

## COMPLAINT FOR CUSTODY

### INSTRUCTION SHEET

#### USE THIS FORM IF THERE IS NO CUSTODY ORDER.

**These instructions are meant to give you general information and not legal advice.**

1. Fill in the Domestic Relations Information Sheet with as much information as you have.
2. Complete, date, and sign the Complaint for Custody (detailed instructions included).
3. The filing fee for a complaint for custody is \$102.38. If you cannot pay the filing fee, you may ask to be excused from paying the fee by filing a **Petition to Proceed In Forma Pauperis (IFP)**. If you receive public assistance or SSI, bring your public assistance photo ID or proof that you receive SSI.
4. File the completed complaint and information sheet with the filing fee by mailing or hand-delivering them in person to:

Clerk of Court  
1501 Arch Street-11<sup>th</sup> Floor  
Philadelphia, Pa. 19102

5. **If you file in person, you may pay the filing fee by money order, cash, or credit card. If you file by mail, you may pay ONLY by money order.** Make the money order payable to **“PROTHONOTARY/CLERK OF FAMILY COURT.”** **Personal checks will not be accepted.**
6. Whether you file the complaint by mail or hand-deliver it to the office of the Clerk of Family Court, you must file the original **AND** six (6) copies. A copy machine is available at the Clerk’s office at a cost of \$.25 per page.
7. Once the complaint is filed, the Court will mail a copy of the complaint and an order with a date to appear in court on the complaint.

## PROVISIONS OF LAW THAT MAY HELP YOU FILL OUT THE COMPLAINT:

### § 5322. Definitions

The following words and phrases when used in this subchapter shall have the meaning given to them in this section unless the context clearly indicates otherwise.

Child - An unemancipated individual under 18 years of age.

Physical custody - The actual physical possession and control of a child.

Sole physical custody - The right of one individual to exclusive physical custody of the child.

Primary physical custody - The right to assume physical custody of the child for the majority of time.

Shared physical custody - The right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.

Partial physical custody - The right to assume physical custody of the child for less than a majority of the time.

Supervised physical custody - Custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

Legal custody - The right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions.

Sole legal custody - The right of one individual to exclusive legal custody of the child.

Shared legal custody - The right of more than one individual to legal custody of the child.

Note: Pennsylvania's custody law does not use the word visitation. Partial physical custody, shared physical custody and supervised physical custody may be what you understand visitation to be.

### § 5324. Standing for any form of physical custody or legal custody.

The following individuals may file an action under this chapter for any form of physical custody or legal custody:

- (1) A parent of the child.

(2) A person who stands in loco parentis to the child. [*in loco parentis* means acting in the place of a parent]

(3) A grandparent of the child who is not in loco parentis to the child:

(i) whose relationship with the child began either with the consent of a parent of the child or under a court order;

(ii) who assumes or is willing to assume responsibility for the child; and

(iii) when one of the following conditions is met:

(A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);

(B) the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or

(C) the child has for a period of at least 12 consecutive months resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.

§ 5325. Standing for partial physical custody and supervised physical custody.

In addition to situations set forth in section 5324 (relating to standing for any form of physical custody or legal custody), grandparents and great-grandparents may file an action under this chapter for partial physical custody or supervised physical custody in the following situations:

(1) where the parent of the child is deceased, a parent or grandparent of the deceased parent may file an action under this section;

(2) where the parents of the child have been separated for a period of at least six months or have commenced and continued a proceeding to dissolve their marriage; or

(3) when the child has, for a period of at least 12 consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, an action must be filed within six months after the removal of the child from the home.

§ 5328. Factors to consider when awarding custody.

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:

(1) Which party is more likely to encourage and permit frequent and continuing contact

between the child and another party.

- (2) The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.
- (3) The parental duties performed by each party on behalf of the child.
- (4) The need for stability and continuity in the child's education, family life and community life.
- (5) The availability of extended family.
- (6) The child's sibling relationships.
- (7) The well-reasoned preference of the child, based on the child's maturity and judgment.
- (8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.
- (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
- (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- (11) The proximity of the residences of the parties.
- (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- (14) The history of drug or alcohol abuse of a party or member of a party's household.
- (15) The mental and physical condition of a party or member of a party's household.
- (16) Any other relevant factor.

The custody statute also lists specific criminal convictions and criminal charges for consideration in a custody decision and procedures to be followed for such consideration.



LINE 5.

Fill in the name and address of the children's parents. If unknown, write unknown.

LINE 6.

Fill in your relationship to the children.

LINE 7.

Identify by name and relationship anyone who lives with you in your home.

LINE 8.

Fill in the relationship of the defendant to the children.

LINE 9.

Identify by name and relationship any people that live with the defendant.

LINE 10.

Circle if you know there has been a custody action in another court. Provide details if you know of any such action(s). If not, skip this line.

LINE 11.

Circle whether you know any person(s) not a party to this complaint who has physical custody or claims to have custody rights with respect to the children. If you know any such persons, provide names and addresses. If not, skip this line.

LINE 12.

Fill in the reason you are filing this complaint.

LINE 13.

Check what types of custody you are seeking. Check all that apply.

SIGN AND DATE THE COMPLAINT.

DATE AND SIGN THE VERIFICATION THAT THE STATEMENTS ARE TRUE.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

PLAINTIFF	:	
	:	FAMILY COURT DIVISION
vs.	:	
	:	CIVIL ACTION
DEFENDANT	:	
	:	D.R. NO.
	:	

**COMPLAINT FOR CUSTODY**

1. The plaintiff (name) \_\_\_\_\_  
resides at (street, city, state, zip) \_\_\_\_\_  
\_\_\_\_\_
  
2. The defendant (name) \_\_\_\_\_  
resides at (street, city, state, zip) \_\_\_\_\_  
\_\_\_\_\_
  
3. Plaintiff seeks custody of the following child(ren):  
  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_
  
4. During the past five years, the child(ren) has/have resided with the following persons and at the following addresses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The parents of the child(ren) are :

Name: \_\_\_\_\_  
Address currently residing at \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_  
Address currently residing at \_\_\_\_\_  
\_\_\_\_\_

6. The relationship of plaintiff to the child(ren) is that of \_\_\_\_\_

7. The plaintiff currently resides with the following person/s: \_\_\_\_\_  
\_\_\_\_\_

8. The relationship of defendant to the child(ren) is that of \_\_\_\_\_

9. The defendant currently resides with the following person/s: \_\_\_\_\_  
\_\_\_\_\_

10. The plaintiff (circle one) **has or has not** participated as a party or witness or in another capacity in other litigation concerning the custody of the child(ren) or knows information of a custody proceeding concerning the child(ren) in this or another court. The court, term and number, and its relationship to this action is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Plaintiff (circle one) **knows or 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 rights with respect to the child(ren). The name and address of such person(s) is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. The best interest of the child(ren) will be served by granting the relief requested because \_\_\_\_\_  
\_\_\_\_\_

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13. Plaintiff requests the court to grant plaintiff (check all types of custody requested)

- physical custody:
  - sole
  - primary
  - shared
  - partial
  - supervised
- legal custody:
  - sole
  - shared

of the child(ren).

WHEREFORE, plaintiff requests the court to grant this petition.

Date \_\_\_\_\_  
\_\_\_\_\_ 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.

Date \_\_\_\_\_  
\_\_\_\_\_ Plaintiff