

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>SBB,</b>		<b>: No. 09-20,268</b>
	<b>Plaintiff</b>	<b>:</b>
		<b>:</b>
<b>vs.</b>		<b>: CIVIL ACTION - LAW</b>
		<b>:</b>
<b>JEB-S,</b>		<b>:</b>
	<b>Defendant</b>	<b>: CUSTODY</b>

**OPINION AND ORDER**

**AND NOW**, this **22<sup>nd</sup>** day of **July, 2019**, the parties appeared before the Court on July 16, 2019, in regard to a request to temporarily modify the current Custody Order filed by Father on May 16, 2019. Both Mother and Father were present and unrepresented in this matter. Though Father filed the matter as a Petition to Modify Custody, the Court treated it as a Petition for Special Relief in light of the limited nature of the issue. Father is requesting that the current Custody Order dated August 10, 2016, be temporarily modified to indicate that when Father attends the Pennsylvania State Police Academy, that the shared custody schedule will remain the same with Father's wife providing the care for the child during his week of custody in his absence. Mother objects to this and requests that the child be placed in her custody while Father is at the Pennsylvania State Police Academy with provisions to allow the child to see Father when he is available.

By way of background, the parties have shared legal and shared physical custody of their child, exchanging custody on a week-to-week basis each Monday. Throughout the history of this case, there have been numerous hearings before the Court regarding both

legal and physical custody issues concerning the child. The parents have had shared physical custody for a majority of the child's life. Mother resides in Williamsport in the Williamsport Area School District. Father resides in Montgomery in the Montgomery Area School District. Pursuant to prior Orders entered by this Court, the child attends school in the Williamsport Area School District and has done so since commencing school. There appears to be no difficulty in either party seeing that the child gets back and forth to school during their respective weeks of custody. Father and his Wife both testified that many times during Father's week of custody, it is his Wife who is providing the transportation for KB due to Father's work schedule. Father is employed by the Union County Sheriff's Office and sometimes works first shift and, at other times, works second shift. Mother is employed by Belcher's Fence Company and works three days per week, Monday, Tuesday and Wednesday, from 8:00 a.m. until 5:00 p.m. Her schedule is flexible.

This Court has had a significant history with the parents and has been involved in most hearings which have been held before the Court in this case. To both parties' credit, it does appear over the past two years, that the parties have reached a point where they are able to somewhat co-parent their daughter together. The Court does note that this is not without continued animosity and distrust between the parents; however, it does appear that they have reached a point where they are able to resolve most of their issues between themselves without the need to bring matters back before the Court. The current issue before the Court in regard to what will happen with the custody schedule while Father is at the Pennsylvania State Police Academy is a significant issue and the Court understands both parents' respective positions in regard to the request.

Father has not yet received written confirmation, but has received oral confirmation that he will be commencing the Pennsylvania State Police Academy on September 30, 2019. The Police Academy is a 28 week program and he anticipates graduating in April, 2020. The State Police Academy is located in Hershey, Pennsylvania, which is approximately two and one-half hours from Williamsport and slightly closer to Montgomery. Upon completion of the Academy, Father will be stationed at one of the Pennsylvania State Police Barracks located within the Commonwealth of Pennsylvania. At this point, Father does not know what Barracks he will be stationed at, but can make a request. Father noted to the Court that there are five or six Barracks located within an hour of his current residence.

Father lives in Montgomery, Pennsylvania, with his Wife, TS; the child in question, KB, half of the time; his son, CS; and daughter, MS. Father's Wife is due to give birth on August 14, 2019, to their third child. Father is requesting that this Court allow the current week-on/week-off custody schedule to continue which would allow KB to remain in his home during the 14 weeks of his custody out of the 28 weeks while he is in the State Police Academy. Father argues that due to KB's behavioral issues, he believes it is important that the consistency of her custody schedule be maintained in light of the fact that the disruption of him attending the State Police Academy is temporary. Father alleges KB suffers from an adjustment disorder which also increases the need to maintain consistency for her. KB has worked with a mobile therapist for approximately 3-4 years. She works with this therapist in both homes and she has a very close relationship with her therapist. Father is concerned that, at times, KB struggles at Mother's home having conflict with Mother. He indicates that there were two occasions when KB threatened harm to herself. During both

of these occasions, to her credit, Mother reached out to Father to help him address the concerns that were happening in her home. The Court applauds Mother for taking the steps and finds that the parents were able to work together through these incidents in regard to KB's best interest. Father's concern is that if KB's schedule is adjusted and she is with Mother primarily during the time that he is at the Academy that the instances of conflict between KB and Mother could increase. Father also believes it is important for KB to maintain the relationship with her siblings in Father's home. The Court notes from talking with KB that she is excited about her new sibling and does appear to have a close relationship with the children in Father's home despite the age difference.

