

# **INSTRUCTIONS**

## **CUSTODY COMPLAINT**

*IT IS STRONGLY RECOMMENDED THAT YOU  
CONSULT AN ATTORNEY*

### **DISCLAIMER**

**THE SELF HELP CENTER STAFF AND THE STAFF IN ANY COURT OFFICE ARE UNABLE TO GIVE YOU LEGAL ADVICE. THE INFORMATION IN THE PACKETS IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE. THE COURT ASSUMES NO RESPONSIBILITY AND ACCEPTS NO LIABILITY FOR ACTIONS TAKEN BY USERS OF THESE DOCUMENTS, INCLUDING RELIANCE ON THEIR CONTENTS. IF YOU WANT TO OBTAIN THE SERVICES OF AN ATTORNEY BUT DO NOT KNOW WHOM TO CONTACT, YOU MAY CALL THE DAUPHIN COUNTY LAWYER REFERRAL SERVICE AT (717) 232-7536.**

# INSTRUCTIONS FOR FILING A CUSTODY COMPLAINT

## A. OVERVIEW OF PENNSYLVANIA CUSTODY LAW

1. Child support payments and custody arrangements are **separate**. For example, a parent who does not pay child support may still have a right to visit the child(ren). You must separately file for child support. Child support matters are handled through the Domestic Relations Office, 25 South Front Street, 8th Floor, Harrisburg, PA 17101.
2. In child custody matters, the courts will focus on the “**best interest of the child.**” In general, both parents have a right to have a relationship with their child. A parent who does not have primary physical custody will usually have partial custody, shared custody, visitation, or supervised visitation (when a parent visits the child under the supervision of another care provider).
3. A **court order** is not needed if you are satisfied with the current arrangement. Without a court order, both parents have equal rights to custody and either parent can lawfully take physical custody of the child at any time. The situation can be flexible. With a court order, either parent who disobeys the custody order may be held in contempt of court, charged with a crime, fined, or jailed. With a court order, you gain some certainty but lose flexibility.
4. **A custody complaint should be filed in the county where the child(ren) has/have resided for the previous six (6) months.**

## B. STEPS IN THE CUSTODY PROCESS

### ***PLEASE NOTE:***

IF YOU DO NOT HAVE AN ADDRESS FOR ANY OF THE OTHER PARTY(IES), YOU SHOULD NOT FILE THESE FORMS BUT CONSULT AN ATTORNEY TO LEARN ABOUT OTHER OPTIONS.

ALL BIOLOGICAL PARENTS MUST BE NAMED AS A PARTY TO THE ACTION UNLESS A PARENT IS DECEASED, THEIR PARENTAL RIGHTS HAVE BEEN TERMINATED BY AN ORDER OF COURT OR THE IDENTITY OF THE BIOLOGICAL PARENT IS UNKNOWN.

1. Read the instructions carefully and print legibly.
2. Complete the Custody Complaint.

3. Make two (2) copies of the completed form. Therefore, you will have three (3) total (the original and two (2) copies).
4. Take the original and the copies to the Dauphin County Prothonotary's Office, which is located on the first floor of the Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pa.
5. The Prothonotary's Office will date stamp your forms. The Prothonotary's Office will keep the original and one (1) copy and give you one copy for your records.
6. The filing fee for the custody complaint is \$234.00 (payable by cash, certified check or money order). If you do not think that you can afford the filing fee, you may file a Petition to Proceed In Forma Pauperis (IFP) (see Self Help Center In Forma Pauperis forms and instructions).
7. The Prothonotary's office will forward the original custody complaint to the Court Administrator's Office for assignment to a Custody Conference Officer. Dauphin County has four Custody Conference Officers who are attorneys that meet with both sides in order to try to work out a custody schedule so that a trial would not be necessary. The children should not attend this conference unless specifically requested by the Conference Officer. The Custody Conference Officer will schedule the conference.
8. Once the conference is scheduled, all parties will receive a copy of the scheduling order in the mail which indicates the date, time and location of the custody conference. The notification will be sent to all parties by certified mail, restricted delivery, return receipt requested by the Custody Conference Officer.
9. Most of the conferences are held at the Dauphin County Courthouse, but occasionally, conferences are held at the Custody Conference Officer's office. If the parties are able to reach an agreement, the Custody Conference Officer prepares an order for review and signature by a judge. If the parties are not able to reach an agreement, the Custody Conference Officer writes a report and the case is assigned to a judge for a hearing. **Please be aware that although you may have decided to proceed without an attorney, the other party(ies) may attend the conference with an attorney.**
10. Plan to arrive 15 minutes before the scheduled conference. Wear appropriate clothing, be polite and try to be positive and willing to cooperate in order to work out a custody schedule. Be ready to discuss the case in a mature and flexible manner. Try to respect the other party's position and do your best to work out an agreement that reflects not so much your best interests or the interests of the other parent but the **best interest of the children**. You have an obligation to approach the conference in a reasonable manner.

