

**LYCOMING COUNTY
CUSTODY RELOCATION
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 give you specific legal advice.

Question: Can I Move With My Child(ren)?

Answer: It depends on how far you want to move. Under the law, you cannot move a distance **that significantly impairs the ability of the other parent, or any party who may have rights, to exercise their rights** without:

- A. The agreement of the other party, OR**
- B. Permission of a judge**

This is the law even if you do not have a custody order!

There is *no exact distance* you must move for it to be a relocation under the law.

If you are moving a relatively *short* distance, you will probably *not* need to ask the other party or get permission from a judge.

Also, if you have an order granting shared legal custody, you may not change the child(ren)'s school without the other party's agreement or a court order—even if you just are moving a short distance.

WARNING: If you move without the agreement of the other party or permission of a judge, you may be required to bring the child(ren) back until the case goes to court!



INTRODUCTION

This packet will help you file the forms to ask the Court's permission to relocate your child(ren).

This packet includes two important forms:

- (1) Notice of Proposed Relocation, and
- (2) Counter-Affidavit Regarding Relocation

- If you **ALREADY HAVE** a custody order, you need to file a Modification. You will need a Custody Modification Kit.
- If you **DO NOT** have a custody order, you need to file a Complaint. You will need a Custody Complaint Kit.

You will need to file the forms in this kit *along with* the forms in the other kit, like this:

Notice of Proposed Relocation + Counter-Affidavit + Complaint or Modification

You can get both of these kits from North Penn Legal Services, Penn Tower, 25 West Third Street, Suite 400, Williamsport; at the Law Library in the basement of the Courthouse; at Family Court on the third floor of the Courthouse; or online at www.lyco.org under the "Courts," then "Law Library" tabs.



THE RELOCATION PROCESS

There are six steps in the custody relocation process. This packet guides you through these steps.

- Step One:** Get another kit. If you already have a custody order, get a Custody Modification Kit. If you do not have a custody order, get a Custody Complaint Kit.
- Step Two:** Fill out the two forms in this packet and include them with the forms in the other kit (Custody Modification or Complaint for Custody).
- Step Three:** File the forms and copies at the Prothonotary's Office.
- Step Four:** Wait for the copies to be mailed to you with a date for the hearing or custody conference.
- Step Five:** Serve the documents on the other party. The instructions are in the Complaint or Modification kit that you're using with this kit.
- Step Six:** Attend the hearing or custody conference, whichever is scheduled.

CUSTODY RELOCATION

PART ONE: INSTRUCTIONS

These are the instructions for filling out the two relocation forms. The forms are found in Part Two of this packet. You may want to separate the forms from the instructions now, so you can read the instructions for each form as you fill out that form.

I. FIRST FORM –NOTICE OF PROPOSED RELOCATION

Complete the Caption (heading)

- If you ALREADY HAVE a custody order, USE THE SAME CAPTION AS IN THE PREVIOUS ORDER. Your caption will never change. The same person who is listed as the Plaintiff in your Custody Order must be the Plaintiff in this action. The same person listed as Defendant in your Custody Order must be the Defendant in this action. You should also use the same case number that appears on your Custody Order.
- If you DO NOT have an existing custody order, complete the caption (heading) by printing your name as the Plaintiff and the other party’s name as the Defendant. Use middle initials and print neatly. Note: If grandparents or other third parties have physical custody, there will be more than one Defendant, as both parents must always be parties.

The following numbers in these instructions correspond to the numbers on the Notice of Proposed Relocation form.

1. Write the other party’s name after the word “You.” Write your name on the next blank.

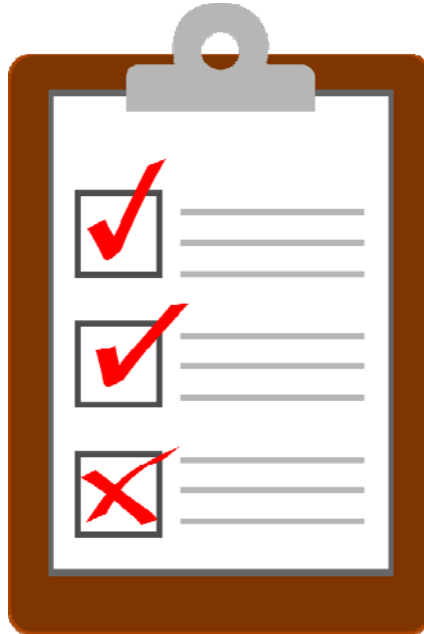
On the next four lines, write the initials and ages of the children. Do not write the names or birth dates, as that is confidential information, not available to the public. If there are more than four children, write the additional children’s initials and ages on the margin or on the back.

2. Write the address where you want to move.
If you are a victim of domestic violence, you may check the boxes throughout the form, and you do not have to list your address or phone number.
3. Write the mailing address of the place you want to move.
4. Write the names and ages of the people who will live at the new residence, but list minor children by initials only.
5. Write the telephone number of the residence where you want to move.

6. Write the school district and school the children would attend if you moved.
7. Write the date you wish to move.
8. Write the reason you want to move.
9. Write the custody schedule you suggest if you are allowed to move.
10. Write any other information you feel is important.

