

INSTRUCTIONS

CUSTODY COMPLAINT

IT IS STRONGLY RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

DISCLAIMER

THE STAFF IN ANY COURT OFFICE ARE UNABLE TO GIVE YOU LEGAL ADVICE. THE INFORMATION IN THE PACKETS IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE. THE COURT ASSUMES NO RESPONSIBILITY AND ACCEPTS NO LIABILITY FOR ACTIONS TAKEN BY USERS OF THESE DOCUMENTS, INCLUDING RELIANCE ON THEIR CONTENTS. IF YOU WANT TO OBTAIN THE SERVICES OF AN ATTORNEY BUT DO NOT KNOW WHOM TO CONTACT, YOU MAY CALL THE DELAWARE COUNTY LAWYER REFERRAL SERVICE AT 610-565-6625.

INSTRUCTIONS FOR FILING A CUSTODY COMPLAINT

PLEASE TAKE THE TIME TO READ THESE INSTRUCTIONS CAREFULLY BEFORE FILING A CUSTODY COMPLAINT

IF YOU HAVE A CUSTODY ORDER IN PLACE, DO NOT USE THESE FORMS. YOU MUST USE THE FORMS FOR THE MODIFICATION OF AN EXISTING CUSTODY ORDER

A. OVERVIEW OF PENNSYLVANIA CUSTODY LAW

1. Child support payments and custody arrangements are **separate**. For example, a parent who does not pay child support may still have a right to visit the child(ren). You must separately file for child support. Child support matters are handled through the Domestic Relations Office, Curran Building, 2nd and Orange Streets, Media, PA 19063.
2. In child custody matters, the courts will focus on the **“best interest of the child.”** In general, both parents have a right to have a relationship with their child. A parent who does not have primary physical custody will usually have partial custody, shared custody, visitation, or supervised visitation (when a parent visits the child under the supervision of another care provider).
3. A **court order** is not needed if you are satisfied with the current arrangement. Without a court order, both parents have equal rights to custody and either parent can lawfully take physical custody of the child at any time. The situation can be flexible. With a court order, either parent who disobeys the custody order may be held in contempt of court, charged with a crime, fined, or jailed. With a court order, you gain some certainty but lose flexibility.
4. **A custody complaint should be filed in the county where the child(ren) has/have resided for the previous six (6) months.**
5. If there is a health and safety issue involving the child(ren), a parent may file an Emergency Petition for Special Relief along with the Custody Complaint. **However**, please carefully consider this before doing so. Not every custody dispute is an “emergency” and simply alleging that the other parent has the child(ren) and will not permit the other parent to see the child(ren) **DOES NOT** constitute an emergency. Only when there are serious, factually-provable risks to the health and safety of the child(ren) will the court consider granting any type of relief before the parties appear before the Custody Conference Officer.

B. STEPS IN THE CUSTODY PROCESS

PLEASE NOTE:

IF YOU DO NOT HAVE AN ADDRESS FOR ANY OF THE OTHER PARTY(IES), YOU SHOULD NOT FILE THESE FORMS BUT CONSULT AN ATTORNEY TO LEARN ABOUT OTHER OPTIONS.

ALL BIOLOGICAL PARENTS MUST BE NAMED AS A PARTY TO THE ACTION UNLESS A PARENT IS DECEASED, THEIR PARENTAL RIGHTS HAVE BEEN TERMINATED BY AN ORDER OF COURT OR THE IDENTITY OF THE BIOLOGICAL PARENT IS UNKNOWN.

1. **Read the instructions carefully and print legibly.**
2. Complete the Custody Complaint.
3. Make two (2) copies of the completed form. Therefore, you will have three (3) total (the original and two (2) copies).
4. Take the original and the copies to the Delaware County Office of Judicial Support, which is located on the first floor of the Delaware County Courthouse, 201 West Front Street, Media, PA 19063.
5. The Office of Judicial Support will date stamp your forms. The Office of Judicial Support will keep the original and one (1) copy and give you one copy for your records.
6. The filing fee for the custody complaint is \$225.50 (payable by cash, certified check or money order made payable to the Office of Judicial Support). If you do not think that you can afford the filing fee, you may file a Petition to Proceed In Forma Pauperis (IFP) (see Self Help Center In Forma Pauperis forms and instructions)
7. The Office of Judicial Support will forward the original custody complaint to the Court Administrator's Office for assignment to a Custody Conference Master. Delaware County has 3 Custody Conference Masters who are attorneys that meet with all parties in order to try to work out a custody schedule so that a trial before a judge is not necessary. The child(ren) should not attend this conference unless specifically requested by the Conference Master. The Custody Conference Master will schedule the conference.

