



LYCOMING COUNTY

**COMPLAINT
FOR CUSTODY
SELF-HELP KIT**

REMEMBER

The law often changes. Each case is different. This self-help kit is meant to give you general information and not to give you specific legal advice.

Non-Refundable

GENERAL INTRODUCTION

The information, forms, and instructions in this packet will allow you to file the appropriate documents in order to ask for physical custody of your child or children, or to ask for periods of partial custody/visitation with them (times that the children spend with you, according to a particular schedule). When you file for something "on your own" with no attorney representing you, it is called "filing pro se."

BEFORE YOU DECIDE TO FILE

There are some points to consider before you make the decision to file for custody.

1. If there is already a Custody Order, you can petition Family Court to modify that order using a Petition to Modify an Existing Order. Use the same caption of the previous Order. Request that a conference be scheduled. You can do this pro se (on your own), and forms are available at North Penn Legal Services, 329 Market Street, Williamsport, PA 17701.
2. If you and the other parent are pretty much in agreement about custody and visitation, you can file a Stipulation which includes your agreement. After you file it, you will get a Court Order signed by a Judge which confirms your agreement. You can do this pro se (on your own), and forms are available at North Penn Legal Services, 329 Market Street, Williamsport, PA 17701.
3. If the child or children live with you, and the other parent doesn't spend much time with them, that may change if you decide to "go to court." Sometimes when a parent files in order to obtain a Custody Order, the other parent comes to the Family Court Conference and expresses an interest in having a schedule of partial custody which he or she has not formerly expressed. The Family Court Hearing Officer will generally give that parent a regular schedule of partial custody, unless there is a Children and Youth recommendation or a psychologist's report which would restrict the parent's contact with the children. Even if there is a Protection Order because the father has abused the mother, this will usually not restrict the father's right to partial custody. Therefore, you may want to delay filing anything if things are satisfactory without an Order.

PLEASE READ ALL INSTRUCTIONS AND INFORMATION BEFORE BEGINNING TO FILL OUT THE FORMS!

PLEASE READ ALL DOCUMENTS AFTER COMPLETING THEM, BEFORE SIGNING THEM, TO BE SURE THEY ARE COMPLETE AND TRUTHFUL!

CUSTODY TERMS

- LEGAL CUSTODY** - The legal right to make major decisions affecting the best interest of a minor child, including, but not limited to, medical, religious, and educational decisions.
- PHYSICAL CUSTODY** - Actual physical possession and control of the child.
- SHARED CUSTODY** - An Order awarding shared legal or shared physical custody, or both, of a child in such a way as to assure the child of frequent and continuing contact with and physical access to both parents..
- VISITATION** - The right to visit a child. The term does not include the right to remove a child from the custodial parent's control.

MYTHS AND REALITIES

MYTH: The father is the parent responsible for supporting the child.

REALITY: The law states that both parents have an equal obligation to support their children; however, the amount of the support obligation depends on many factors. The most important factor is the income of each parent. If the parties fail to agree to the amount of support each shall pay, the court, after taking evidence to a Hearing Officer, will make a recommendation. Child support orders may always be modified. If either party suffers a substantial change in his/her financial or employment status, the court will review the parties'

situations and may enter a new order which could increase or decrease either party's obligation. A child's right to support is an important legal right and should be protected vigorously.

MYTH: If a parent does not pay child support, then that parent does not have a right to spend time with the child.

REALITY: It is important for parents to understand that child support and the parental rights of custody are generally viewed as separate issues by the court. Where support payments are not being made because visitation is being withheld, the child is the one to suffer. A parent should not deny the non-custodial parent the right of visitation because they are behind in their support payments. The court will not prevent a parent from seeing a child just because the parent has not made support payments.

MYTH: If the child is living with the mother, and the mother and father have never been married, the mother has legal custody of the child and the father cannot take the child.

REALITY: Without a court order for custody, each parent has an equal right to have the child live with her/him and to make decisions about the child. A parent does not have legal custody of a child just because the child is living with her/him. Legal custody requires a custody order from a court giving the person the right to make decisions about the child. A custody order spells out specific rights and responsibilities about physical custody, visitation, and decision-making for the child. There are various types of custody, including: legal custody, physical custody (actual physical possession and control of the child), partial custody (the right to take the child away from the custodial parent for a period), and visitation (the right to visit the child, usually under supervision). (Please see the definitions of custody terms immediately preceding this section.) It is important for any custody agreement to be entered as a Court Order.

