

PETITION FOR CONTEMPT

INSTRUCTION SHEET

USE THIS FORM IF THE OPPOSING PARTY IN THE CUSTODY ACTION HAS WILLFULLY DISOBEYED OR FAILED TO COMPLY WITH AN EXISTING CUSTODY ORDER.

1. Complete, date and sign the Petition for Contempt. (See the detailed instructions in the pages to follow)
2. The filing fee for a Petition for Contempt is **\$50.00**. 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.
3. At the same time the Petition for Contempt is filed, you **MUST** serve a time-stamped copy of the Petition 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 Petition. The Certificate of Service **must be** attached to the Petition.
4. Your action will be deemed defective if you fail to serve the named Defendant(s) and fail to attach the Certificate of Service.
5. File the completed Petition for Contempt, Proposed Orders, and Certificate of Service with a copy of the existing Custody Order attached 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

*Note that if no custody order currently exists, you may also have to file a Complaint for Custody. There may be additional fees for this filing.
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. Once the Petition is filed, the Court will mail you a “Rule to Show Cause.” Please read the Rule carefully as it will give you instructions on what to do next. You **MUST** send this “Rule to Show Cause” and a copy of the other papers that you filed, to the other party in the case, or to their attorney, if they are represented. You will need to file another Certificate of Service with you to show the Judge that you provided notice of the Rule to Show Cause to the other party.

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 custodial person’s control.

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 RULE TO SHOW CAUSE

1. Complete the Caption with the names of the Plaintiff, Defendant and the Docket number. Each should appear exactly as they do on the Custody Complaint or prior Court Order.
2. Insert the Petitioner's name in the blank provided. If you are filing the Petition, you are the Petitioner.
3. Insert the Respondent's name in the blank provided.

Leave the rest of the Rule to Show Cause blank for the Court to complete.

HOW TO FILL IN THE PROPOSED ORDER

1. Complete only the Caption with the names of the Plaintiff, Defendant and the Docket number. Each should appear exactly as they do on the other documents filed.

Leave the rest of the Proposed Order blank for the Court to complete.

HOW TO FILL IN THE PETITION

Notice Page:

HEADING (CAPTION):

1. Complete only the Caption with the names of the Plaintiff, Defendant and the Docket number. Each should appear exactly as they do on the other documents filed.

Petition:

HEADING (CAPTION):

Fill in the names of the plaintiff and defendant in the heading of the Petition exactly as they appear on the Custody Complaint.

Plaintiff- the person who has filed the Complaint

Defendant- the person against whom the Complaint was
filed

The docket number can be found in the caption of your Complaint for Custody or your Custody Order. Place this number exactly as it appears in the Custody Complaint or Order.

LINE 1:

If you are filing this Petition, you are the Petitioner. Fill in your name and address of the Petitioner. Indicate whether you are the Plaintiff or the 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). Fill in the name(s) and date(s) of birth of the child(ren) who are the subject of this Petition.

LINE 4:

Fill in the Respondent's relationship to the child(ren).

LINE 5:

Indicate the date the last custody order was issued and then describe the order. **Be sure to attach a time stamped copy of the last order to the petition.**

LINE 6:

Indicate how the other party has willfully disobeyed or failed to comply with the custody order.

SIGN AND DATE THE PETITION

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

RULE TO SHOW CAUSE

AND NOW, upon consideration of the _____'s
*(Insert Petitioner's Name)*Petition for Contempt, it is hereby ORDERED that:

- 1) A rule is issued upon the Respondent to show cause why the Petitioner is not entitled to the relief requested.
- 2) Rule Returnable for Answer only in twenty (20) days from the date that this Rule is served upon Respondent.
- 3) If no answer is filed by the specified date, the Rule may be made absolute upon motion of counsel.
- 4) If an answer is filed, either party may petition for a Hearing or Argument to be held at the Pike County Courthouse, Milford, Pennsylvania.
- 5) Petitioner is hereby ORDERED to serve a copy of this Rule upon the Respondent and file proof of service thereafter.

BY THE COURT,

Hon. _____ J.

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

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

ORDER

AND NOW , this _____ day of _____, 20____,
upon consideration of the Petitioner’s Petition for Contempt, the request is
hereby GRANTED.

BY THE COURT,

Hon. _____ J.

**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. The Respondent have willfully disobeyed or failed to comply with the said Order of Court for the following reasons:

- a. _____

- b. _____

- c. _____

- d. _____

WHEREFORE, Petitioner requests that the Respondent be held in contempt of court.

Date: _____
_____ Petitioner

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: _____
_____ Petitioner

