

## PETITION TO MODIFY CUSTODY

### INSTRUCTION SHEET

#### USE THIS FORM IF YOU WISH TO CHANGE AN EXISTING CUSTODY ORDER.

1. Complete, date and sign the Cover Sheet for the Petition to Modify Custody. (See the detailed instructions in the pages to follow)
2. Complete, date and sign the Petition to Modify. (See the detailed instructions in the pages to follow)
3. File the completed Petition to Modify 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 cannot not file a Petition to Modify Custody. You must file a Complaint for Custody.

\*Note that if no custody order currently exists and the current custody arrangement is entered through a Protection from Abuse Order, you may not file a Petition to Modify Custody. You must file a Complaint for Custody.

4. 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.
5. At the same time the Petition to Modify Custody 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.
6. Your action will be deemed defective if you fail to serve the named Defendant(s) and fail to attach the Certificate of Service.
7. Once the Petition is filed, the Court will mail a copy of an Order with a date to appear either before a Mediator, Hearing Officer or Judge.

\*\* Note, if you are seeking to Petition to Modify a Custody Order from another state or jurisdiction, you **MUST** file a **certified** copy of the most recent Court Order in the custody matter from that jurisdiction. Once that Order is filed, you may then file the Petition for Modification of Custody Order following the instructions above.

## 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 COVER SHEET**

### **HEADING (CAPTION):**

Fill in the names of the plaintiff and defendant in the heading of the Cover Sheet exactly as they appear in 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. Place this number exactly as it appears in the Custody Complaint.

### **LINE 1:**

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

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 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.

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. Place this number exactly as it appears in the Custody Complaint.

### LINE 1:

If you are filing this Petition to Modify, you are the Petitioner. Fill in your name and address as 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. If you do not know this information, skip this line

### LINE 6:

Indicate generally why you want the existing custody order changed. You must indicate what about the current Court Order is not in the best interest of the minor child, therefore you are seeking a modification.

### LINE 7:

Indicate how you want the order changed what changes you feel would be in the best interest of the child(ren). You must indicate the specific modifications you will be seeking.

## 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	:	Petition for Modification of Custody
	:	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

\_\_\_\_\_,  
Defendant

: :  
: :  
: :  
: :  
: :

No. \_\_\_\_\_ - \_\_\_\_\_ Civil  
IN CUSTODY

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**PETITION FOR MODIFICATION OF CUSTODY**

1. The Petitioner is (name) \_\_\_\_\_  
Is (circle one) **Plaintiff** or **Defendant** in the Custody Complaint, and  
resides at (street, city, state, zip) \_\_\_\_\_  
\_\_\_\_\_
  
  2. The Respondent is (name) \_\_\_\_\_  
Is (circle one) **Plaintiff** or **Defendant** in the Custody Complaint, and  
resides at (street, city, state, zip) \_\_\_\_\_  
\_\_\_\_\_
  
  3. The Petitioner seeks a modification of an existing custody order involving  
the following child(ren), and the relationship of the Petitioner to the  
child(ren) is that of \_\_\_\_\_.
- Name: \_\_\_\_\_ DOB: \_\_\_\_\_
- Name: \_\_\_\_\_ DOB: \_\_\_\_\_
- Name: \_\_\_\_\_ DOB: \_\_\_\_\_
- Name: \_\_\_\_\_ DOB: \_\_\_\_\_
- Name: \_\_\_\_\_ DOB: \_\_\_\_\_
4. The relationship of Respondent to the child(ren) is that of:  
\_\_\_\_\_.
  
  5. On (month/date/year) \_\_\_\_\_, the Honorable  
(name of Judge) \_\_\_\_\_ entered the following  
order:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The best interest of the child(ren) will be served by the Court in modifying said order because:

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7. The Petitioner requests that the order be changed to provide as follows:

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WHEREFORE, Plaintiff requests the Court to grant this petition to modify.

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