MYTH: The mother will always be given custody of a young child, even if it is up to the court to decide.

REALITY: The court will award custody to either the mother or the father after considering what is in the "best interests of the child." Courts do not base the decision on how angry or bitter the parents are toward each other. The court determines the custody award based on what is in the best interests of the child.

MYTH: Once a court order is obtained regarding custody, it can never be changed.

REALITY: A court decision about custody may be changed by the court at any time, if one of the parents petitions to modify the court order, and if there is some reason to do so.

MYTH: If one parent has custody of the child, that parent can deny visitation to the other parent if they so desire.

REALITY: Even though one parent may have primary custody, the other parent is granted, except under unusual circumstances, partial custody rights. Although many custodial parents often express their desires that the non-custodial parent be denied contact "because he's always drunk and high," or, "because she's living with another man," such reasons alone will not be legally sufficient to eliminate

a parent's right to be with her/his child. Only if it can be shown that a parent's addiction or tendency to physical violence or emotional instability, will have or has had a harmful effect upon the child, will the non-custodial parent's rights be limited. Usually, expert professional evidence is required to justify such a determination. The courts do, however, have the discretion to place conditions upon a person's right to spend time with the child. If, indeed, the court has evidence that the non-custodial parent may harm the child or act improperly toward the child, the court may restrict the visitation to a supervised setting.

MYTH: If there is a Custody Order which does not address relocation or change of school district. A parent with physical custody can relocate without court's permission.

REALITY: A parent with a Custody Order in place cannot relocate the child out of the county, state, country, or to another school district without permission of the Court.

INSTRUCTIONS

COMPLETING THE COMPLAINT FOR CUSTODY

FIRST DOCUMENT - MOTION COVER SHEET

Complete caption (heading) by printing clearly (DO NOT WRITE): You are the Plaintiff and the other party is the Defendant. Use middle initials, spell correctly, and print neatly or type.

SECOND DOCUMENT - ORDER AND NOTICE

Caption should be completed as on first document cover sheet. **Complete the first three lines on the Order** by printing the Defendant's name in the first blank and the child or children's names in the second blank.

(Do not do anything further on this sheet.)

THIRD DOCUMENT - COMPLAINT FOR CUSTODY

_____(Caption should be completed as on first document – cover sheet.) The numbers below correspond with numbers on the Complaint.

- ____ 1. Print your name and your correct address.
2. Print the other party's name and correct address. **Note:** If grandparents or other third parties are involved, there will be more than one Defendant, as both parents must always be parties. Simply add in additional phrases such as "Defendant John Doe is the paternal/maternal grandparent."
3. Read the list of statements {(a), (b), (c), (d) & (e)}. Check each line space that applies and fill in appropriate dates and counties. You may check more than one statement.
4. Print the appropriate word to show which party is mother and which is father. List all children's full names, dates of birth and present ages. If there are more than four children, list others on back of sheet. If no more than four, cross out (Over) which is printed below the four lines.
5. Print the appropriate word to reflect with whom the children presently live. Then give the required information about the children's residences. You must describe where and with whom the children have lived, for the past five years (or since birth, if younger than five years). List addresses in chronological order, beginning with earliest date. You may list a town and state if it is not in Lycoming County (no street address). If in Lycoming County, you should

include the street address and town. You should include the dates at each residence as closely as you are able. Use the back of the sheet if necessary. If you do not use the back, cross out (OVER). See example below:

<u>People in that home</u>	<u>Address</u>	<u>Dates</u>
Plaintiff & Defendant	123 Broad Street Montoursville, PA	6/87 to 7/89
Plaintiff	R.D. #4 Montgomery, PA	7/89 to 12/91
Plaintiff & present husband	2800 West 2nd St. Williamsport, PA	12/91 to present

6. Part 6 contains information as to any prior or other pending custody actions. Be sure to attach previous Orders. The **first section** refers to any prior custody hearings. Check "yes" or "No". If you check "yes", complete the blanks as indicated. The **second section** refers to any pending action in Pennsylvania. If you know of any other custody action involving the children, you must complete this section. If you check "no", then you do not give any further information. The **third section** refers to any other persons who have custody or have had custody for a period of time in the past. If you check "no", then you do not give any more information. If someone other than the Plaintiff or Defendant has had custody for a period of six months or more during the past five years, you should check "yes" and give the name and address of that person on the blank line.
7. Print "physical custody" if you want the children to live with you or if you want periods of time when the children are with you (weekends, holidays, etc.). In addition, print legal custody if you want the right to make major decisions affecting the best interest of the minor child, including, but not limited to, medical, religious, and educational decisions.
8. The purpose of this part is to be sure that notice will be given to all people who are required to be notified. Check all statements which apply.

