

**WARREN COUNTY
INSTRUCTIONS FOR FILING A CUSTODY COMPLAINT**

- A. If you have never been to Court in Warren County for custody and you are filing an original complaint, follow the instructions below. However, if you have been in Court in Warren County at any time in the past with regard to Custody (not support) of the children you must file a modification petition (no filing fees will apply). You may obtain forms to do this from the Family Hearing Office in the Warren County Courthouse. You may also consult with an attorney.
- List yourself as the Plaintiff and the other party as the Defendant in the caption. The Court will provide the docket number for you.
 - Indicate whether you are seeking Custody, Partial Custody or Visitation.
1. List your name and address. This information *must be provided in full* or the Court Hearing Officer will *NOT* accept the Complaint.
 2. List the Defendant's name and address. This information *must be provided in full* or the Court Hearing Officer will *NOT* accept the Complaint.
 3. Indicate whether you are seeking Custody, Partial Custody or Visitation.
 - List the child(ren) involved, their present residence and date of birth.
 - Indicate whether the parents were married when the child(ren) were born by checking the appropriate choice.
 - List the name and address of the adult person(s) that the child(ren) currently resides with.
 - List the name, address and dates of the persons that the child(ren) has resided with for the past five (5) years.
 - List the names, addresses and current marital status of the child(ren)'s parents.
 4. Indicate your relationship with the child(ren) (i.e.: mother, grandfather etc.) and list everyone who currently resides with you at your address.
 5. Indicate the Defendant's relationship with the child(ren) (i.e.: mother, grandfather etc.) and list everyone who currently resides with the Defendant to the best of your knowledge.
 6. Indicate whether you have been involved in any of the types of cases listed concerning the child(ren). If so, list type of case and Court, term and number.
 - Indicate whether you are aware of any custody proceedings concerning the child(ren) in any other Court. If so, list Court, term and number.
 - Indicate whether you are aware of anyone other than the Defendant and yourself who may claim to have custody rights of the child(ren) involved.
 7. Explain your specific reasons for making the request. If necessary, you may attach additional pages.
 8. List the name, address and basis of claim of anyone other than the Defendant or yourself who may claim to have custody rights of the child(ren) involved. If the Defendant or yourself is not a natural parent of the child and the natural parent's rights *have not been terminated*, that parent *must* be listed here.
 - Indicate whether you are seeking Custody, Partial Custody or Visitation by circling the appropriate choice.
 - Sign the Complaint and the statement verifying that that the Complaint is true and correct.
- B. Forward the completed forms, along with a certified check or money order (*no personal checks*) in the amount of **\$106.00** made out to "**Prothonotary's Office**" for scheduling of a date, time and courtroom for the conference. Your complaint will be filed and a copy of the forms will be returned to you with further instructions.

Send Completed forms to:
Family Hearing Office
Warren County Courthouse
204 Fourth Avenue
Warren, PA 16365

If you have any questions call: (814) 728-3488

For legal questions or advice call your attorney or
Northwestern Legal Services at (800) 665- 6957

IN THE COURT OF COMMON PLEAS
OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN COUNTY BRANCH
CIVIL

PLAINTIFF

CIVIL ACTION-(CUSTODY)
(PARTIAL CUSTODY)(VISITATION)

VS.

NO. A.D. _____ OF _____

DEFENDANT

NOTICE AND ORDER TO APPEAR

You, _____ have been sued in
(name of defendant)
Court to (obtain) (modify) custody/partial custody, or visitation of the following
child(ren). _____

You are ordered to appear in person, in the **COURT HEARING OFFICE
CONFERENCE ROOM**, Warren County Courthouse, Warren, Pennsylvania, before the
Court Hearing Officer, Shawn M. Estes, Esq., on _____ the ____ day of
_____, 20__, at __ M. for the purpose of a (conference)(hearing)
to determine the disputed issues.

You (are) (are not) ordered to bring with you the child(ren), _____

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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET
FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PA Lawyers Referral Service
Pennsylvania Bar Association
100 South Street
Harrisburg, PA 17108
(800) 692-7375

Northwestern Legal Services
213 Third Avenue, West
Warr-Penn Bldg., Suite 407
Warren, PA 16365
(800) 665-6957

FOR THE COURT

COURT HEARING OFFICER



FAMILY HEARING OFFICE
THIRTY-SEVENTH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN AND FOREST COUNTIES

Shawn M. Estes, Esquire
Court Hearing Officer

Phone (814) 728-3488
Fax (814) 728-3475

Enclosed, please find a copy of your Complaint or Petition for Custody with a NOTICE AND ORDER TO APPEAR attached to the front. As you are the moving party, **it is your responsibility to serve (deliver a copy to) all other parties to the action.** The Court Hearing Office will not serve your Complaint or Petition. At the conference you will be asked to provide proof that the other party or parties were properly served (see instructions below) with your Complaint or Petition at least **ten (10) days prior to the conference date.**

Instructions for Service – Act Immediately

Service by Mail:

- Make at least two (2) copies of your Complaint/Petition **and** the Notice and Order to Appear for each party.
- Mail the first copy of your Complaint/Petition to all other parties by **certified mail, restricted delivery, return receipt requested.**
- Mail the second copy to all other parties by **regular mail.**
- Bring the green return card (with the other party's signature) to the conference.