8. Once the conference is scheduled, you will receive a copy of the scheduling order in the mail which indicates the date, time and location of the custody conference and will need to notify all parties by certified mail, restricted delivery, return receipt requested.

9. **CUSTODY CONFERENCES**

- The conferences are held at the Delaware County Courthouse.
- **Please be aware that although you may have decided to proceed without an attorney, the other party(ies) may attend the conference with an attorney.**
- At the custody conference, you and the other party(ies) and their attorney, if they have one, will meet with the Custody Conference Master. The Custody Conference Master will try to help you reach an agreement about the legal and physical custody of your child(ren).
- Remember to concentrate on what is in the child(ren)'s best interest. Please do not bring up issues that you may have with the other parent as this is the time for both parents to work together to decide what the best custodial arrangement is to enable your child(ren) to grow and mature in a stable, healthy, and happy environment. You want your child(ren) to have the best childhood possible. You must put aside your differences with the other parent and really concentrate on your child(ren).
- This conference is **your** opportunity to be actively involved in establishing a custody schedule. If you cannot come to an agreement, the Custody Conference Master will send this matter to court which means that you will have a trial before a judge who **will** make the decision for **you** regarding the custody of your child(ren).
- Plan to arrive 15 minutes before the scheduled conference.
- Wear appropriate clothing, be polite, and try to be positive and willing to cooperate in order to work out a custody schedule.
- Be ready to discuss the case in a mature and flexible manner.
- Try to respect the other party's position and do your best to work out an agreement that reflects not so much your best interest or the interests of the other parent but the **best interest of the child(ren)**.
- You have an obligation to your child(ren) to approach the conference in a

reasonable manner. Hurtful talk and abusive language hinder the process.

10. **TRIAL BEFORE A JUDGE**

- REMEMBER, if you do not reach an agreement before the Custody Conference Master, the matter will be scheduled for a **TRIAL** before a **JUDGE**.
- If this happens, **YOU SHOULD HIRE AN ATTORNEY**.
- If you choose to represent yourself, you will be held to the same standard as an attorney. This includes being fully aware of the applicable statutes, rules of civil procedure, and rules of evidence.
- You are cautioned that your failure to properly present your case and to present legally sufficient evidence may severely affect your rights in this matter.
- It is not function of the court, nor is the court permitted to present the case on behalf of a party. It is the sole responsibility of each party to properly and adequately present their case to the court in accordance with the law and the rules of evidence and procedure.
- The court **will not** act as an attorney for either party nor conduct the questioning of any witnesses nor offer any advice or suggestions to either party as to how to proceed.
- Again, if your case proceeds to a trial before a judge, it is **STRONGLY RECOMMENDED** that you hire an **ATTORNEY** to represent you.

C. INSTRUCTION FOR EACH FORM

For all forms:

PRINT NEATLY - MAKE SURE THE COURT WILL BE ABLE TO READ WHAT YOU HAVE WRITTEN.

Fill in ALL blank lines.

Form #1 - Order of Court - This form should be placed on top.

Fill in your name as the Plaintiff and the other party(ies) as the Defendant. Include middle initials. Use the same names throughout the forms.

The Office of Judicial Support will write in the docket number on the right side of the caption.

Do **NOT** fill in any other blank lines on this form.

Form #2 - Custody Complaint - This form goes after the Order of Court.

On the five (5) blank lines in the top left corner fill in:

Your name.

Address.

City, State and Zip Code.

Phone Number.

E-mail address (if you have one).

Fill in the Plaintiff's and Defendant's names as you did on the Order of Court form.

The Office of Judicial Support will write in the docket number on the rights side of the caption.

1. Fill in your name and complete address.
2. Fill in the name(s) and address(es) of the other party(ies).
- 3a. **Circle** primary custody, partial custody, shared custody, or visitation to indicate what you are seeking. **List** the names, addresses, and birth dates of the child(ren) for whom you are seeking primary custody, partial custody, shared custody, or visitation. If you need more room, use the bottom of the page.
- 3b. **Circle** was/were or was not/were not to indicate if the parents were married when the child(ren) was/were born.

Enter the name of the person the child(ren) are presently living with, and that person's address.

List all the places the child(ren) have lived in the last five (5) years (or if they are younger than five (5) years old, since their birth). **Start with the most recent place and go backwards. The child(ren)'s current residence should be listed first.** If you don't remember exact dates, try to remember the month and year. Also, give the names of all the people who have lived in each of the households. If you need more room, use the bottom of the page or another sheet of paper.