In the "**WHEREFORE**" statement, print "physical and/or legal" (the same as you did in No. 7).

Sign the Complaint on the first line and print your name on the line below.

Sign the verification at the end. Complete the caption on the verification sheet. You are subject to penalties if you include false information in the Complaint.

MAKE SURE ENTIRE FORM IS COMPLETED. DO NOT LEAVE ANY SECTIONS BLANK. DOCUMENT WILL BE RETURNED BY COURT IF NOT COMPLETED.

COPIES

After you have completed the forms, clip them together in order, with the Order and Notice on the front. You will then need to get copies made. You need a copy for yourself, one for the Defendant, one for any additional Defendant, and one for the Prothonotary. After you have copies made, staple them in order. ***NOTE:** You will want to wait to make copies, if you are also filing a request to proceed without paying costs. After you complete all the forms, you may make copies according to these instructions and the instructions for the Petition To Proceed Without Paying Costs. (See next pages for the instructions to ask the court to proceed without paying.) If you are not asking the court to waive the costs, you may copy the Complaint and Order now, and skip to the directions for filing the documents on page 25.

LYCOMING COUNTY COURT OF COMMON PLEAS
MOTION COVER SHEET

	:	Docket No. _____
Plaintiff	:	
	:	Case Assigned to Judge _____
vs.	:	<input type="checkbox"/> None
	:	<input type="checkbox"/> Family Court Hearing Officer
	:	
Defendant	:	

1. Name of Filing Party: _____
2. Filing Party's Attorney: _____
3. Type of Filing: _____

<p>4. The following is/are required:</p> <p><input type="checkbox"/> Argument</p> <p><input type="checkbox"/> Evidentiary Hearing</p> <p><input type="checkbox"/> Court Conference</p> <p><input type="checkbox"/> Rule To Show Cause</p> <p><input type="checkbox"/> Entry of Uncontested Order (attach supporting documentation)</p> <p><input type="checkbox"/> Expedited consideration. State the basis: _____</p> <p><input type="checkbox"/> Attach this cover sheet to original motion previously filed on: _____</p> <p>5. Time required: _____</p>	<p>6. Name and address of all counsel of record and unrepresented parties.</p>
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ORDER

1. An _____ argument _____ factual hearing _____ court conference is scheduled for
 _____ at _____ o' clock ____ M., in Courtroom No. _____, Lycoming County
 Courthouse, Williamsport, PA.

2. _____ Briefs are to be filed by the following dates:

Filing party _____.

Responding party (ies) _____.

3. _____ A rule is issued upon Respondent to show cause why the Petitioner is not entitled to the
 relief requested.

4. _____ A response to the Motion/Petition shall be filed within _____ days.

5. _____ Other: _____.

 Judge Date

c: ALL PARTIES OR OTHERS TO BE SERVED WITH NOTICE MUST BE DESIGNATED IN "6" ABOVE.

_____,
 Plaintiff
 vs.
 _____,
 Defendant

: IN THE COURT OF COMMON PLEAS
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 : CIVIL ACTION - LAW
 : CUSTODY
 :
 : NO.

ORDER AND NOTICE

You, _____, (Defendant)(Respondent), have been sued
 (Chose one)
 in Court to (obtain)(modify) custody, partial custody, or visitation of the child(ren): _____
 (Chose one)

You are ordered to appear in person at the Lycoming County Courthouse, 48 West Third Street, Williamsport, Pennsylvania, on the _____ day of _____, 20____, at _____ o'clock ____M., in Room _____, for a conference/mediation pretrial conference hearing before the Court.

If you fail to appear as provided by this Order, 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, GO TO OR TELEPHONE ONE OF THE OFFICES SET FORTH BELOW. THESE OFFICES CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THESE OFFICES MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

<p>If you do not have a lawyer contact:</p> <p>Pennsylvania Bar Association Lawyer Referral Service 100 South Bend Street, P.O. Box 186 Harrisburg, PA 17108-0186 (800) 692-7375</p>	<p>If you cannot afford a lawyer, you may be eligible for legal aid through:</p> <p>Legal Services Office 329 Market Street Williamsport, PA 17701 (570) 323-8741</p>
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BY THE COURT,

Date: _____

J.