## C. INSTRUCTIONS FOR EACH FORM

For all forms:

PRINT NEATLY – MAKE SURE THE COURT WILL BE ABLE TO READ WHAT YOU HAVE WRITTEN

Fill in ALL blank lines.

**Form #1 - Order of Court** – This form should be placed on top.

Fill in your name as the Plaintiff and the other party(ies) as the Defendant. Include middle initials. Use the same names throughout the forms.

The Prothonotary's Office will write in the docket number on the right hand side of the caption.

Do **NOT** fill in any other blank lines on this form.

**Form #2 – Custody Complaint** - This form goes after the Order of Court.

On the five (5) blank lines in the top left hand corner fill in:

Your name.

Address.

City, State and Zip Code.

Phone number.

E-mail address (if you have one).

Fill in the Plaintiff's and Defendant's names as you did on the Order of Court form.

The Prothonotary's Office will write in the docket number on the right hand side of the caption.

1. Fill in your full name and complete address.
2. Fill in the name(s) and address(es) of the other party(ies).
- 3a. **Circle** primary custody, partial custody, shared custody, or visitation to indicate what you are seeking. **List** the names, addresses, and birth dates of the child(ren) for whom you are seeking primary custody, partial custody, shared custody, or visitation. If you need more room, use the bottom of the page.

**3b.** **Circle** was/were or was not/were not to indicate if the parents were married when the child(ren) was/were born.

Enter the name of the person the child(ren) are presently living with, and that person's address.

List all the places the child(ren) have lived in the last five (5) years (or if they are younger than five (5) years old, since their birth). **Start with the most recent place and go backwards. The child(ren)'s current residence should be listed first.** If you don't remember exact dates, try to remember the month and year. Also, give the names of all the people who have lived in each of the households. If you need extra room, use the bottom of the page or another sheet of paper.

**3c.** Give the name and address of the child(ren)'s mother. **Circle** whether she is single, married, or divorced.

Give the name and address of the child(ren)'s father. **Circle** whether he is single, married, or divorced.

**4.** You are the Plaintiff. **Circle** whether you are the mother or father. If you are not the mother or father of the child(ren), explain your relationship to the child(ren). Then list the people you live with and **your** relationship to them.

**5.** The other party is the Defendant. Circle whether that party is the father or mother. If the Defendant is not the mother or father of the child(ren), explain the Defendant's relationship to the child(ren). Then list the people she/he lives with and their relationship to each other.

**6(a).** Have you ever participated:

As a party,

As a witness, or

In any other way,

in any litigation concerning the custody of the child(ren) in any court proceeding (in this court or in any other court)? If you answer **Yes:**

Circle has in the first line and explain on the lines below on the form.

If you answer **No:**

Circle has not in the first line.

**6(b).** Do you have any information of a custody proceeding concerning the child(ren) pending in any court anywhere (in Pennsylvania or a court in any other state)? If you answer **Yes:**

Circle has in 6(b), and explain on the lines below on the form.

If you answer **No**:

Circle has no in 6(b).

- 6(c).** Do you know of any person other than you or the Defendant who has physical custody of the child(ren) or claims to have custody or visitation rights with respect to the child(ren)? If you answer **Yes to either question**:

Circle knows in 6(c), and explain on the lines below on the form.

If you answer **No to both questions**:

Circle does not know in 6(c).

**IMPORTANT: If a case involving the child(ren) has already been filed, you will have to ask for a modification of the order. IF THAT IS THE SITUATION, DO NOT USE THESE FORMS BUT SEE THE SELF HELP PETITION FOR MODIFICATION OF A CUSTODY ORDER FORMS. If there is a court order, you may have to ask the court to let you join as a party to that case instead of filing a new custody action.**

7. Explain why you think the child(ren) would be better off with you? Are you the primary caretaker of the child(ren), and/or does the child(ren)'s other parent have an unsuitable lifestyle for the child(ren)? Briefly give a reason. Do not say something you are unable to prove. Also, remember that the other parent will always have some contact with the child(ren), unless you are able to prove that she/he is truly dangerous to the child(ren).
8. Make sure both parents and anyone else who has actual (physical) custody of the child(ren) are named as either Plaintiff or Defendant.

In the next paragraph, **circle** whether you want (primary custody), (partial custody) (shared custody) or (visitation).

Sign your name and include your phone number in case the Conference Officer has any questions.

## **D. JEN & DAVE LINE**

The Jen & Dave Line is a 24-hour telephone service providing criminal charge information on parents involved in child custody matters. Parents may access the system by filing an application with the Prothonotary's Office where the custody case is filed. After the application is verified and registered in the system, the parent may call a telephone service to learn if the other parent has been charged with specific criminal offenses in Pennsylvania. A parent who has obtained information using the Jen & Dave Line may ask the court for temporary custody, partial custody or

visitation order. Criminal charges may be a basis for a change in custody. To apply for access to the Jen & Dave Line, complete an application which is available at all county Prothonotary's Offices in Pennsylvania. For more information, contact the Dauphin County Prothonotary's Office at (717) 780-6520.