II. SECOND FORM –COUNTER-AFFIDAVIT REGARDING RELOCATION

Fill out ONLY the caption (heading) on the **Counter-Affidavit Regarding Relocation**. The rest of the form is for the other party to fill out. Use the same caption as in the Notice of Proposed Relocation.



The Next Steps

Fill out the **Custody Complaint Kit** if you do not have an existing custody order. Fill out a **Modification of Existing Custody Order Kit** if you have an existing custody order. Include the Notice of Proposed Relocation and the Counter-Affidavit Regarding Custody with the other forms from that packet. Place them right after the Petition for Modification of Custody or Complaint for Custody, depending on which kit you use.

Follow the directions in the Custody Complaint Kit or Modification of Existing Custody Order Kit for filling out the additional forms, filing the forms, and serving the forms.

- If the case is scheduled for a custody conference, you should *not* bring the children or any witnesses. If no agreement is reached at the conference, your case will be scheduled for a pre-trial conference in front of a judge and then for a hearing if the case is not settled.
- If the case is scheduled directly for a hearing in front of a judge, you will need to bring the child(ren), all members of your household, and any other witnesses you wish to testify. At the hearing, it will be your burden to prove that the proposed relocation will be in the best interest of the child(ren). Be prepared to address the relocation factors on the following page. The judge will make a decision when the hearing is over.

It may take two to three weeks before a hearing or custody conference is scheduled.



Relocation Factors for the Court to Consider at a Hearing

- (1) The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the non-relocating party, siblings and other significant persons in the child's life.***
- (2) The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.***
- (3) The feasibility of preserving the relationship between the non-relocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.***
- (4) The child's preference, taking into consideration the age and maturity of the child.***
- (5) Whether there is an established pattern of conduct by either party to promote or thwart the relationship of the child and the other party.***
- (6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity.***
- (7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity.***
- (8) The reasons and motivation of each party for seeking or opposing the relocation.***
- (9) The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.***
- (10) Any other issue affecting the best interest of the child.***

CUSTODY RELOCATION

PART TWO: FORMS

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

NOTICE OF PROPOSED RELOCATION

1. You, _____ (other party’s name), are hereby notified that
 _____ (your name) intends to relocate with the following minor
 child(ren): LIST INITIALS AND AGES ONLY—DO NOT WRITE NAMES OR BIRTH DATES

INITIALS	AGE
_____	_____
_____	_____
_____	_____
_____	_____

To object to the proposed relocation, you must complete the attached counter-affidavit and serve it on the other party by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4 within 30 days of receipt of this notice. If there is an existing child custody case, you also must file the counter-affidavit with the court. If you do not object to the proposed relocation within 30 days, the party proposing relocation has the right to relocate and may petition the court to approve the proposed relocation and to modify any effective custody orders or agreements. **FAILURE TO OBJECT WITHIN 30 DAYS WILL PREVENT YOU FROM OBJECTING TO THE RELOCATION ABSENT EXIGENT CIRCUMSTANCES.**

2. Address of the proposed new residence:

 Check here if the address is confidential pursuant to 23 Pa.C.S. §5336(b).

3. Mailing address of intended new residence (if not the same as above):

 Check here if the address is confidential pursuant to 23 Pa.C.S. §5336(b).

4. Names and ages of the individuals who intend to reside at the new residence.
List adults by name. LIST MINOR CHILDREN BY INITIALS ONLY. Do not write children's names.

NAMES/INITIALS	AGE
_____	_____
_____	_____
_____	_____
_____	_____

5. The telephone number of the new residence is: _____
 Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).

6. Name of the new school district and school the child(ren) will attend after relocation:

 Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).

7. Date of the proposed relocation: _____
 Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).

8. Reasons for the proposed relocation:
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

9. Proposed modification of custody schedule following relocation:

10. Other information:

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

**Pennsylvania Bar Association
Lawyer Referral Service
100 South Street
P.O. Box 186
Harrisburg, PA 17108-0186
Telephone (800) 692-7375**

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE 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.

**North Penn Legal Service
25 West Third Street
Suite 400
Williamsport, PA 17701
(570) 323-8741**

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

COUNTER-AFFIDAVIT REGARDING CUSTODY

This proposal of relocation involves the following child(ren): LIST CHILDREN BY INITIALS AND AGE ONLY—DO NOT WRITE NAMES OR BIRTH DATES

<u>INITIALS</u>	<u>AGE</u>	CURRENTLY RESIDING AT:

I have received a notice of proposed relocation and (check which applies):

- I DO NOT object to the relocation and I DO NOT object to the modification of the custody order consistent with the proposal for revised custody schedule attached to the notice.

- I DO NOT object to the relocation, but I DO object to the modification of the custody order. I want a hearing to be held on the modification.

- I DO object to the relocation and I DO object to the modification of the custody order. I want a hearing to be held on both matters prior to the relocation taking place.

I understand that in addition to objecting to the relocation or modification of the custody order above, I must also file this notice with the court in writing and serve this counter-affidavit on the other party by certified mail, return receipt requested, addressee only. If I fail to do so within thirty (30) days of my receipt of the proposed relocation notice, I understand that I will not be able to object to the relocation at a later time.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 (relating to unsworn falsification to authorities).

(Date)

(Signature)

(Printed Name)