AMERICANS WITH DISABILITIES
 ACT OF 1990

The Court of Common Pleas of Lycoming 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 the Court Administrator's office, telephone number (570) 327-2330. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

_____, : IN THE COURT OF COMMON PLEAS
Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
vs. :
: CIVIL ACTION - LAW
: CUSTODY
_____, :
Defendant : NO.

COMPLAINT FOR CUSTODY

1. The Plaintiff is _____, residing at

(Street, City, County, State, and Zip Code)

Plaintiff's phone number is _____.

2. The Defendant is _____, residing at

(Street, City, County, State, and Zip Code)

Defendant's phone number is _____.

3. Plaintiff and Defendant:

- Were married on _____.
- Were never married.
- Were never married but lived together from _____ to _____.
- Have lived separately since _____.
- Were divorced in _____ County on _____.
(date)

4. Plaintiff is the _____ and Defendant is the _____
(mother/father) (mother/father)

of the following child(ren):

<u>FULL NAME</u>	<u>DATE OF BIRTH</u>	<u>AGE</u>

(OVER)

5. The children are presently living with _____. During the
(Plaintiff or Defendant)
past five years (or since the date of birth, if younger than five years) the child(ren) have
resided as follows:

PEOPLE IN THAT HOME	ADDRESSES/PLACES	DATES (From __ To __)

(OVER)

6. I participated as a party or witness, or in another capacity, in other litigation
concerning the custody of the child(ren) in this or another court. Yes _____ No _____

If "Yes", the litigation took place in _____ County under the file or
case no. _____. Custody was given to _____. A
copy of that Order is attached. Yes _____ No _____

Plaintiff has information of a custody proceeding concerning the child(ren) pending in a court of this Commonwealth. _____ Yes _____ No

If "yes", the court, term and number, and caption are: _____

I know of someone other than myself or the Defendant who has physical custody of the child(ren), or has had custody in the past, or claims to have custody or visitation rights with respect to the child(ren). _____ Yes _____ No

If "yes", the name and address of such person is: _____

Is there a Protection from Abuse Order in effect. ___ Yes ___ No If yes, attached a copy.

7. The best interest and permanent welfare of the child(ren) will be served by granting _____ custody to me.
(physical and/or legal)

8. _____ Each parent is a named party (either Plaintiff or Defendant) to this action.

_____ Other persons who have had custody or partial custody are:

(Name and Address)

(Name and Address)

_____ None (Check here if no one other than Plaintiff or Defendant ever had custody.)

_____ Copies of these completed and signed documents will be provided to:

(Name and Address)

(Name and Address)

WHEREFORE, I request the court to grant _____ custody of the
(physical and/or legal)
child(ren) to me.

(Signature)

(Print name here) pro se

_____,
Plaintiff
vs.
_____,
Defendant

: IN THE COURT OF COMMON PLEAS
: LYCOMING COUNTY, PENNSYLVANIA
:
: CIVIL ACTION - LAW
: CUSTODY
:
: NO.

VERIFICATION

I verify that the statements made in this 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.

(Signature) Plaintiff

COSTS FOR FILING CUSTODY ACTION

INTRODUCTION

_____ In order to file a new Court action, there is a filing fee which must be paid to the Prothonotary. This fee changes from time to time. You may check with the Prothonotary to find out how much it costs to file a new custody action.

If your income would make you eligible for a free attorney and you don't think you can pay the filing fees or other costs, you may ask the Court to waive some or all of the costs. You will need to fill out another form, separate from the Complaint For Custody.

The form which you are required to fill out is the Petition To Proceed Without Payment of Fees and Costs. Once this is filed, the Court will consider the information in this Petition to decide whether to allow you to proceed without having to pay the filing fees.

If you can afford to pay the filing fee, you will have to do so. The Court waives these costs only in cases where income is extremely low.

FILLING OUT THE FORM

1. Order To Proceed Without Payment of Fees and Costs Caption. Fill in the names of the parties (Plaintiff and Defendant) as you have done on the earlier forms. Do not write a docket number in the right hand side of the caption, as this will be assigned by the Prothonotary.

There is nothing more for you to fill out on this sheet of the form. If the Court grants the Petition, your custody action can proceed. If not, you will have to pay the costs in order to continue.

2. Petition To Proceed Without Payment of Fees and Costs

This section of the form is quite clear. You are asked to fill in facts about your personal situation and finances, employment, income, expenses, debts and assets. Be sure to include income from all sources, including government benefits like Public Assistance, unemployment compensation, and food stamps. Don't forget money which your spouse receives, if you are married; from your parents if they help you; from friends or other family members; or from an Order for child support. **Be sure to include all payment obligations, such as utilities, groceries, clothing, transportation, and other categories of expenses.** Finally, identify all persons who depend on your income for support, including children who live with you.