Service when a party's address is unknown:

- Make at least two (2) copies of your Complaint/Petition **and** the Notice and Order to Appear for each party.
- Take the first copy of your Complaint/Petition to the local Sheriff's Office (or other local police department) to be hand-delivered to the party or parties for whom you do not have a valid mailing address. NOTICE: *A fee may apply.*
- We also recommend that you attempt to deliver a copy to all other parties.
- The Sheriff's Office will provide written proof of service, which should be forwarded to the Court Hearing Office.

If the Defendant fails to appear, the conference may be held without her/him *so long as you are able to provide adequate verification* that she/he was properly served with the your Complaint or Petition and the Notice of the conference date and time.

If you have any questions, please call the Family Hearing Office at (814) 728-3488.

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.

Rule 1915.1. Scope. Definitions

(a)(1) These rules govern the practice and procedure in all actions for custody, partial custody and visitation of minor children, including habeas corpus proceedings and claims for custody, partial custody or visitation asserted in an action for divorce or support.

Note: The term custody includes legal custody, physical custody and shared custody. See Definition Rule 1915.1(b).

Divorce Rule 1920.32(a) provides that when a claim for custody is joined with the action of divorce, the practice and procedure governing the claim for custody shall be in accordance with these rules.

(2) If a claim for partial custody or visitation is raised during the course of an action for support, the court may

(i) enter an order with respect to the right to partial custody or visitation where there is

(a) proper venue under Rule 1915.2, and

(b) no current order of custody, partial custody or visitation outstanding, and

(c) no objection by a party to the determination of the claim, and

(d) no delay in the entry of the support order resulting from the determination of the claim; or

Note: See *Myers v. Young*, Pa.Super., 427 A.2d 209, 211 (1981), in which it was held that "the trial court properly declined to defer the entry of an order of support until satisfactory visitation rights had been established."

(ii) require the commencement of a separate action pursuant to these rules.

Note: See 23 Pa.C.S. § 4349 which authorizes custody and visitation proceedings to be consolidated with support proceedings "to facilitate frequent and unimpeded contact between children and parents" if the custody or visitation matter may be "fairly and expeditiously . . . determined and disposed of in the support action or proceeding."

(b) As used in this chapter, unless the context of a rule indicates otherwise,

"action" means all proceedings for custody, partial custody or visitation, and proceedings for modification of prior orders of any court;

"custody" means the legal right to keep, control, guard, care for and preserve a child and includes the terms "legal custody," "physical custody," and "shared custody;"

"home county" means the county in which the child immediately preceding the time involved lived with the

child's parents, a parent, or a person acting as parent, or in an institution, for at least six consecutive months, and in the case of a child less than six months old, the county in which the child lived from birth with any of the persons mentioned. A period of temporary absence of the child from the physical custody of the parent, institution, or person acting as parent shall not affect the six-month or other period;

"legal custody" means the legal right to make major decisions affecting the best interests of a minor child, including but not limited to, medical, religious and educational decisions;

"partial custody" means the right to take possession of a child away from the custodial person for a certain period of time;

"person acting as parent" means a person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

"physical custody" means actual physical possession and control of a child;

"shared custody" means 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, including physical access, to both parents; and

"visitation" means the right to visit a child, but does not include the right to remove the child from the custodial person's control.

Note: The definitions of the terms legal custody, physical custody and shared custody are taken from 23 Pa.C.S.A. § 5302. For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § 5402.

Adopted Dec. 10, 1981, effective July 1, 1982; effective date extended to Jan. 1, 1983 by order of June 25, 1982. Readopted and amended Nov. 8, 1982, effective Jan. 1, 1983; March 30, 1994, effective July 1, 1994; Nov. 19, 2008, imd. effective.

Explanatory Comment—1994

Whatever context in which the claim for custody, partial custody or visitation will arise, subdivision (a)(1) provides that the proposed rules will govern the practice and procedure. The custody rule is reinforced by Divorce Rule 1920.32(a).