3c. Give the name and address of the child(ren)'s mother. **Circle** whether she is single, married, or divorced.

Give the name and address of the child(ren)'s father. **Circle** whether he is single, married, or divorced.

4. You are the Plaintiff. **Circle** whether you are the mother or father. If you are not the mother or father of the child(ren), explain your relationship to the child(ren). Then list the people you live with and **your** relationship to them.

5. The other party is the Defendant. Circle whether that party is the father or mother. If the Defendant is not the mother or father of the child(ren), explain the Defendant's relationship to the child(ren). Then list the people she/he lives with and their relationship to each other.

6a. Have you ever participated:

As a party,

As a witness, or

In any other way,

in any litigation concerning the custody of the child(ren) in any court proceeding (in this court or in any other court)? If you answer **Yes**:

Circle has in the first line and explain on the lines below on the form.

If you answer **No**:

Circle has not in the first line.

6b. Do you have any information of a custody proceeding concerning the child(ren) pending in any court anywhere (in Pennsylvania or a court in any other state)? If you answer **Yes**:

Circle has in 6(b), and explain on the lines below on the form.

If you answer **No**:

Circle has no in 6(b).

6c. Do you know of any person other than you or the Defendant who has physical custody of the child(ren) or claims to have custody or visitation rights with respect to the child(ren)? If you answer **Yes to either questions**:

Circle knows in 6(c), and explain on the lines below on the form.

If you answer **No to both questions:**

Circle does not know in 6(c).

IMPORTANT: If a case involving the child(ren) has already been filed, you will have to ask for a modification of the order. IF THAT IS THE SITUATION, DO NOT USE THESE FORMS BUT SEE THE SELF HELP PETITION FOR MODIFICATION OF AN EXISTING CUSTODY ORDER FORM. If there is a court order, you may have to ask the court to let you join as a party to that case instead of filing a new custody action.

7. Explain why you think the child(ren) would be better off with you. Are you the primary caretaker of the child(ren), and/or does the child(ren)'s other parent have an unsuitable lifestyle for the child(ren)? Briefly give a reason. Do not say something you are unable to prove. Also, remember that the other parent will always have some contact with the child(ren), unless you are able to prove that she/he is truly dangerous to the child(ren).
8. Make sure both parents and anyone else who has actual (physical) custody of the child(ren) are named as either Plaintiff or Defendant.

In the next paragraph, **circle** whether you want (primary custody), (partial custody), (shared custody), or (visitation).

Sign your name and include your telephone number in case the Conference Master has any questions.

FORMS

CUSTODY COMPLAINT

***IT IS STRONGLY RECOMMENDED THAT YOU CONSULT
AN ATTORNEY***

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**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
COVER SHEET - NOTICE OF FILING OF MOTION OR PETITION UNDER
LOCAL RULES OF CIVIL PROCEDURE**

CASE CAPTION:

CIVIL CASE NO.

NATURE OF MATTER FILED: (please check one)

- Petition Pursuant to Rule 206.1 Response to Petition Motion for Judgment or Pleadings Pursuant to Rule 1034(a)
- Motion Pursuant to Rule 208.1 Response to Motion Summary Judgment Pursuant to 1035.2
- X Family Law Petition/Motion Pursuant to Rule 206.8 Complaint for Custody

A motion or petition was filed in the above captioned matter on the ___th day of _____, _____, which:

Requires you, Respondent, to file an Answer within twenty (20) days of the above date to this notice, or risk the entry of an Order in favor of the Petitioner. Answers must be filed and time stamped by the Office of Judicial Support by 4:30 PM on the following date _____.

Requires you, Respondent, to appear at a hearing/conference on the day of _____ at _____ in Courtroom _____, Delaware County Courthouse, Media, Pennsylvania. At this hearing/conference you must be prepared to present all testimony and/or argument, and must ensure that your witnesses will be present.

Was timely answered, thus requiring the scheduling of the following hearing in the above captioned matter on: _____, _____ at 10:00 AM in Courtroom _____. **You, Petitioner/Movant**, are responsible for notifying all interested responding parties of this hearing date at least ten (10) days prior thereto.

At this hearing, all parties must be prepared to present all testimony and/or argument and must ensure that **their witnesses will be present**.

Qualifies as an Uncontested Motion or Petition, and as such requires neither an answer from the Respondent nor the scheduling of a hearing in this matter.