Sections 4 and 5 of this Petition are important. Be sure that you read these paragraphs. They require you to inform the Court of any improvement in your financial situation which might permit you to pay some or all of the costs at a later date. When you date and sign the Petition after paragraph 5, you are promising that the information you have filled in is true. There will be consequences if you make false statements.

You have now completed the forms necessary to request the Court to allow you to proceed without paying the costs. You need to place the Order to Proceed Without Payment Of Costs on top of the Petition To Proceed Without Paying the Costs. **You will need to make one copy of the Petition and two copies of the Order.**

If you did not make copies of the Complaint For Custody, Motion Cover Sheet, and the Order and Notice, you should do so at this time. (Refer to the instructions under Copies, for the custody forms.) To prepare the forms having to do with costs, staple one copy of the Order to Proceed on top of one copy of the Petition To Proceed Without Payment of Costs. Staple the original forms which you filled out together in the same order (with the Order on top) and leave the extra copy of the Order separate. (You will need the extra copy of the Order only if you are required to have the Defendant served by a Deputy Sheriff.) You are now ready to file all of the papers with the Prothonotary.

YOU NEED TO ANSWER ALL THE QUESTIONS IN THE DOCUMENT. THE COURT WILL SEND IT BACK IF YOU DO NOT FILL IN THE ENTIRE FORM.

_____, : IN THE COURT OF COMMON PLEAS OF
Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
vs. : CIVIL ACTION - LAW
 : CUSTODY
_____, : NO.
Defendant :

**ORDER TO PROCEED WITHOUT
PAYMENT OF FEES AND COSTS**

AND NOW, this _____ day of _____, 20___, upon
consideration of the within Petition, it is hereby ordered that the Plaintiff be permitted to
proceed in this matter without payment of fees and costs.

BY THE COURT,

J.

Plaintiff		: IN THE COURT OF COMMON PLEAS OF
		: LYCOMING COUNTY, PENNSYLVANIA
		:
vs.		: CIVIL ACTION - LAW
		: CUSTODY
Defendant		: NO.
		:

PETITION TO PROCEED WITHOUT PAYMENT OF FEES AND COSTS

1. I am the Plaintiff in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the fees and costs is true and correct.

(a) Name: _____
 Address: _____

(b) Employment

If you are presently employed, state

Employer: _____
 Address: _____

Salary or wages per month: _____

Type of work: _____

If you are presently unemployed, state:

Date of last employment: _____

Salary or wages per month: _____

Type of work: _____

(c) My present income is from: _____

(d) The amount is: _____

I also receive: Amount

Food Stamps ___ \$ _____

Child Support ___ \$ _____

In the past 12 months, my household has changed. Prior to the change, income was available from _____ who resided with me. He/she had an income from _____ in the amount of \$ _____. We have not lived together since _____.

In the past 12 months, my own income has been from _____, in the amount of \$ _____.

HOUSEHOLD INCOME:

(e) At the present time, I am married to someone other than the Defendant, and we reside together.

Yes ___ No ___

Name: _____

His/her income is from _____ in the amount of \$ _____.

Others who help support my household.

Children: _____ Yes ____ No ____

Parents: _____ Yes ____ No ____

Others : _____ Yes ____ No ____

(f) Persons dependent upon you for support:

Spouse - Name: _____

Children in home:

Name: _____ Age: _____

Name: _____ Age: _____

Name: _____ Age: _____

Name: _____ Age: _____

Other Persons:

Name: _____

Relationship: _____

(List others at bottom of page)

4. I understand that I have a continuing obligation to inform the Court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit 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

Print Name Here pro se

HOW TO FILE THE COMPLAINT AND PETITION

You are now ready to file. Take all of your papers to the Prothonotary's Office on the first floor of the Lycoming County Courthouse at 48 West Third Street, Williamsport, on any weekday (Monday through Friday) between 8:30 a.m. and 5:00 p.m. If you are asking the Court to waive the filing fee, you should have two different groups of papers. The first group includes the completed Complaint For Custody, with the Order and Notice and the Motion Cover Sheet on the front. The second group includes the completed Petition To Proceed Without Payment of Costs, with the Order to Proceed on the front. The first group contains an original and at least three copies and the second group contains an original and one copy, plus an additional copy of the Order to Proceed.

