

COMPLAINT FOR CUSTODY/PARTIAL CUSTODY/VISITATION

INSTRUCTION SHEET

USE THIS FORM IF THERE IS NO CUSTODY ORDER

1. Complete, date and sign the Cover Sheet for the Complaint for Custody/Partial Custody/Visitation. (See the detailed instructions in the pages to follow)
2. Complete, date and sign the Complaint for Custody/Partial Custody/Visitation. (See the detailed instructions in the pages to follow)
3. The filing fee for a Complaint for Custody/Partial Custody/Visitation is ~~\$139.50~~. 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)**. The Court will make a decision on your ability to pay based on the information you provide, so please fill out the Petition completely.
4. File the completed Complaint with at least two (2) copies, with the filing fee, by mailing or hand-delivering them in person to:
Pike County Prothonotary and Clerk of Courts
Pike County Courthouse
412 Broad Street
Milford, PA 18337-1522
(570) 296-7231
5. If you file in person, you may pay the filing fee by money order or bank check made payable to "Pike County Prothonotary" or cash. No personal checks or credit cards will be accepted. If you file by mail, you may pay by money order or bank check ONLY.
6. A stamped, self-addressed envelope large enough to accommodate the pleading MUST accompany any request for service such as copies, docket entries, or the return of any certified or time-stamped copies of any document.
7. At the same time the Complaint is filed, you MUST serve a time-stamped copy of the Complaint to the Defendant(s). You must either serve the Defendant(s) in person, or you may mail a copy via first class Certified mail with Return Receipt Requested. You need to complete a **CERTIFICATE OF SERVICE** indicating the manner in which you served/will serve the Complaint. The Certificate of Service ~~must be~~ attached to the Complaint.
8. Your action will be deemed defective if you fail to serve the named Defendant(s) and fail to attach the Certificate of Service.
9. Once the Complaint is filed, the Court will mail a copy of an Order with a date to appear either before a Mediator, Hearing Officer or Judge.

APPLICABLE PROVISIONS OF THE LAW

Definitions

23 Pa. C.S. § 5302:

Custody: the legal right to keep, control, guard, care for and preserve a child and includes the terms “legal custody”, “physical custody” and “shared custody”.

Legal Custody: 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: the right to take possession of a child away from the custodial person for a certain period of time.

Physical Custody: actual physical possession and control of a child.

Primary Physical Custody: the minor child resides in your residence for the majority of time and you are the primary caretaker of the minor child

Secondary Physical Custody: the minor child resides with you for only certain specific periods of time. Also known as visitation.

Shared Custody: 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.

Visitation: the right to visit a child, but does not include the right to remove the child from the primary custodial person’s control.

Minor Child: any unemancipated person under 18 years of age.

Person acting as a parent: 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.

HOW TO FILL IN THE COVER SHEET

HEADING (CAPTION):

Fill in the names of the plaintiff and defendant in the heading of the Complaint.

Plaintiff- the person who is filing the Complaint

Defendant- the person against whom you are filing

The Court will give the Complaint a number and put it on the Complaint at the time it is filed. This number is called a “docket number”.

LINE 1:

If you are filing this Complaint, you are the Plaintiff. Fill in your name, address, phone number and attorney (if applicable).

Fill in the name, address, phone number and attorney (if applicable) of the Defendant.

LINE 2:

Fill in the name(s) and age(s) of the child(ren) involved and state with whom the child(ren) are residing.

LINE 3:

Indicate whether, to your knowledge, either the Plaintiff or Defendant has attended the Kids First Class.

LINE 4:

State the current status of any current custody orders and/or custody arrangements.

LINE 5:

Indicate whether there has been any domestic violence between you and the other party within the past twenty-four (24) months. If so, explain briefly.

LINE 6:

Indicate whether any of the child(ren) involved in this case have been the subject of child abuse within the past twenty-four (24) months. If so, explain briefly.

LINE 7:

Indicate whether there been any Protection of Abuse Orders involving you and the other party and/or child(ren) within the past twenty-four (24) months. If so, explain briefly.

SIGN AND DATE THE COVER SHEET

HOW TO FILL IN THE COMPLAINT

Notice Page:

HEADING (CAPTION):

Fill in the names of the plaintiff and defendant in the heading of the Notice.

Plaintiff- the person who is filing the Complaint

Defendant- the person against whom you are filing

The Court will give the Complaint a number and put it on the Complaint at the time it is filed. This number is called a “docket number”.

Complaint:

HEADING (CAPTION):

Fill in the names of the plaintiff and defendant in the heading of the Complaint.

Plaintiff- the person who is filing the Complaint

Defendant- the person against whom you are filing

The Court will give the Complaint a number and put it on the Complaint at the time it is filed. This number is called a “docket number”.

