

REPRESENTING YOURSELF IN A CUSTODY CASE

Northwestern Legal Services is presenting this program to assist you in understanding the legal issues involved in filing a Custody Complaint and to explain how to complete the forms and understand the hearing procedure.

We will not be preparing the forms for you and will not be representing you at your hearing if you decide to file a Custody Complaint with the Court. We will not be discussing the problems you are having with your child's parent or other legal problems you are having at today's program, but will only be talking about what you need to think about in deciding whether you should take your custody problem to the Court and how to best represent yourself if you decide to do so.

GENERAL INFORMATION ON CUSTODY

1. Both parents have a right to have a relationship with their child, and a child has a right to have a relationship with both parents. Usually it is best for the child if both parents can agree about custody and partial custody. If you cannot agree and a custody complaint is filed, you will be leaving it up to a judge to decide what he or she believes is in the child's best interest.
2. Child support and custody are two separate issues. If the other parent fails to pay support, you may not refuse to allow contact by that parent with the child. Likewise, if the other parent refuses to allow any contact, you may not stop paying support.
3. A written agreement concerning custody, even if notarized, cannot be enforced by the police. If you reach an agreement for custody, we strongly urge you to get your custody agreement made into a court order. Contact our agency to see if we can help you do this. Also, if you leave the child with the other parent, a grandparent, or another third party on a "temporary" basis, even if you clearly state this in a written agreement, you may lose custody if the other party changes his or her mind and takes you to court to obtain custody. This is because courts value stability in a child's life, and will not disturb a child's living arrangement if the child is doing well in his or her current situation.
4. Sometimes taking no legal action to have custody and partial custody decided is best. If there are no problems agreeing on custody and partial custody, no threats to take the child, or no attempts to visit the child in a while, there should be no reason to file a custody complaint. Since the court will most likely give the other parent liberal periods of time with the child, such as every other weekend, holidays and a period of time in the summer, it may be better for you and your child to simply keep the current arrangement. If the other parent is unhappy, they may file a petition to change the present schedule.
5. If someone files a custody action against you or you are thinking about doing so, you should know that under most circumstances, the case must be brought in the county where the child has resided for the last six months. This would be called a matter of jurisdiction. However, you may file in a county where the child is residing, even if it has not been for the last six months if you can show that the other county is inconvenient (i.e., neither party nor child resides there, or it is in the child's best interests that the matter be heard there). If the other parent has filed a custody action against you and the child has not lived in the county where the case was brought for at least the last six months, you should obtain legal help to object to the case being heard in that county.
6. Please note that if you are sued for custody/partial custody and an attorney represents the other party, call Northwestern Legal Services (1-800-665-6957 toll-free, or 452-6957 Erie local) to see if we can represent you. You will need to find out the name of the opposing attorney before calling.
7. It is up to each party to obey the custody order that you received after your conference/hearing. If the other parent is not following the order, you should keep track of the incidents and notify the parent in writing that you expect them to obey the order. If the violations of the order are serious, such as the other parent refusing to bring the child back after a visit, or not allowing you the visits that the order gives you, you may file a

petition for civil contempt. Contact us for help if this happens. If the violations of the order are not serious, but are still a problem, it may be better to contact your county's custody office or bar association to explore alternatives to court battle. Some counties, like in Erie, offer conciliators who will meet with both parties and try to mediate the problems.

8. Sometimes circumstances change that require a modification to the custody/partial custody order. If the changes are occasional, like changing a weekend visit so the other parent can take the child to a family reunion, you do not need to have the order changed if you and the other parent agree. If the changes would affect the ability of a parent to see the child under the terms of the current order, such as one parent wants to move out of state, then a petition to modify the custody order must be filed with the court.
9. Parents are generally the proper persons to have custody of their child(ren). If a third party, such as an aunt or close family friend feels that the child would be better off with them, they have to show they have been acting in a parental capacity for a long time and that it would be in the child's best interest. The more time the child lives with someone other than his or her parents, the more likely the court is to give a third party an opportunity to show that the child should live with him or her. Pennsylvania law does give grandparents more rights than other third parties to request visitation/partial custody and, sometimes, legal custody of a grandchild. Grandparents have the right to visitation or partial custody if the parents are separated/divorced or the child has lived with the grandparents for 12 months or more. The grandparents of a deceased parent are also entitled to partial custody/visitation. In all these circumstances, however, the grandparents must prove it would be in the child's best interest to have visitation/partial custody. Finally, if a grandchild has lived with the grandparents for 12 months by agreement of the parents, a court order gave the grandparents the child (juvenile court) or they are caring for a grandchild at risk due to parental neglect, drug or alcohol abuse or mental illness, they may ask the court to give them legal custody of the grandchild. The court will then award the grandparents custody if it is in the child's best interest.

DEFINITIONS

Plaintiff - The person who starts the lawsuit.

Defendant - The person who the Plaintiff is suing.

Physical Custody - Having the child under your actual care and control.

