

WARREN COUNTY INSTRUCTIONS FOR FILING A CONTEMPT PETITION

1. Complete caption on Page 1, Notice and Order to Appear, by entering names of Plaintiff and Defendant and Docket Number as they appear on the Custody Complaint.
2. On Page 2, list your name as Petitioner, date your Custody Petition was signed as a Court Order and the Judge who signed it. Also, list the name(s) of the child (children) listed in the Petition.
3. Under No. 4 on Page 3, describe specifically how the other party has failed to abide by the terms of the Order, including dates and times. If necessary, attach a separate page describing the incidents in more detail.
4. Sign the Motion in the two spaces where the word "Petitioner" appears on Page 3.
5. Attach a copy of your prior Custody Order.
6. Deliver the completed Motion to the Court Administrator's Office for review by the Judge and provide a telephone number where you may be reached. If the Judge grants a hearing on the Motion, a hearing date will be filled in on Page 1. The Court Administrator's Office will contact you.
7. Obtain the original Motion from the Court Administrator and make three additional copies of the Order of Court and the Petition. Take all four copies to the Prothonotary's Office where they will be time stamped and the original Motion will be filed.
8. You must serve the other party with one time-stamped copy by Certified Mail---Restricted delivery. A second copy should be sent by regular mail. Bring the green return card with you to court as proof of service.
9. Attend the hearing on the date listed with any witnesses who will testify in support of your case.

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

VS.

DEFENDANT

IN CUSTODY

NO. A.D. _____ OF _____

NOTICE AND ORDER TO APPEAR

Legal proceedings have been brought against you alleging you have willfully disobeyed an Order of Court for (custody) (partial custody) (visitation).

If you wish to defend against the claim set forth in the following pages, you may but are not required to file in writing with the Court your defenses or objections.

Whether or not you file in writing with the Court your defenses or objections, you must appear in person in Court on _____ at _____ M., in the _____ Courtroom, Warren County Courthouse, Warren, PA.

IF YOU DO NOT APPEAR IN PERSON, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

If the Court finds that you have willfully failed to comply with its order for (custody) (partial custody) (visitation), you may be found to be in contempt of court and committed to jail, fined or both.

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 HELP.

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

or

Northwestern Legal Services
Warr-Penn Building
Warren, PA 16365
(800) 665-6957
(814) 452-6957

BY THE COURT,

J.

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

PLAINTIFF

VS.

DEFENDANT

IN CUSTODY

NO. A.D. _____ OF _____

**PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF
(CUSTODY) (PARTIAL CUSTODY) (VISITATION) ORDER**

The Petition of _____, respectfully represents:
(Petitioner's name)

1. That on _____, Judge _____
(date of most recent custody Order) (name of Judge that signed Order)
entered an Order awarding _____
(name of Petitioner / Respondent) (custody / partial custody / visitation)
of the minor child(ren):

Name	Date of Birth
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

A true and correct copy of the Order is attached to this Motion.

2. The Plaintiff, _____ currently resides at
(Plaintiff's name)

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

3. The Defendant, _____ currently resides at
(Defendant's name)

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