Present the two groups of papers to the Prothonotary. If you choose to pay the filing fee, you may do so, and you would then not file a Petition To Proceed Without Payment of Costs. The Prothonotary will give the case a number and will file stamp all of the documents. The Prothonotary will keep the necessary forms to submit to the Judge so that it can be determined whether you qualify to have your costs waived, and will also submit the form necessary for a Family Court Conference to be scheduled. Because the scheduling may take a number of days, you should ask the Prothonotary when you need to return to pick up the copies.

When the Order to Proceed Without Payment Of Costs is signed and the Family Court Conference is scheduled, you will go to the Prothonotary to pick up all of the file-stamped copies. The original documents which you filled out become part of the permanent court records and remain in the Prothonotary's Office. Of the copies, you should keep one copy of each document for yourself. Put everything which you must have with you (copies, receipts, notices, this set of instructions, etc.) in an envelope or folder and keep it in a safe place. You must have this with you when you go to the conference.

You must then promptly serve one copy of the Motion Cover Sheet, Order and Notice, and the Complaint For Custody upon each Defendant. (You do not serve a copy of the Petition to Waive the Costs or the Order to Proceed on any Defendant.) Go to the next set of instructions to find out how to serve the Defendant.

HOW TO SERVE THE COMPLAINT, MOTION COVER SHEET, AND ORDER AND NOTICE

It is not adequate to simply talk to the other party (Defendant) about the custody action or the conference date. A copy of the papers must be sent to the Defendant, following the instructions below. You must give the Defendant legal notice that you have filed for custody. This kind of notice is described as "service."

Service of the Motion Cover Sheet, Order and Notice, and the Complaint is **YOUR** responsibility. The documents may be served by certified mail and regular mail, or personal service.

CERTIFIED MAIL AND REGULAR MAIL:

To serve by this method, you must send the Motion Cover Sheet, Order and Notice, and the Complaint, by **certified mail, with return receipt requested and restricted delivery AND regular mail** to the Defendant's address. "Restricted delivery" means that the return receipt must be signed by the Defendant only.

When you go to the post office, someone at the window can give you the forms to send the certified mail. The cost **MUST** be paid at that time.

When you send the certified mail, you will be given a "sender's receipt" (a little white receipt). Keep this receipt to include with your proof of service. For the time being, put this receipt into your folder of papers to save.

You should mail the documents to the Defendant as soon as possible after you pick them up from the Prothonotary's Office. The Defendant must receive them ***at least ten (10) days before the conference date.***

Once the Defendant has signed the green receipt, indicating that he or she has received the documents, service is complete. You will have proof that service is complete when you receive the green receipt with the Defendant's signature on it. When you receive that green receipt, you must save it. It is to be included with your original receipt and attached to the Affidavit of Service.

The Affidavit of Service for certified mail should be completed and filed with the Prothonotary as soon as you receive the return receipt from the Defendant. The sender's receipt (the little white receipt that you got at the post office) and the green card with the Defendant's signature should be stapled to the Affidavit of Service when it is filed.

The Affidavit of Service is quite simple to fill out. It states that on a certain date you mailed a correct copy of the Motion Cover Sheet, Order and Notice, and the Complaint, by certified mail to the Defendant's address. It also says that the Defendant received it on a specific date. That date is on the green receipt. Go to the next section to find out how to prepare and file the Affidavit of Service.

If the certified mail is refused by the Defendant, but the regular mail is not returned within fifteen (15) days, service may be considered complete. If mail is returned unclaimed, service will need to be made another way.

PERSONAL SERVICE:

You can have a person who is 18 years of age or older, who is neither a party to the action nor an employee or relative of a party to the action serve the papers. Therefore, if you are the person filing the Motion Cover Sheet, Order and Notice, and the Complaint, you should not serve the papers yourself, and you should not have anyone who is related to you or who works for you, serve the papers.

The person who serves the legal papers on the opposing party(ies) must do it in the manner required by law. The person can serve the papers by:

- (a) handing a copy to the other party; or
- (b) by handing a copy to an adult member of the family with whom the other party resides; or
- (c) by handing a copy of the papers to an adult person in charge of the residence at the time (example: babysitter, etc.); or
- (d) by going to the opposing party's usual place of business and handing a copy to the opposing party's agent (one that acts for or representative of) or to the person in charge.

If you have the funds to do so, you can pay the Sheriff, Constable, or process server to serve the papers for you and to file an Affidavit of Service for you.