Primary Legal Custody - The right to decide the child's medical care, education, religion, etc. to the exclusion of the other parent. Rarely does the court grant primary legal custody to a parent.

Shared Legal Custody - The right of both parents to participate in major decisions about the child.

Primary Residence - The home of the parent where the child spends most of the time based on the number of overnight visits during the week.

Non-Custodial Parent - The parent with whom the child does not live most of the time.

Partial Custody - The time the child is in the home of the non-custodial parent. Most non-custodial parents get partial custody with their child, typically on weekends and for periods of time during the summer.

Visitation - The right of a non-custodial parent to spend time with their child, but with no right to take the child from the primary residence for overnight visits.

Supervised Visitation - The right of the non-custodial parent to visit only if someone is supervising the visit. Supervised is only ordered if the court decides the non-custodial parent may endanger the child unless another appropriate adult is present during the visit.

Third Party - Any person who is not a natural parent of the child.

Standing - The legal right to be part of a custody suit.

Jurisdiction - The proper court in which to sue.

Best Interest of the Child - The standard the court applies in deciding what legal rights to custody and visitation each parent should have and how those rights will affect the child.

STEPS IN THE CUSTODY PROCESS

ARE BOTH OF YOU IN AGREEMENT REGARDING YOUR SHARED CUSTODY ARRANGEMENT?

If both parents **are in agreement** regarding their shared custody arrangements and wish to have that agreement formalized into an Order of Court, **both** parents must be willing to appear **voluntarily** for a conference and both parties must also **agree** to attend the Children Cope with Divorce seminar that is held at Family Services. No notices will be sent to either party. At this conference, the terms of your agreement will be put into writing. Be prepared to pay the appropriate filing fee and you will be given the necessary paperwork to obtain a docket number so that the agreement will be made into an Order.

YES

1. Call the Custody Conciliation Office at (814) 451-6234 for an agreement conference.
2. Attend the agreement conference.
3. Attend Children Cope with Divorce seminar.

NO

1. File a petition for custody.
2. Attend Children Cope with Divorce seminar.
3. Attend the intake conference.

If there is no agreement or if either party is reluctant to meet **voluntarily**, then you must proceed by filing a custody petition with the Court. All parties will be required to appear at the intake conference and attend the Children Cope with Divorce seminar. You may follow the instructions in this packet and use the accompanying blank forms to file a petition on your own. If you do not want to or cannot file your own petition, you must hire your own private attorney to prepare and file one for you. Northwestern Legal Services will not do this for you. If both parties are residing at the same address, a petition cannot be filed.

DID A CONSENT AGREEMENT RESULT FROM THE INTAKE CONFERENCE?

An intake conference will be scheduled to take place **after** you have completed the Children Cope with Divorce seminar. This is an **informal** meeting, **not a hearing**. No evidence or testimony is presented, and the **children are not interviewed**. There is no third party (for example, a stepparent or grandparent) allowed to be present at the conference unless everyone agrees. At this meeting, areas of agreement and disagreement are identified and you will have the opportunity to work out the terms of the custody arrangement with the assistance of a Custody Conciliator.

It is not necessary for an attorney to be present during any conferences; however, either party may have an attorney present. The only time that Northwestern Legal Services would be able to represent you at a conference is if the opposing party has hired an attorney and will have that attorney present. You must call our New Client Line at (814) 452-6957 to open a new file for direct representation and you must be able to tell the screeners the name of the opposing party's attorney.

YES

1. No further action necessary. You will receive a copy of the handwritten agreement following intake. In a week to ten days, you will receive your Court Order.

NO

1. An Order will be issued and you must follow this Order. A Temporary Order may be issued and a conciliation conference scheduled at a later date.

Most matters are resolved at this level; however, if full agreement of the custody arrangements cannot be accomplished at this stage, you will then be scheduled to attend a conciliation conference. A Temporary Court Order will be issued that you must follow until the conciliation conference. The purpose of the Temporary Order is to ensure that there is no break in contact between the children and both parents until such time as a more permanent arrangement can be made in the conciliation conference or by the Court.

***DID THE CONCILIATION CONFERENCE
RESULT IN A CONSENT AGREEMENT?***

The objective of the conciliation conference is to foster agreement between the parties in such a way that they are committed to a custody arrangement that will be entered as an Order of Court. This conference is also informal. No record of the proceeding is maintained and no evidence or testimony is required for either party or witnesses. Once again, it is not necessary to have an attorney present. If no agreement is reached, the custody conciliator will prepare a Recommended Order and forward it to the Court. You must follow this Order.

YES

1. No further action necessary. You will receive a copy of the handwritten agreement following intake. In a week to ten days, you will receive your Court Order.

NO

1. If full agreement cannot be reached, the conciliator will prepare a Recommended Order and forward it to the Court. You must follow this Order.