Has been assigned to Judge _____

FOR OFFICE USE ONLY

Mailing date:

Processed by:

Name: _____
(Your Name)

Address: _____
(Your Address)

City: _____, PA Zip: _____

Telephone: _____
(Your Telephone Number)

Email: _____
(Your Email Address)

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff (Your Name)	:	OF DELAWARE COUNTY, PA
	:	
vs.	:	NO.
	:	
_____	:	
Defendant (Name of All Other People who have	:	IN CUSTODY
Custody Rights)	:	

RULE

AND NOW, to wit this _____ day of _____, 200__, upon motion of _____, Plaintiff, a Rule is entered upon the Defendant to show cause, if any he/she may have, why the relief requested should not be granted.

RULE RETURNABLE the _____ day of _____, 200__, in Courtroom No. _____ at _____ a.m., Delaware County Courthouse, Media, Pennsylvania, 19063.

BY THE COURT:

J.

Name: _____
(Your Name)

Address: _____
(Your Address)

City: _____, PA Zip: _____

Telephone: _____
(Your Telephone Number)

Email: _____
(Your Email Address)

_____,
Plaintiff (Your Name)

vs.

_____,
Defendant (Name of All Other People who have
Custody Rights)

: IN THE COURT OF COMMON PLEAS
: OF DELAWARE COUNTY, PA
:
: NO.
:
: IN CUSTODY
:

ORDER

AND NOW, to wit this _____ day of _____, 200____, it is hereby

ORDERED and DECREED that the Complaint for Custody is hereby GRANTED.

J.

Name: _____
(Your Name)

Address: _____
(Your Address)

City: _____, PA Zip: _____

Telephone: _____
(Your Telephone Number)

Email: _____
(Your Email Address)

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff (Your Name)	:	OF DELAWARE COUNTY, PA
	:	
vs.	:	NO.
	:	
_____	:	
Defendant (Name of All Other People who have	:	IN CUSTODY
Custody Rights)	:	

ORDER OF COURT

YOU, _____, DEFENDANT, HAVE BEEN SUED IN COURT FOR COMPLAINT FOR CUSTODY OF THE CHILD(REN).

YOU ARE ORDERED TO APPEAR IN PERSON AT THE DELAWARE COUNTY COURTHOUSE, MEDIA, DELAWARE COUNTY, PENNSYLVANIA ON THE ____ DAY OF _____, 200__ AT _____, __.M., FOR:

___ A CONCILIATION OR MEDIATION CONFERENCE.

___ A PRETRIAL CONFERENCE.

___ A HEARING BEFORE THE COURT.

IF YOU FAIL TO APPEAR AS PROVIDED BY THIS ORDER OR TO BRING THE CHILD, AN ORDER FOR CUSTODY, PARTIAL CUSTODY OR VISITATION MAY BE ENTERED AGAINST YOU OR THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
DELAWARE COUNTY BAR ASSOCIATION
FRONT AND LEMON STREETS
MEDIA, PENNSYLVANIA 19063
610-566-6625**

AMERICANS WITH DISABILITIES ACT OF 1990

THE COURT OF COMMON PLEAS OF DELAWARE COUNTY IS REQUIRED BY LAW TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT OF 1990. FOR INFORMATION ABOUT ACCESSIBLE FACILITIES AND REASONABLE ACCOMMODATIONS AVAILABLE TO DISABLED INDIVIDUALS HAVING BUSINESS BEFORE THE COURT, PLEASE CONTACT OUR OFFICE. ALL ARRANGEMENTS MUST BE MADE AT LEAST 72 HOURS PRIOR TO ANY HEARING OR BUSINESS BEFORE THE COURT. YOU MUST ATTEND THE SCHEDULED CONFERENCE OR HEARING.

BY THE COURT:

DATED: _____

J.

Name: _____
(Your Name)

Address: _____
(Your Address)

City: _____, PA Zip: _____

Telephone: _____
(Your Telephone Number)

Email: _____
(Your Email Address)

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff (Your Name)	:	OF DELAWARE COUNTY, PA
	:	
vs.	:	NO.
	:	
_____	:	
Defendant (Name of All Other People who have	:	IN CUSTODY
Custody Rights)	:	

COMPLAINT FOR CUSTODY

1. The Plaintiff(s) is/are _____, an adult individual who is residing at
(Your Name)

_____, _____, _____ County, PA _____.
(Street Address) (City) (County) (Zip Code)

2. The Defendant(s) is/are _____, an adult
(Name of All Other People Who Have Custody Rights)

individual who is residing at _____, _____,
(Street Address) (City) (County)

County, PA _____.
(Zip Code)

3(a). Plaintiff seeks (**CIRCLE ONE**) (primary custody) (partial custody) (shared custody)
(visitation) of the following child(ren):