Father has not received any type of formal information from the State Police as to when he would be able to leave the Academy to come home or to have visitors. Father believed he would be able to come home on some weekends and also have the availability for visitation and visitors at the State Police Academy. He did not believe he would have access to his phone and requested that while he is at the Academy, that issues concerning KB be discussed between Mother and his Wife. Father feels that for the short period of time that he will be at the State Police Academy that it is not worth the change and disruption to KB's schedule and the potential consequences that could come from that. Most importantly, Father is requesting that this Court establish a specific directive as to what will happen while he is at the State Police Academy so that he is not pulled from the Academy at any point to have to address the issue through the Courts. The Court concurs that it is best for KB to resolve this issue before Father leaves for the Academy to avoid conflict between the parents. The prior history between the parents clearly dictates that this be done.

Based upon personal knowledge, it is the Court's understanding that during the first month at the Academy, there may be no opportunity for Father to return home or to have visitors. Thereafter, it is the Court's understanding that Father will have a home pass once every three weeks, as well as one opportunity for visitors at the Academy in between those home visits. The Court also understands Father will have one phone call per evening. The Court's understanding is that these privileges can be taken away for various reasons.

Mother lives in Williamsport, Pennsylvania, with her boyfriend, CS; the child in question, KB, half of the time; their son, RS; and daughter, MS. Williamsport and Montgomery are approximately 20-25 minutes apart. Mother is requesting that KB be in her home while Father is at the State Police Academy. Mother stated she would give up her weekends when Father is permitted to come home for KB to be with Father, and would also allow KB to visit Father. Mother also stated she feels it is important for KB to maintain a relationship with her step-mother and siblings in Father's home.

Mother agrees that stability and consistency are important for KB. Mother indicated that KB has had to utilize her mobile therapist to help her cope with the week-on/week-off schedule and the difficulties in the homes. Mother alleges that Father's Wife has altercations with everyone Mother uses for custody exchanges. Mother no longer attends exchanges due to an incident that occurred between Mother and step-mother four years ago. Mother has concerns about communicating with step-mother. Mother also believes that KB will be relied upon too much by step-mother to do things at the home with the three young children. Lastly, Mother argues that KB is closer to her children than Father's children, and that KB experiences rejection at Father's home.

Based upon the significant history of animosity in this case and based upon the need to maintain as much stability and consistency for KB as possible during the 28 weeks Father will be at the State Police Academy, the Court will grant Father's request. After speaking with KB, it is clear that she is bonded to members of Mother's household just as much as she is to the members of Father's household. KB does not want her Father to go to the Academy as she does not want to be away from him for that long. KB's life will be disrupted enough by Father's absence. By maintaining the week-to-week schedule in each home, KB will at least be able to maintain some consistency despite Father's absence.

KB is the most worried about her Mother and step-mother fighting while Father is away. Regardless what schedule the Court puts in place, Mother and step-mother will need to communicate regarding KB. The Court strongly urges Mother and step-mother to put KB's needs first and treat each other with civility and respect. KB will be dealing with enough emotion in Father's absence, she should not also be burdened with animosity and hostility between her Mother and step-mother.

Based upon the foregoing, it is hereby ORDERED as follows:

Until such time as Father commences the Pennsylvania State Police Academy, the Order of August 10, 2016, shall remain in full force and effect. Once Father begins attending the Pennsylvania State Police Academy, the Order will remain in effect with the following temporary modifications:

3. **Physical Custody**. The parties shall share physical custody on a week-to-week basis from Monday after school until the following Monday before school.

During Father's scheduled periods of custody (including holidays), KB shall be in Father's home with her step-mother and siblings while Father is at the Academy.

During Father's weeks, KB will return to Mother on Friday after school and remain there into Mother's week; however, if Father will be home that weekend or Father is eligible for a visit, KB shall remain with Father for that weekend.

During Mother's weeks, if Father will be home for the weekend or if step-mother will be going to visit Father, KB will go to Father's home after school on Friday for the weekend and remain there into Father's week.

Step-mother shall notify Mother as soon as she is aware if Father will be home or if she will be visiting on each weekend.

The intent of the Court is that any weekend Father will be home or KB will be going to visit Father, KB will be at Father's home for that entire weekend. All other weekends, KB will be with mother.

Except for Halloween and the Parent's birthdays, the holiday schedule will continue as stated in the Order of August 10, 2016, with KB being in Father's home during Father's periods of holiday custody regardless whether Father is home. For Halloween 2019, KB shall remain in whichever home she is in that week under the week-to-week schedule for Halloween.

If Father's birthday occurs while this temporary order is in effect, the birthday provision shall not apply unless Father is at home. KB shall attend Father's graduation from the Pennsylvania State Police Academy with Father's wife. KB will be in Father's custody from 6:00 p.m. the night prior to Father's graduation until 10:00 a.m. the day after Father's graduation. KB shall also attend the family picnic or any other events where family can attend with Father while he is at the Academy.

Mother and step-mother shall communicate directly with each other in regard to issues concerning KB. If legal custody issues must be addressed, Mother and step-mother shall discuss the issue and step-mother shall obtain Father's position on any issues as soon as she is able. The Court is not granting step-mother any legal custody rights, but rather is utilizing step-mother as a spokesperson on behalf of Father in his absence.

The temporary modifications listed above shall terminate upon Father's graduation from the Pennsylvania State Police Academy and return home.

By The Court,

Joy Reynolds McCoy, Judge