***DO YOU AGREE TO FOLLOW THE
RECOMMENDED ORDER?***

If you object to the Recommended Order, you must file a Request for Adversarial Hearing within twenty days from the date your Order was mailed to you. The matter will then be scheduled for trial by the Family Court Judge. You will be notified of the trial date and also of the date for a pre-trial status conference that you must attend prior to the scheduled trial. A copy of the request must be submitted to the Custody Office.

YES

1. No further action necessary. In a week to ten days, you will receive your Court Order.

NO

1. If you object to the Recommended Order, you may file a **Request for Adversarial Hearing** within twenty days from the date your Order was mailed to you.

TEMPORARY CUSTODY AND SPECIAL RELIEF

Before a party can request temporary custody or special relief, a petition for custody must have been filed **or** a Court Order must be in effect. These requests are **rarely** granted unless the petitioner can adequately establish that the child is in immediate danger of physical injury or serious emotional harm.

A party seeking temporary custody or special relief must present a petition to the Family Motion Court Judge. Such requests are normally decided following a hearing in Motion Court with **both** parties present. A copy of the petition must be served on the opposing party by personal service or by mail. If the petition is served through "personal" service, it must give the opposing party two full business days' notice. If service is completed by mail, it must give the opposing party five full business days' notice from the date that it was deposited in the U.S. mail. You must give the opposing party notice of the date and time you plan to appear in Motion Court.

If you are pursuing this option, you may want to consult a private attorney. Northwestern Legal Services does not assist petitioners in drafting or presenting motions for temporary custody or special relief. However, if you are served with a notice for such a hearing in Motion Court and the opposing party has hired a private attorney to represent them, you should call our New Client Line as soon as possible to see if you are eligible for direct representation.

INSTRUCTIONS FOR COMPLETING THE CUSTODY FORMS

ALL FORMS SHOULD BE TYPED, IF POSSIBLE, OR NEATLY PRINTED

I CAPTION

- A. The caption is the top part of page one of the Complaint. The names of the parties, the docket number. The type of complaint and the Court's name are found here.
- B. The Plaintiff is you. Type or print your full name above the word "Plaintiff" in the caption.
- C. The Defendant is the person you are filing the suit against. Fill in the person's full legal name above the word "Defendant."
- D. Leave the docket number blank. Your case will be assigned a number when you file the papers with the Court.
- E. Beneath the caption where it says "COMPLAINT FOR (Circle One of the Following)" circle Primary Residence, Shared Custody, Partial Custody, or Visitation, depending on which one you are asking for.

II COMPLAINT

- A. The following instructions correspond to each numbered paragraph in your Custody Complaint.
 - 1. Fill in your full legal name and your full mailing address (street number/route/box number, city, state, zip code).
 - 2. Fill in the Defendant's full legal name and full mailing address (street number/route/box number, city, state, zip code).
 - 3. Fill in whichever action you are requesting that you circled above. Then list the complete name, present address, and date of birth of the child or children involved in this case.
 - a) Circle "was" or "was not" to indicate whether or not the child or children were born out of wedlock.
 - b) Fill in the blank with the full name and then address of the person with whom the child or children now live with.
 - c) List all the persons, their addresses and dates where the child has lived in the past five years.
 - d) Fill in the natural mother's full name and current address.
 - e) Circle whether she is single, married, or divorced. If she is separated but not yet divorced, this is still considered married.
 - f) Fill in the natural father's full name and current address.
 - g) Circle whether he is single, married, or divorced.

4. Fill in your relationship to the child (mother, father, grandmother, etc.). List everyone who now lives with you and your relationship to each of these people.
5. Fill in the Defendant's relationship to the child (mother, father, grandmother, etc.). List everyone who now lives with the Defendant and the relationship between the Defendant and each of those people.
6. Circle either "has" or "has not" to indicate whether or not this is the first time there has been a custody case involving this child(ren). If there was a case involving this child in any court before, circle "has" and write the name of the Court, the docket number, and how that case is related to this action on the line provided. If this other case was decided in Erie County, you must use the docket number from that case on this Complaint.
 - a) Circle either "has" or "has no" to indicate whether or not you know of any custody case involving this child(ren) being filed or pending in any other court in Pennsylvania. If there is a case pending, circle "has" and write the name of the Court, the docket number, and how that case is related to this action on the line provided.
 - b) Circle either "knows" or "does not know of" to indicate whether or not you know of another party who has physical custody of or claims to have custody or visitation rights to the child(ren) involved. If you do know of another party to this action, circle "knows" and write the full name and address of this person on the line provided.
7. State briefly in the space provided why you believe that what you are asking for will be best for the child.
8. List any other person that you believe has a right to be a part of the hearing concerning custody because they have standing (see Definitions). This individual(s) must also be served with a copy of the Complaint and their name(s) should also be listed as a Defendant in the caption.
 - B. On the line next to where it says "Wherefore, the plaintiff requests the Court to grant," write in whatever it is that you are requesting (what you circled at the beginning of the Complaint).
 - C. Sign your full name and date.
 - D. The last paragraph of the Complaint is a verification statement that all the information you have listed in the Complaint is true. Sign and date again where indicated beneath the verification paragraph.