LINE 1:

If you are filing this Complaint, you are the Plaintiff. Fill in your name and address.

LINE 2:

Fill in the name and address of the Defendant.

LINE 3:

Fill in the name(s), date(s) of birth and address(s) of the child(ren) who are the subject of the Complaint

LINE 4:

Indicate whether or not the child(ren) were born out of wedlock.

LINE 5:

Indicate the name and address of the person(s) the child(ren) are presently in the custody of.

LINE 6:

Indicate the dates, and with whom the child(ren) have lived for the past five years. Also include the time periods of residence at each location. For example, if the child Jane Doe resided with you on Broad Street, Milford, Pa for 3 years, you would indicate the following:

Name: Plaintiff

Address: Broad Street, Milford, Pa 18337

Dates: September 2004- September 2007

LINE 7:

Fill in the names and addresses of the child(ren)'s parents. If unknown, write "unknown".

LINE 8:

Identify your relationship to the child(ren).

LINE 9:

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

LINE 10:

Identify the relationship of the Defendant to the child(ren).

LINE 11:

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

LINE 12:

Circle either "has" or "has not" if you know whether there has been a custody action in another court. Provide details if you know of such an action. Otherwise, skip this line.

LINE 13:

Circle either "knows" or "does not know" if you know any person(s) not a party to this Complaint who has physical custody or claims to have custody or visitation rights with respect to the children. If you know of any such person(s), provide names and addresses. Otherwise, skip this line.

LINE 14:

Fill in the reason you are filing this Complaint.

LINE 15:

Circle what types of custody you are seeking. Circle all that apply. Please refer to the definition section to ensure you have circling the correct option. Failure to circle what you are truly requesting may result in a dismissal of the action.

SIGN AND DATE THE COMPLAINT

VERIFICATION:

Sign and date the Verification indicating that statements made with the Complaint are true.

DO NOT FORGET TO COMPLETE A CERTIFICATE OF SERVICE AND ATTACH IT TO THE PETITION

**IN THE COURT OF COMMON PLEAS
OF PIKE COUNTY, PENNSYLVANIA
CIVIL**

_____	:	
Plaintiff	:	Custody Complaint
	:	No. _____ - _____ Civil
_____	:	
Defendant	:	IN CUSTODY
	:	

COVER SHEET

(To be attached to the pleading- Fill out COMPLETELY including docket number)

- | | |
|-------------------------|-----------------|
| 1. PLAINTIFF | DEFENDANT |
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| _____ | _____ |
| Phone: _____ | Phone: _____ |
| Attorney: _____ | Attorney: _____ |
2. Names and ages of all children involved; state with whom living;
- _____
- _____
- _____
3. Have you attended Kids First Class: Plaintiff _____ Defendant _____
4. Status of current custody orders or custody arrangements.

5. Has there been any domestic violence between you and the other party within the past twenty-four (24) months? _____ Yes _____ No
If so, explain:

6. Have any of the children involved in this case been the subject of child abuse within the past twenty-four (24) months? _____ Yes _____ No
If so, explain:

7. Have there been any Protection from Abuse Orders involving you and the other parent and/or children within the past twenty-four (24) months?
_____ Yes _____ No If so, explain:

Date Signed: _____	Submitted By: _____
O _____ M _____ C/H _____	MOU _____ FO _____ W/D _____

**IN THE COURT OF COMMON PLEAS
OF PIKE COUNTY, PENNSYLVANIA
CIVIL**

Plaintiff	:	
	:	No. _____ - _____ Civil
Defendant	:	IN CUSTODY
	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action prior to the hearing scheduled herein, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and an Order may be entered against you by the Court without further notice for any claim or relief requested in the Complaint. You may lose money or property or other rights important to you.

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.

North Penn Legal Services
10 North Tenth Street
Stroudsburg, PA 18360
Phone: (570) 424-5338

6. During the past five (5) years, the child(ren) have resided with the following persons at the following addresses for the following periods of time:

Name: _____

Address: _____

Dates: _____

Name: _____

Address: _____

Dates: _____

7. The natural parents of the child(ren) are:

Mother (name): _____

Currently residing at: _____

Father (name): _____

Currently residing at: _____

8. The relationship of Plaintiff to the child(ren) is that of: _____

9. The Plaintiff currently resides with the following person(s):

10. The relationship of Defendant to the child(ren) is that of: _____

11. The Defendant currently resides with the following person(s):

12. 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:

13. The 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 or visitation rights with respect to the child(ren).

The name and address of such person(s) is :

14. The best interest of the child(ren) will be served by granting the relief requested because _____

_____.

15. Plaintiff requests the Court to grant Plaintiff (circle all the types of custody requested) **legal custody, primary physical custody, secondary physical custody, visitation** 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