IT IS IMPORTANT TO SERVE THE OTHER PARTY AS SOON AS POSSIBLE. You want to make every effort to serve the other party as soon as possible so that the other party has notice in time for the hearing. If you did not serve the other party in time for them to have a reasonable notice and opportunity to prepare for the hearing, the Court may take adverse action against you and/or may schedule the hearing for a later date. Service **must occur within 30 (thirty) days from the date you filed the Complaint for Custody**. (Otherwise, you will need to reinstate the Petition.)

HOW TO FILL OUT AND FILE THE AFFIDAVIT OF SERVICE

Choose ONE of the three Affidavit of Service forms that follow these instructions. There is one for service by certified mail, one for regular mail and one for personal service. You have to fill out and file one of these forms with the Prothonotary after you serve the other parent/party, unless you paid a sheriff or constable to do it for you. If you are serving more than one person, you have to complete and file a separate Affidavit for each one.

BY CERTIFIED MAIL:

- Fill in the caption.
- Fill in the blanks.
- Staple your sender's receipt (the white receipt) and the green card you got back in the mail to the Affidavit.
- Sign and date at the bottom and make one copy of everything.
- File at the Prothonotary's Office before the conference and keep a time-stamped copy for your records.

BE SURE TO BRING IT WITH YOU TO THE CONFERENCE. _____

BY PERSONAL SERVICE:

This form is completed by someone else who serves the papers for you, and then you file it with the Prothonotary before the conference.

- Fill in the caption.
- Fill in the blank spaces.
- Check the paragraph that best describes how the papers were served.
- Have the person who served the papers sign and date and write his/her address and telephone number at the bottom.
- Make one copy and file at the Prothonotary's Office before the conference. Keep a time-stamped copy for your records.
- Remember to fill out an Affidavit for each person who has been served.

BE SURE TO BRING IT WITH YOU TO THE CONFERENCE. _____

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL AND REGULAR MAIL

I, _____, certify that on _____, I
 (Your name) (Date mailed)
 mailed a true and correct copy of the Motion Cover Sheet, Order and Notice, and Complaint

For Custody by certified mail, restricted delivery, return receipt requested, to:

 (Other parent/party's name and address)

I also mailed a true and correct copy of the Motion Cover Sheet, Order and Notice,
 and the Complaint For Custody by regular mail to the Defendant at the same address on

_____.
 (date mailed)

- Defendant received the Complaint on _____.
 (date received)
 Sender's receipt and return receipt are attached.
- Defendant refused the certified mail, and the sender's receipt and refusal are attached.
- The regular mail has not been returned as undeliverable.

I verify that the foregoing is 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

 Petitioner

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF PERSONAL SERVICE

I, _____, certify that I am a competent adult who is
 (Person serving other parent/party)
 18 years of age or older, and I am not a party to this action or an employee or relative of a
 party to this action. On _____, I served a true and correct copy of the
 (date)
 Motion Cover Sheet, Notice/Order, and Complaint for Custody upon _____
 (other parent/party)

by:

- handing a copy to him/her;
- handing a copy to an adult family member at his/her residence by the name of _____;
- handing a copy to an adult in charge of his/her residence by the name of _____;
- handing a copy to an adult in charge at his/her place of employment by the name of _____.

at this address/location: _____
 (Place served)

at approximately _____.
 (Time of day)

I verify that the foregoing is 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 _____ (server's signature)

Name: _____

Address: _____

Phone: _____

FAMILY COURT CUSTODY CONFERENCE

After you file the Complaint for Custody, Motion Cover Sheet, and Order and Notice, a conference will be scheduled with the Family Court Hearing Officer. The Family Court Hearing Officer is an attorney who was appointed by the Court to try to settle custody matters. In Lycoming County, there are currently two Hearing Officers.

YOU MUST ATTEND THE CONFERENCE. The children **DO NOT** attend the conference. The Defendant may attend and has the right to ask the Family Court Hearing Officer either for legal custody, physical custody, and/or visitation. (For definitions of these terms and a better understanding of the Defendant's rights, review the Introductory material at the front of this packet.)

The Family Court Hearing Officer will listen to both parties and try to work out an agreement. If there is not an agreement, the Family Court Hearing Officer will suggest a temporary resolution, describe what the Order might say, and assign a pre-trial date and a trial week. The Hearing Officer may also make a referral for a psychological evaluation, or home study.