***PLEASE NOTE* The petition provided is a basic two-party format. You may need to create your own petition if there is more than one plaintiff or defendant. You must use the same format as the two-party petition, but you must provide all requested information for EACH party involved.**

III. PETITION FOR LEAVE TO PROCEED IN FORMA PAUPERIS - “In Forma Pauperis” is a Latin phrase which means you do not have enough money to pay the Court costs to file the Complaint. It is commonly referred to as simply an IFP.

- A. To file any lawsuit you must pay a filing fee. However, it may be possible to have the filing fee waived if you can prove to the court that you cannot afford to pay it. This form must be completed in full so the Judge can review the information and make a decision. **There is no guarantee that the Judge will sign the order to waive the filing fees, and if not, you must pay the filing fee in order to proceed.**

An IFP is simply a detailed list of your income and expenses. You must complete the IFP and submit it to the Judge before filing the Complaint at the Prothonotary's office. The following are step-by-step instructions that correspond with the numbered paragraphs on the IFP form. [Note: IFP forms are subject to revision by the court and may not be the same as the one included in this packet.]

As in your Complaint, complete the caption with the parties' legal names, and the year. Remember, the Prothonotary will assign your case a docket number when you file the approved IFP along with the Complaint.

1. You are stating that you are the Plaintiff and cannot afford to pay the costs in this custody action.
2. If you have ever filed an IFP in the past, mark “yes” and then mark whether or not it was granted. If it was not granted, explain why. If you have never filed an IFP, mark “no” and skip paragraph 3.
3. If you have previously filed for an IFP (whether it was granted or not), mark “yes” or “no” if your financial circumstances have changed since the last request. If your financial circumstances have changed, explain how.
4. You are stating that you are unable to borrow money to pay the costs in this custody action.
- 5(a) Fill in your name, address, city, state, zip, and social security number.
- 5(b). If you are currently employed, print your employer's name and address, your monthly salary, and the type of work you do. If you are not currently employed, fill in the date of your last employment (if none, write "none"), your wages at your last job, the type of work you did and the reason for your unemployment.
- 5(c). List any other income you received within the last twelve (12) months. If any of the entries apply, fill in your average monthly income from that source. If an entry does not apply, simply write "none."
- 5(d). List any income which is received by other people in your household that helps to support the household. If someone is not a member of your

household, do not list their income here. For example, if you are suing your husband for divorce, do not list him or his income here. Simply write "not applicable" or "N/A" and go on to the questions about household contributions from your children, parents or others who live with you. If none of these apply, simply write "none."

- 5(e). List any property you own. If you do not have any of the types of property listed, simply write "none."
- 5(f). Fill in an average monthly figure where applicable and write "none" to a type of debt which does not apply to you.

[Note: The "other" category is quite broad. Use this category to list your average monthly electric, gas, oil, telephone and cable TV bills. You should also list miscellaneous expenses such as hospital bills, laundry, haircuts and food here. Make sure you list every expense and identify it.]

- 5(g). List the people who depend on you for support. Once again, if you are suing your husband for divorce, for example, you would not list his name here. Simply write "not applicable." List the full name/s and age/s of your child/ren. Also, list any other people dependent upon you for support and their relationship to you.
- 6. This statement means that you understand you must report any improvement in your financial situation to the court.
- 7. This statement means that you are providing accurate information and that you understand certain penalties can be imposed if you make false statements.

When you have completed the Petition to Proceed IFP, sign and date it where indicated.

- A. The last portion of the IFP is called the Order. Do not sign in this area, as this is the part that the family court judge is supposed to fill in and sign.

IV. MOTION COURT COVER SHEET

To present your petition for an IFP in motion court, you will need to fill out a cover sheet, which is to be included with the completed IFP form when you go to motion court. The coversheet is two-sided and much of it has already been completed for you. The following are the instructions on how to complete the rest of the coversheet.

- A. Complete the caption at the top of the front page. Fill in the date and the name of the Motion Court Judge. You can call the courthouse and find out who that week's Motion Court Judge is, as long as you call during the same week which you will be presenting your petition. Where it says "caption," write in your full name "vs." your spouse's full name. Leave the docket number line blank. Since you will be filing this petition before filing your Complaint with the Prothonotary, you will not have a docket number yet.

- B. In the first blank beneath the caption, write in the date that you will be presenting your IFP petition in Motion Court. You will not need to fill out anything else on the front of the Motion Cover Sheet; everything else is either already filled in or does not apply.
- C. On the other side of the Motion Cover Sheet at the bottom, *sign* your name on the line next to “By.” Then, *print* your spouse’s name on the line next to where you signed, underneath “Name(s) of opposing counsel or pro se litigants.” There is nothing more to complete on this side; everything else has been filled out for you already.