<u>Name(s) of Child(ren)</u>	<u>Present Residence</u>	<u>Date of Birth</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3(b). The child(ren) (was/were) (was not/were not) born out of wedlock. The child(ren) are presently in the custody of _____, who resides at
 (Name of Person)

_____, PA. His
 (Address) (City)

or her relationship to the child(ren) is _____.
 (Relationship to Child(ren))

During the last five years the child(ren) have resided with the following persons at the following addresses:

<u>List All Person</u>	<u>List All Addresses</u>	<u>Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3(c). The Mother of the child(ren) is _____, currently residing at
 (Name of Mother)

_____, PA. She is **(CIRCLE ONE)**
 (Address of Mother) (City)

(married) (divorced) (single).

The Father of the child(ren) is _____, currently residing at _____,

Father)

(Name of Father)

(Address of

_____, PA. He is (**CIRCLE ONE**) (married) (divorced) (single).
(City)

4. The relationship of Plaintiff to child(ren) is that of (**CIRCLE ONE**) (Mother) (Father)
(Other): If Other, explain:_____.

The Plaintiff currently resides with the following persons:

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____
_____	_____

5. The relationship of Defendant to the child(ren) is that of (**CIRCLE ONE**) (Mother)
(Father) (Other): If Other, explain:_____.

The Defendant currently resides with the following persons:

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____
_____	_____

6(a). Plaintiff (**CIRCLE ONE**) (has) (has not) participated as a party or witness, or in another
capacity, in other litigation concerning custody of the child(ren) in this or another court. The
court, term, number, and its relationship to this action is:

6(b). Plaintiff (**CIRCLE ONE**) (has) (has no) information of a custody proceeding concerning the child(ren) pending in a court of this Commonwealth or any other state. The court, term, number, and its relationship to this action is:

6(c). Plaintiff (**CIRCLE ONE**) (knows) (does not know) of a person not a party to the proceedings who has physical custody of the child(ren) or claims to have custody or visitation rights with respect to the child(ren). The name and address of such person is:

7. The best interest and permanent welfare of the child(ren) will be served by granting the relief requested because **(set forth facts showing that the granting of the relief requested will be in the best interest and permanent welfare of the child(ren)):**

(Explain in Detail What Custody Arrangement You Want and Why)

8. **Each parent whose parental rights to the child(ren) have not been terminated and the person who has physical custody of the child(ren) have been named as parties to this action.** All other persons, named below, who are known to have or claim a right to custody or visitation of the child(ren) will be given notice of the pendency of this action and the right to intervene:

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

Wherefore, plaintiff requests the court to grant (**CIRCLE ONE**) (primary custody) (partial custody) (shared custody) (visitation) of the child(ren).

I verify that the statements made in the Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

Signature of Plaintiff (Your Signature)

Telephone Number of Plaintiff
(Your Telephone Number)

Name: _____
(Your Name)

Address: _____
(Your Address)

City: _____, PA Zip: _____

Telephone: _____
(Your Telephone Number)

Email: _____
(Your Email Address)

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff (Your Name)	:	OF DELAWARE COUNTY, PA
	:	
vs.	:	NO.
	:	
_____	:	
Defendant (Name of All Other People who have	:	IN CUSTODY
Custody Rights)	:	

PETITION TO MODIFY CUSTODY

AND NOW comes Petitioner, _____, who hereby avers as follows:
(Your Name)

1. The Petitioner is _____, Plaintiff/Defendant in the above custody matter.
(Your Name)
2. The Respondent is _____, Plaintiff/Defendant in the above custody matter.
(Other Party)
3. The parties are the parents of ___ minor child(ren): _____.
(Names of Child(ren))
4. The parties currently share joint physical custody pursuant to an Agreement dated _____.
(Date of original Order) A copy of said Agreement is attached hereto and incorporated by reference as Exhibit "A".
5. The Petitioner seeks to modify the prior custody order for the following reasons:

a.

b.

c.

WHEREFORE, Petitioner seeks an Order setting forth _____

(What is being requested)

Respectfully submitted,

Petitioner
(Your Name)

VERIFICATION

I, _____, verify that the statements made in this
_____ are true and correct. I understand that false
statements herein are made subject to the penalties of 18 Pa. C.S.A. §4909 relating to unsworn
falsification to authorities.

Date: _____

CERTIFICATE OF SERVICE

I, _____, hereby certify that I caused a true and correct
(Your Name)

copy of _____ to be served by U.S. Mail
(Petition filed)

upon the following persons on the date indicated below:

Name of person or persons serving

Date: _____
Your Name