

## PETITION FOR EMERGENCY RELIEF - CUSTODY

### INSTRUCTION SHEET

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

A Petition for Emergency Relief can be filed when the child is at risk of or in immediate physical danger, or has been or is about to be removed from the Court's jurisdiction. Also, this petition can be filed if the other parent of the child has been charged with certain violent crimes. These crimes can include but are not limited to: homicide, aggravated assault, terroristic threats, stalking, false imprisonment, arson or contempt.

1. Complete the Domestic Relations Information Sheet with as much information as you have.
2. Complete, date and sign the Petition for Emergency Relief. (detailed instructions included)
3. The filing fee for a Petition for Emergency Relief is \$42.68. 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 Petition for Emergency Relief and Information Sheet with the filing fee by hand-delivering them in person to:

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

Once you file this petition you are immediately sent to the 13<sup>th</sup> Floor to see a custody master for a determination on your petition. There may be a significant wait because the masters are usually very busy.

To file a Petition for Emergency Relief you must already have one of the following petitions pending: Complaint for Custody, Petition to Modify or a Petition for Contempt. If you do not have one of these petitions pending you must file one of them at the same time that you file the Petition for Emergency Relief. There may be additional fees for these filings.

**5. You may pay the filing fee by money order, cash, or credit card.** Make the money order payable to “**PROTHONOTARY CLERK OF FAMILY COURT.**” **Personal checks will not be accepted.**

6. When you file the petition in person at 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. If your petition is granted you will receive an Order and Rule to Show Cause date for the next hearing, which will be in a short time. You must personally serve the Order, Rule and Petition on the other party before the hearing date. If your petition is denied, any open petitions will be heard at a later date. If the open petitions do not address your concerns you may want to file a different petition.

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

##### § 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 indicated 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.

#### HOW TO FILL IN THE PETITION:

##### HEADING (CAPTION).

Fill in the names of the plaintiff and defendant in the heading of the petition exactly as they appear in the custody complaint. The plaintiff is the person who filed the custody complaint. The defendant is the person against whom the custody action was filed. The plaintiff and defendant keep those titles throughout the case. The Domestic Relations Number (D.R.No.) is the number assigned your case by the Court. You can find this number in the caption of your Complaint for Custody.

##### LINE 1.

If you are filing the petition for emergency relief, you are the petitioner. Fill in your name and address as the petitioner. Indicate whether you are the plaintiff or defendant in the custody complaint by circling the appropriate term.

##### LINE 2.

The person against whom the petition is filed is the respondent. Fill in the name and address of the respondent. Indicate whether the respondent is the plaintiff or defendant in the custody complaint by circling the appropriate term.

##### LINE 3.

Fill in your relationship to the child(ren). List the name and date of birth (DOB) of each child involved in this petition.

##### LINE 4.

Fill in the other party's relationship to the children.

LINE 5.

Circle A if there is no current custody order related to these children.

Circle B if there is a current custody order, enter the date the last order was issued and then describe the order.

LINE 6.

You must have an underlying petition already pending or file an underlying petition at the same time you file a Petition for Emergency Relief.

Circle A if you are filing another complaint or petition along with this petition.

Circle B if you have already filed another petition or there is a petition already pending. Fill in the date the petition was filed and when it is next listed.

LINE 7.

Explain why you are filing a Petition for Emergency Relief.

WHEREFORE SECTION

Tell the court what you want the court to do.

DATE AND SIGN THE PETITION.

DATE AND SIGN THE VERIFICATION THAT THE STATEMENTS ARE TRUE.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

\_\_\_\_\_,  
PLAINTIFF  
vs.  
\_\_\_\_\_,  
DEFENDANT

:  
:  
: FAMILY COURT DIVISION  
:  
: CIVIL ACTION  
:  
:  
: D.R. NO.  
:  
:

PETITION FOR EMERGENCY RELIEF -- CUSTODY

1. Petitioner (name) \_\_\_\_\_  
is **plaintiff or defendant** (circle one) in the custody complaint,  
and resides at (street,city, state,zip) \_\_\_\_\_  
\_\_\_\_\_

2. Respondent (name) \_\_\_\_\_  
is **plaintiff or defendant** (circle one) in the custody complaint,  
and resides at (street, city, state, zip) \_\_\_\_\_  
\_\_\_\_\_

3. Petitioner's relationship to the following minor child(ren) is \_\_\_\_\_  
LIST FULL NAME(S) AND DATES OF BIRTH(S) OF CHILD(REN).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Respondent's relationship to the child(ren) is \_\_\_\_\_

5. CIRCLE ONE:

A. No custody order exists concerning this/these child(ren).

B. A custody order was entered on \_\_\_\_\_ (date) that states the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. CIRCLE ONE:

A. A complaint/petition is being filed with this petition.

B. A complaint/petition was filed on \_\_\_\_\_ (date) and a hearing has been scheduled on \_\_\_\_\_(date).

7. Petitioner believes that a situation exists that requires an emergency listing because:

a. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, petitioner respectfully requests that this honorable court grant the following relief:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_ Petitioner

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of PA.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
\_\_\_\_\_ Petitioner