V. COPIES

- A. You will need the Complaint you filled out, plus four copies for a total of five (5).
- B. You will need the IFP Petition you filled out, plus one copy for a total of two (2).
- C. If you had to modify the Complaint to include additional defendants, be sure to also provide two (2) copies of the Complaint for each party involved.

VI. FILING THE PAPERS WITH THE COURT

- A. Take your completed forms and copies to:

Erie County Courthouse
The Office of Custody Conciliation
Ground Floor, Room 02
140 West 6th Street
Erie, PA 16501

The office is open from 8:30 a.m. to 4:30 p.m. but is closed from 12:00 p.m. until 1:00 p.m. for lunch.

- B. IF YOU ARE FILING AN IFP, YOU MUST PRESENT YOUR PETITION IN MOTION COURT BEFORE YOU FILE YOUR COMPLAINT. MOTION COURT IS HELD MONDAY - THURSDAY MORNINGS AT 9:00 AM IN THE COURTROOM OF THE FAMILY COURT JUDGE WHO IS DESIGNATED TO HEAR MOTIONS THAT PARTICULAR WEEK.

Therefore, you will need to decide in advance when you are going to go so that you can complete the Motion Cover Sheet in advance with the correct motion judge’s name for that week and the date. You can call ahead and ask, or you can check the Assignment Board on the 2nd Floor of the Court House, to the right to see which Judge is entertaining Motions that week.

- C. The Custody Conciliator’s Office will prepare the Order, schedule the hearing, and also schedule the times for each parent to attend the Children Cope with Divorce Seminar. They will attach these papers to your Custody Complaint and copies.

- D. Take the original and the copies of the Complaint and signed IFP to the Prothonotary's Office on the first floor of the Court House. You will give the Prothonotary the Complaint and your copies of the IFP Order which the Judge has signed. The Prothonotary's Office will write the docket number on the Complaint and copies, keep the original Complaint, and return the copies to you.
- E. Take one of the copies with the docket number back to the Custody Conciliator's Office on the Ground Floor Room 02.
- F. Two of the copies of the Complaint with the docket number and Order must be sent to the Defendant on the day the Complaint is filed. One is sent by certified mail, restricted delivery, and one by regular mail. The signed receipt from the verified mail copy will be your proof that the Defendant received a copy of the Complaint.
- G. The last copy of the Complaint is for you.

VII "CHILDREN COPE WITH DIVORCE" SEMINAR

- A. Attendance at this Seminar is mandatory for the Plaintiff and Defendant. You must fill out the registration form which was attached to your Complaint at the Custody Conciliator's Office and return it to Family Services. You may also use the registration form included with this packet. If you are receiving cash assistance or have filed an IFP Petition that was granted, the fee for attending this seminar will also be waived. You should call Family Services at 864-0605 to find out what proof you should bring to the seminar.

Jane Doe : IN THE COURT OF COMMON PLEAS
Plaintiff :
 VS. : OF ERIE COUNTY, PENNSYLVANIA
John Doe :
Defendant : NO.

COMPLAINT FOR (Circle One of the Following)

(Primary Residence) / Shared Custody / Partial Custody / Visitation /
Modification of An Existing Order / Special Relief)

1. The plaintiff is Jane Doe residing at 1234 E. 125th Street, Erie, PA 16521
2. The defendant is John Doe residing at 453 W. 109th Dr., Lake City, PA 16242
3. The plaintiff seeks primary residence.

<u>Name (of Child(ren))</u>	<u>Present Address (of Child(ren))</u>	<u>Birth Date (of Child(ren))</u>
<u>Nancy Doe</u>	<u>1234 E125th St, Erie, PA 16521</u>	<u>1/2/08</u>
<u>Evan Doe</u>	<u>1234 E125th St, Erie, PA 16521</u>	<u>12/10/09</u>
_____	_____	_____
_____	_____	_____

- a) The child(ren) was was not born out of wedlock.
- b) The child(ren) is / are presently in the custody of Jane Doe who resides at 1234 E. 125th St., Erie, PA 16521
- c) During the past five (5) years, the child(ren) has/have resided with the following persons and at the following addresses:

<u>List the Persons</u>	<u>List the Addresses</u>	<u>Dates</u>
<u>Jane Doe</u>	<u>1234 E125th St, Erie, PA 16521</u>	<u>1/1/10-Present</u>
<u>John & Jane Doe</u>	<u>1234 E125th St, Erie, PA 16521</u>	<u>1/2/08-1/1/10</u>
_____	_____	_____
_____	_____	_____

- d) The mother of the child(ren) is Jane Doe _____, currently residing at 1234 E. 125th St., Erie, PA 16521 _____.
- e) She is married divorced or single.
- f) The father of the child(ren) is John Doe _____, currently residing at 453 W. 109th Dr., Lake City, PA 16242 _____.
- g) He is married divorced or single.

