

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.

FAILURE TO COMPLY WITH THE CUSTODY ORDER

In the best of relationships there are disagreements. It is very common that from time to time you will experience differences of opinion, or a conflict in scheduling or unexpected circumstances that may interfere with the specifics of the Custody Order.

When the Custody Order was developed, it was meant to serve as a guideline and a minimum that may be modified by mutual agreement. It is impossible to anticipate and predict the future and include it in the Custody Order. We suggest and encourage flexibility and compromise when necessary. The responsibility and success of your Custody Order depends on the parents and their ability to cooperate.

Communication is the key to the solution and prevention of problems. If it is difficult to verbally communicate, then we would suggest that you communicate in writing. This letter should be **tactful** and one that you would not mind receiving. In the letter, focus on the problem in an effective way, offering suggestions and alternatives, not criticism or blame. Send the original to each other and send a **copy** of the correspondence to our office.

If this does not prove effective, you may file a petition for Modification (see page 1 for instructions on filing). The conciliation fee is \$50.00 per 1-1/2 hour session. If you do not want to file your own petition, your attorney may prepare and file one for you.

If you have tried and exhausted every possible way to resolve your dilemma, then you **may** be justified in filing a **PETITION TO HAVE THE RESPONDENT HELD IN CONTEMPT FOR FAILURE TO COMPLY WITH A CUSTODY ORDER**. Contempt procedures ARE NOT held in the Custody Conciliation Office and the Custody Conciliation Office cannot assist in preparing these petitions. Contempt proceedings are held in Motion Court in front of a Judge. Motion Court is held Monday through Thursday at 9:00 a.m. You may want to consult an attorney about these proceedings since the Custody Office will not be able to address any of your questions or concerns.

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. Section 4904 relating to unsworn falsification to authorities.

DATE

PETITIONER