Subdivision (b) provides the necessary definitions for the rules. The rules adopt the terms "custody," "partial custody," and "visitation" suggested by Judge Spaeth in his concurring opinion in *Scott v. Scott*, 240 Pa.Super. 65, 368 A.2d 288, 291 (1976).

Explanatory Comment—2008

The Uniform Child Custody Jurisdiction Act, formerly at subchapter B of Chapter 53 of the Domestic Relations Code, was repealed by Act 2004-39 and replaced by the Uniform Child Custody Jurisdiction and Enforcement Act at Chapter 54 of the Domestic Relations Code. Amendments throughout the rules governing procedures in child custody matters were necessary to make the rules consistent with the Uniform Child Custody Jurisdiction and Enforcement Act and to update the citations to the statutory provisions.

IN THE COURT OF COMMON PLEAS
OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN COUNTY BRANCH
CIVIL

PLAINTIFF

CIVIL ACTION-(CUSTODY)
(PARTIAL CUSTODY)(VISITATION)

VS.

NO. A.D. _____ OF _____

DEFENDANT

COMPLAINT FOR _____
(custody / partial custody / visitation)

1. The Plaintiff is _____, residing at
(Plaintiff's name)

(Street) (City) (State) (Zip Code) (County) (Telephone)

2. The Defendant is _____, residing at
(Defendant's name)

(Street) (City) (State) (Zip Code) (County) (Telephone)

3. Plaintiff seeks _____ of the following child(ren):
(custody / partial custody / visitation)

Name	Present Residence	Date of Birth
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The child(ren) (was/were was not/were not) born out of wedlock.

The child(ren) is/are presently in the custody of _____
(name)

who resides at _____
(Street) (City) (State) (Zip Code)

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

(Names)	(Addresses)	(Dates)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The mother of the child is _____, currently residing at _____
(mother's name)

(Street) (City) (State) (Zip Code) (County) (Telephone)

She is (married divorced single).

The father of the child is _____, currently residing at _____
(father's name)

(Street) (City) (State) (Zip Code) (County) (Telephone)

He is (married divorced single).

4. The relationship of Plaintiff to the child is that of _____
(mother, grandfather, etc.)

The Plaintiff currently resides with the following persons:

Name	Relationship
_____	_____
_____	_____
_____	_____
_____	_____

5. The relationship of Defendant to the child is that of _____
(mother, grandfather, etc.)

The Defendant currently resides with the following persons:

Name	Relationship
_____	_____
_____	_____
_____	_____
_____	_____

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child 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 of the child will be given notice of the pendency of this action and the right to intervene:

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

Wherefore, Plaintiff requests the Court to grant _____ of
(custody / partial custody / visitation)
the child(ren).

Plaintiff

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.A. §4904 relating to unsworn falsification to authorities.

Plaintiff

IN THE COURT OF COMMON PLEAS
OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN COUNTY BRANCH
CIVIL

PLAINTIFF

VS.

DEFENDANT

IN CUSTODY

NO: _____ OF _____

PRAECIPE TO PROCEED IN FORMA PAUPERIS

I, _____, am unable to pay the costs of litigation.

My affidavit showing inability to pay the costs of litigation is attached hereto.

Plaintiff

IN THE COURT OF COMMON PLEAS
OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN COUNTY BRANCH
CIVIL

PLAINTIFF

VS.

IN CUSTODY

NO: _____ OF _____

DEFENDANT

AFFIDAVIT

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: _____

Social Security Number: _____

(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) Other income within the past twelve months

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social Security benefits: _____

Support payments: _____

Disability payments: _____

Unemployment compensation and supplemental benefits: _____

Workman's compensation: _____

Public Assistance: _____

Other: _____

(d) Other contributions to household support

(Wife)(Husband) Name: _____

If your (wife)(husband) is employed, state

Employer: _____

Salary or wages per month: _____

Type of work: _____

Contributions from children: _____

Contributions from parents: _____

Other contributions: _____

(e) Property owned

Cash: _____

Checking account: _____

Savings account: _____

Certificates of deposit: _____

Real Estate (including home): _____

Motor vehicle: Make _____, Year _____

Cost _____, Amount owed _____

Stocks; bonds: _____

Other: _____

(f) Debts and obligations

Mortgage: _____

Rent: _____

Loans: _____

Other: _____

(g) Persons dependent upon you for support

(Wife) (Husband) Name: _____

Children, if any:

Name: _____ Age _____

Other persons:

Name: _____

Relationship: _____

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.A. §4904, relating to unsworn falsification to authorities.

Date: _____

Petitioner

ORDER

AND NOW, this _____ day of _____, 20____, the
Praecipe to Proceed in Forma Pauperis is _____.

BY THE COURT

J.