4. The relationship of the plaintiff to the child(ren) is that of mother _____. The plaintiff currently resides with the following persons:

<u>Name of Persons</u>	<u>Relationship to Plaintiff</u>
<u>Nancy Doe</u> _____	<u>daughter</u>
<u>Evan Doe</u> _____	<u>son</u>
<u>Jackie Rice</u> _____	<u>sister</u>

5. The relationship of the defendant to the child(ren) is that of father _____. The defendant currently resides with the following persons:

<u>Name of Persons</u>	<u>Relationship to Defendant</u>
<u>John Doe, Jr.</u> _____	<u>son</u> _____
<u>Mary Pear</u> _____	<u>girlfriend</u> _____
_____	_____

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

n/a _____.

a) The plaintiff has has no information of a Custody proceeding concerning the child(ren) pending in a Court of this Commonwealth. The Court term and number and its relationship to this action is:

n/a _____.

b) The plaintiff 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 as person is:

n/a

7. The best interest and permanent welfare of the child(ren) will be served by granting the relief requested because: [To the best of your ability explain why you think you should be granted what you are asking for. In this sample example, perhaps Jane Doe just wants to establish the children's official residence with her since she and John Doe have separated, are going through a divorce, and he has established a new home with his current girlfriend and their son. She may want the children to maintain a relationship with their father by creating a visitation schedule, but may want to be the main decision-maker in the welfare of their children as the custodial parent.]

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 with the child(ren) will be given notice of the pendency of this action and the right to intervene: n/a

Wherefore, the plaintiff requests the Court to grant: primary residence

[Jane Doe's Signature] [& Date]

Plaintiff Date

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.

[Jane Doe's Signature] [& Date]

Plaintiff Date

Plaintiff : IN THE COURT OF COMMON PLEAS
 VS. : OF ERIE COUNTY, PENNSYLVANIA
Defendant : NO.

COMPLAINT FOR (Circle One of the Following)

(Primary Residence / Shared Custody / Partial Custody / Visitation /
 Modification of An Existing Order / Special Relief)

1. The plaintiff is _____ residing at _____.
2. The defendant is _____ residing at _____.
3. The plaintiff seeks _____

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

- d) The child(ren) was /was not born out of wedlock.
- e) The child(ren) is /are presently in the custody of _____ who resides at _____

f) During the past five (5) years, the child(ren) has/have resided with the following persons and at the following addresses:

<u>List the Persons</u>	<u>List the Addresses</u>	<u>Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- d) The mother of the child(ren) is _____, currently residing at _____

- _____.
- e) She is married, divorced or single.
 - f) The father of the child(ren) is _____, currently residing at _____.
 - g) He is, divorced or single.

4. The relationship of the plaintiff to the child(ren) is that of _____. The plaintiff currently resides with the following persons:

<u>Name of Persons</u>	<u>Relationship to Plaintiff</u>
_____	_____
_____	_____
_____	_____

5. The relationship of the defendant to the child(ren) is that of _____. The defendant currently resides with the following persons:

<u>Name of Persons</u>	<u>Relationship to Defendant</u>
_____	_____
_____	_____
_____	_____

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

_____.

- a) The plaintiff has / has no information of a Custody proceeding concerning the child(ren) pending in a Court of this Commonwealth. The Court term and number and its relationship to this action is:

_____.

- b) The plaintiff 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 as person is:

_____.

7. The best interest and permanent welfare of the child(ren) will be served by granting the relief requested because: _____.

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 with the child(ren) will be given notice of the pendency of this action and the right to intervene: _____.

Wherefore, the plaintiff requests the Court to grant: _____

Plaintiff

Date

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.

Plaintiff

Date

DATE: [Date of motion presentation] HEARING REQUIRED: YES NO

MOTIONS JUDGE: Dunlavy

HEARING JUDGE: N/A

CAPTION: Jane A. Doe VS. John A. Doe

DOCKET NO.: _____

**FAMILY / ORPHAN'S DIVISION
MOTION COVER SHEET AND NOTICE**

You are hereby notified that the attached motion/petition will be presented by me on:

[Date of motion presentation], [year] :

- to the Court Administrator as a contested matter:
 to Motion Court at 9:00 a.m.

**CERTIFICATION OF NOTICE AND SERVICE
(To be completed for Motion Court presentation)**

The undersigned represents that a copy of this motion and proposed order have been serviced upon all parties or their counsel of record on _____, in accordance with:

- A. Local Rule No. 440, hereby providing:
 Two full business days prior notice by hand delivery, fax,
 Five full business days prior notice by mail; or
- B. Local Orphan's Court Rule 12 for Special Petitions, thereby providing:
 Ten full business days written notice.

UNCONTESTED MOTION CERTIFICATE

The undersigned represents that:

- All parties or counsel have consented and consents are attached.
 The Order seeks only a return hearing or argument date and no other relief.