The Family Court Hearing Officer will mail the recommended Order, confirmed by a Judge's signature, to you and to the Defendant. That Order will either be a final Order, approving the agreement which you and the Defendant made; or it will be an "Interim Order" providing a temporary schedule until a hearing before the Judge. As long as this is the Order in effect, YOU MUST FOLLOW IT. Even if you decide to take some further action, as described below, YOU MUST CONTINUE TO FOLLOW THE ORDER UNTIL IT IS CHANGED.

If you strongly disagree with the Family Court Hearing Officer's Order, you may need to consult the Family Court or the Court Administrator about your right to do something to change the Order. You must act as soon as you receive papers from the Hearing Officer containing the Order before ten (10) days have passed. You may also want to consult an attorney, who can discuss with you the possibility of further proceedings before a Judge.

Should a significant change in circumstances arise after entry of an interim order and before the pre-trial conference necessitating a modification of the interim order, which modification cannot be amicably agreed upon pending the pretrial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof or verified by the filing party. The Court Administrator shall refer such motion to the hearing officer who entered the interim order. Based on the allegations of the motion, the hearing officer may take any one or more of the following actions deemed appropriate under the circumstances: (1) enter an order summarily denying the motion; or (2) hold a telephone or other conference with counsel for both parties, or (3) after providing the opposing party an opportunity to respond, enter a modified interim order; or (4) direct that the matter be resolved at the pre-trial conference.

A person who intentionally violates the Order can be in contempt of court. Either party may be brought before the Court if they are in contempt of the Order. It is also a criminal offense in Pennsylvania to take a child in violation of a Court Order.

THE NEXT FEW PAGES CONTAIN HELPFUL INFORMATION FOR YOU TO HAVE. SOME OF IT MAY BE NEW TO YOU. IT WILL BE HELPFUL TO REFER TO THESE LISTS FROM TIME TO TIME.

In preparation for the Family Court conference, you need to keep the following points in mind and be sure that you provide relevant information for the Hearing Officer.

- A. How long have you and the other parent lived separately?
- Since separation, where and with whom has the child primarily lived?
- B. While you and the other parent lived together, who was primarily responsible for the care of the child?
- Did you both share pretty much equally in the child's care?
- C. If the child primarily lives with you, does the other parent have the child with him or her on a regular basis?
- Have you been cooperative in arranging for the child to be with the other parent?
- D. If the child primarily lives with the other parent, do you have the child with you on a regular basis?
- If not, why not?
 - Has the other parent denied you contact with the child?
- E. Does either parent have a history of alcoholism, drug abuse, violent crime, suicide attempts?
- If so, have these problems affected the child, or might they affect the child or the parent--child relationship in the future?
- F. Does either parent have a history of abuse of the child or an extremely difficult relationship with the child?
- G. Does either parent do things to interfere with the child's relationship with the other parent?

IN ANY SITUATION WHERE PARENTS DO NOT LIVE TOGETHER, THEY HAVE RESPONSIBILITIES TO THEIR CHILD. PLEASE TRY YOUR BEST TO FOLLOW THESE GUIDELINES:

DO:

1. Develop a plan to permit the child to have a regular schedule of time with each parent.
2. Spend time with your child regularly, so the child doesn't feel rejected or abandoned.
3. Be sure your child has a specific place that is his/her own, and room for toys and clothes, even if the child primarily lives with the other parent.
4. Allow the child to call the other parent while he/she is spending time with you.
5. Be sure the other parent always has your current address and phone number.
6. Have child ready on time to be picked up by other parent.
7. Be on time when you arrive to pick up the child.
8. Call the other parent immediately if an emergency keeps you from arriving on time.
9. Encourage your child to respect the other parent.
10. Put your child's interests first. Control your negative feelings toward the other parent, so that the two of you can discuss problems and information about the child without fighting.

DON'T:

1. Do not cancel your plans with your child, except in an emergency. If you must cancel, be sure to let your child know why it is necessary.
2. Do not make promises to your child which you suspect you will not be able to keep.
3. Do not pump child for information about the other parent.
4. Do not expect the other parent to do parenting tasks exactly the same as you would.
5. Do not use the child to carry messages to the other parent.
6. Do not talk with the child about child support disagreements.
7. Do not use child to deliver child support payments.
8. Do not argue with other parent or call other parent names when child is present.

9. Do not make derogatory comments, call names or discuss negative aspects of the other parent at any time when the child would hear you.
10. Do not ask the child where he/she wants to live.
11. Do not put the child in a position where he/she must take sides.
12. Do not use the child as a way to hurt the other parent.

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