be seen (for example, staple only along left margin). If the document covers more than half the page, attach document to 8 x 11 paper and staple behind **Proof of Service**. The Respondent must sign the document indicating receipt.

If you choose to serve the Affidavit or Counter Affidavit by mail, and do not show the court that the other party got the required notice, you will not be able to get a default judgment if the other party does not appear for trial.

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To: _____

YOU ARE COMMANDED TO appear in the _____ Juvenile Court at the place, date and time specified to testify in the above case.

ISSUING OFFICER'S SIGNATURE AND TITLE DATE
(INDICATE IF CLERK, OR ATTORNEY FOR PLAINTIFF OR DEFENDANT)

**THIS SUBPOENA MUST BE SERVED
PLEASE FOLLOW THE INSTRUCTIONS THAT ACCOMPANY THIS FORM**

NOTICE TO PETITIONERS ARRANGING TO SERVE A SUBPOENA

Service of subpoena shall be made as provided in the instructions for the service of process above AND if the person's appearance is commanded, **by tendering (e.g., attaching a check or other form of payment) to that person of the fees** for one day's attendance and the mileage allowed by law.

NOTICE TO PERSONS SERVED WITH A SUBPOENA

This subpoena commands you to appear to give testimony at a hearing, and you must appear in person at the place designated in the subpoena.

You have the right to object if the subpoena:

- a. imposes an undue burden or expense upon you; OR
- b. does not allow you a reasonable time to comply, which may be less than 14 days, depending on the circumstances.

To object to complying with the subpoena, you must file with the court issuing the subpoena a motion to quash or modify the subpoena. You must comply with the subpoena unless you have obtained a court order granting you relief from the subpoena.

(Note: This form is for a subpoena commanding a person's appearance at a hearing to testify. For a subpoena allowing for depositions, or review of records, please consult Form 40 of the Utah Rules of Civil Procedure.)

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