INFORMATION FOR COURT ADMINISTRATOR

- A. If a Judge has heard previously, please identify: DiSantis Dunlavy
 Kelly Cunningham Connelly
 Trucilla Domitrovich
 Bozza Garhart

B. Estimated court time required _____ minutes _____ hours _____ days

C. Is this motion / position opposed? yes no unknown

(OVER)

FAMILY COURT MOTIONS

CUSTODY: Petition/Motion relating to:

- Temporary custody
- Approval of custody agreement
- Waive attendance at sem
- Custody Other: IFP

- Special relief (Cust)
- Cust Contempt
- Continuance (Cust)
- Counsel fees & expenses(Cust)

DIVORCE: Petition/Motion relating to:

- Exclusive possession of property
- Bifurcation
- Filing Inven/Pre-Trial Stmt
- Waive Attendance at sem
- Alimony Pende Lite
- Divorce Other: _____

- Approve QDRO
- Divorce Contempt
- Divorce, Special Relief
- Amend pleadings divorce
- Counsel fees & expenses(Divo)

SUPPORT: Petition/Motion relating to:

- Cont conf/de novo hrg (support)
- Support Other: _____

- Paternity/Blood tests
- Support Contempt

ORPHANS' COURT MOTIONS

DECEDENTS' ESTATES: Petition/Motion relating to: **ADOPTIONS:** Petition for:

- Inheritance Tax Return
- Family Exemption
- Settlement of Small Estate
- Approval of sale of property
- App settlement/Wrongful Death, et
- Decedents' Estates Other: _____

- Adoption
- Voluntary Relinquishment
- Involuntary Termination
- Confirm Consent Adop
- Adoption Other: _____

MINOR'S ESTATES: Petition for:

- Appr Set of Minor's Claim
- Auth to Release
- Funds from Minor's Account
- Minor's Estates Other: _____

GUARDIANSHIPS: Petition for:

- Minor guardianship
- Alleged Incapacitated
- Emergency Intervention
- Discharge/Sub/Guardian
- Guardianship Other: _____

I hereby certify all of the above statements are true and correct.

By [Your Signature]
 Plaintiff Defendant

Name(s) of opposing counsel or pro se litigants
John A. Doe

DATE: _____ HEARING REQUIRED: YES NO

MOTIONS JUDGE: _____

HEARING JUDGE: _____

CAPTION: _____ VS. _____

DOCKET NO.: _____

**FAMILY / ORPHAN'S DIVISION
MOTION COVER SHEET AND NOTICE**

You are hereby notified that the attached motion/petition will be presented by me on:

_____, _____:

- to the Court Administrator as a contested matter:
- to Motion Court at 9:00 a.m.

**CERTIFICATION OF NOTICE AND SERVICE
(To be completed for Motion Court presentation)**

The undersigned represents that a copy of this motion and proposed order have been serviced upon all parties or their counsel of record on _____, _____ in accordance with:

- A. Local Rule No. 440, hereby providing:
 - Two full business days prior notice by hand delivery, fax,
 - Five full business days prior notice by mail; or
- B. Local Orphan's Court Rule 12 for Special Petitions, thereby providing:
 - Ten full business days written notice.

UNCONTESTED MOTION CERTIFICATE

The undersigned represents that:

- All parties or counsel have consented and consents are attached.
- The Order seeks only a return hearing or argument date and no other relief.

INFORMATION FOR COURT ADMINISTRATOR

- D. If a Judge has heard previously, please identify: DiSantis Dunlavey
 Kelly Cunningham Connelly
 Trucilla Domitrovich
 Bozza Garhart

E. Estimated court time required _____ minutes _____ hours _____ days

F. Is this motion / position opposed? yes no unknown

(OVER)

FAMILY COURT MOTIONS

CUSTODY: Petition/Motion relating to:

- Temporary custody
- Approval of custody agreement
- Waive attendance at sem
- Custody Other:_____

- Special relief (Cust)
- Cust Contempt
- Continuance (Cust)
- Counsel fees & expenses(Cust)

DIVORCE: Petition/Motion relating to:

- Exclusive possession of property
- Bifurcation
- Filing Inven/Pre-Trial Stmt
- Waive Attendance at sem
- Alimony Pende Lite
- Divorce Other:_____

- Approve QDRO
- Divorce Contempt
- Divorce, Special Relief
- Amend pleadings divorce
- Counsel fees & expenses(Divo)

SUPPORT: Petition/Motion relating to:

- Cont conf/de novo hrg (support)
- Support Other:_____

- Paternity/Blood tests
- Support Contempt

ORPHANS' COURT MOTIONS

DECEDENTS' ESTATES: Petition/Motion relating to: **ADOPTIONS:** Petition for:

- Inheritance Tax Return
- Family Exemption
- Settlement of Small Estate
- Approval of sale of property
- App settlement/Wrongful Death, et
- Decedents' Estates Other:_____

- Adoption
- Voluntary Relinquishment
- Involuntary Termination
- Confirm Consent Adop
- Adoption Other:_____

MINOR'S ESTATES: Petition for:

- Appr Set of Minor's Claim
- Auth to Release
- Funds from Minor's Account
- Minor's Estates Other:_____

GUARDIANSHIPS: Petition for:

- Minor guardianship
- Alleged Incapacitated
- Emergency Intervention
- Discharge/Sub/Guardian
- Guardianship Other:_____

I hereby certify all of the above statements are true and correct.

By _____
Plaintiff Defendant

Name(s) of opposing counsel or pro se litigants

GENERAL INFORMATION ON MODIFYING A CUSTODY ORDER

Until the child or children are 18 years old, custody can be litigated and changed. As circumstances and relationships change, you may think the Order in effect now is not in the child's best interest. If you are unable to reach an agreement with the other parent concerning a change in the current custody order, you can request a change of Order from the Court.

1. Know what it is you are asking the court to change and why. In order to file a petition to modify your current custody order, you must state that there has been a significant change in circumstances since the last order was entered.

2. Erie County must still be the proper court to review this custody case. The order which you want to modify must have come from Erie County. If the Erie County Court of Common Pleas did not enter the current order, but the child lives here now and has for at least six months, you need to file a Complaint for Custody, rather than a Petition to Modify, and attach a copy of the current custody order to that complaint. If you need assistance filing a Complaint for Custody, you may call our New Client Line at 452-6957 and be scheduled to attend our custody clinic.

INSTRUCTIONS FOR COMPLETING PETITION TO MODIFY CUSTODY ORDER

CAPTION: Fill in the names of the Plaintiff and Defendant, and the Number the same way they appear on the Order you wish to modify.

PETITIONER: This is you. Put your name here.

Paragraph 1. Put your name and address in Paragraph 1.

Paragraph 2. Put the name of the other parent or person who has custody here and then their address.

Paragraph 3. Put the date of the last custody conciliation conference and then the date on the Court Order. These are often the same date.

Paragraph 4. List the things that have changed since the last hearing and why you believe this requires a change in the current custody order. Attach another sheet of paper if needed.

Paragraph 5. List the changes which you would like to be made in the current custody order.

Fill in the date the last custody order was entered.

Sign both lines where it says Petitioner and date the verification.

Be sure to attach a copy of the current custody order to your petition.

FILING THE PAPERS WITH THE COURT

1. You will need the Petition you fill out plus four copies of each page of the Petition and attached Order.

Take your completed forms and copies to:

Erie County Courthouse
The Office of Custody Conciliation
Ground Floor, Room 02
140 West 6th Street
Erie, PA 16501

The office is open from 8:30 a.m. to 4:30 p.m., but is closed from 12:00 noon until 1:15 for lunch.

NOTICE: If you were the Petitioner (Plaintiff) of the original custody order and you did NOT file an IFP to waive the filing fees, or if you were the Defendant in the original order, you will need to either pay the small filing fee to file the modification or file an IFP prior to filing the modification. Please refer to the main instructions and blank forms for filing an IFP. If you were granted an IFP in the original filing, take your copy of the IFP with you when you file the modification petition. If you were granted the IFP a significant amount of time ago, you may be required to either file a new IFP or pay the filing fee.

2. The Custody Conciliator's Office will prepare the Order scheduling the conference. If you and/or the other parent have not completed the Children Coping with Divorce Seminar you will be required to do so before the conference. If you have already attended the conference, advise the person in the Conciliator's office of this. Leave one copy of the Petition at the Conciliator's office.
3. Take the original and the copies to the Prothonotary's Office on the first floor of the Courthouse. You will give the Prothonotary the Petition and your copies. The clerk will file the original and stamp your copies and return them to you.
4. Two of the copies of the Petition and Order scheduling the conference must be sent to the other parent on the day the Petition is filed. One is sent by certified mail, restricted delivery, and one by regular mail. The signed receipt from the certified mail copy will be your proof that the other parent received a copy of the Petition.
5. The last copy of the Petition is for you.

PLAINTIFF

V.

DEFENDANT

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

PETITION TO MODIFY CUSTODY ORDER

TO THE HONORABLE JUDGES OF SAID COURT:

AND NOW, comes the Petitioner, _____, and respectfully requests that a Custody Conciliation Conference be scheduled to Modify the Custody Order entered at the above-captioned number for the following reasons:

1. The Petitioner is _____ who currently resides at

2. The Respondent is _____ who currently resides at

_____.

3. The Custody Conciliation Conference was held on _____, and this Court entered a custody order on _____. A copy of that Order is attached to this Petition.

4. The Petitioner believes that there has been a substantial change in circumstances and that the Court's Order should be changed for the following reasons:

_____.

5. The Petitioner requests that the Court's Order be changed as follows:

WHEREFORE, Petitioner requests that a Custody Conciliation Conference be scheduled, and that the Custody Order entered on _____ be modified as requested.

Respectfully submitted,

Petitioner

VERIFICATION

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

DATE

PETITIONER