

**CUSTODY STATUTES ARE INCLUDED AFTER THE COMPLAINT FOR
CUSTODY FORM AND CRIMINAL / ABUSE HISTORY VERIFICATION**

COMPLAINT FOR CUSTODY

INSTRUCTION SHEET

USE THIS FORM IF THERE IS NO CUSTODY ORDER.

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

1. Fill in the Domestic Relations Information Sheet with as much information as you have.
2. Complete, date, and sign the Complaint for Custody (detailed instructions included).
3. The filing fee for a complaint for custody is \$107.13. 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 Complaint, information sheet, and Criminal Record/Abuse History Verification with the filing fee by mailing or hand-delivering them in person to:

Clerk of Family Court
1501 Arch Street-11th Floor
Philadelphia, Pa. 19102
5. **If you file in person, you may pay the filing fee by money order, or credit card. If you file by mail, you may pay ONLY by money order.** Make the money order payable to **“OFFICE OF JUDICIAL RECORDS.” Personal checks will not be accepted.**
6. Whether you file the complaint by mail or hand-deliver it to the office of the Clerk of Family of Court, you must file the original **AND** two (2) copies. A copy machine is available at the Clerk's office at a cost of \$.25 per page.
7. Once the complaint is filed, the Court will mail a copy of the complaint and an order with a date to appear in court on the complaint.

PROVISIONS OF LAW THAT MAY HELP YOU FILL OUT THE COMPLAINT:

§ 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 indicates 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.

§ 5324. Standing for any form of physical custody or legal custody.

The following individuals may file an action under this chapter for any form of physical custody or legal custody:

- (1) A parent of the child.
- (2) A person who stands in loco parentis to the child. [*in loco parentis* means acting in the

place of a parent]

- (3) A grandparent of the child who is not in loco parentis to the child:
 - (i) whose relationship with the child began either with the consent of a parent of the child or under a court order;
 - (ii) who assumes or is willing to assume responsibility for the child; and
 - (iii) when one of the following conditions is met:
 - (A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);
 - (B) the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or
 - (C) the child has for a period of at least 12 consecutive months resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.

§ 5325. Standing for partial physical custody and supervised physical custody.

In addition to situations set forth in section 5324 (relating to standing for any form of physical custody or legal custody), grandparents and great-grandparents may file an action under this chapter for partial physical custody or supervised physical custody in the following situations:

- (1) where the parent of the child is deceased, a parent or grandparent of the deceased parent may file an action under this section;
- (2) where the parents of the child have been separated for a period of at least six months or have commenced and continued a proceeding to dissolve their marriage; or
- (3) when the child has, for a period of at least 12 consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, an action must be filed within six months after the removal of the child from the home.

§ 5328. Factors to consider when awarding custody.

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:

- (1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.
- (2) The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party

can better provide adequate physical safeguards and supervision of the child.

- (3) The parental duties performed by each party on behalf of the child.
- (4) The need for stability and continuity in the child's education, family life and community life.
- (5) The availability of extended family.
- (6) The child's sibling relationships.
- (7) The well-reasoned preference of the child, based on the child's maturity and judgment.
- (8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.
- (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
- (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- (11) The proximity of the residences of the parties.
- (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- (14) The history of drug or alcohol abuse of a party or member of a party's household.
- (15) The mental and physical condition of a party or member of a party's household.
- (16) Any other relevant factor.

The custody statute also lists specific criminal convictions and criminal charges for consideration in a custody decision and procedures to be followed for such consideration.

See § 5329. Consideration of criminal conviction, available on the internet at <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/23/00.053.029.000..HTM>

See § 5330. Consideration of criminal charge, available on the internet at <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/23/00.053.030.000..HTM>

LINE 6.

Circle if you have participated in any other litigation concerning the children in this or any other court. Provide details if you know of any such action(s). If not, skip this line.

Circle if you know if there has been a custody action in another court. Provide details if you know of any such action(s). If not, skip this line.

Circle whether you know any person(s) not a party to this complaint who has physical custody or claims to have custody rights with respect to the children. If you know any such persons, provide names and addresses. If not, skip this line.

LINE 7.

Fill in the reason you are filing this complaint.

LINE 8.

Provide the names, addresses, and relationships of any other people you know to have custody rights or claim a right to custody of the children.

LINE 9(a).

If you are a grandparent who does not stand in loco parentis to the children, provide facts to establish that you have standing to obtain the custody you are requesting.

LINE 9(b).

If you are a grandparent or great-grandparent, provide facts to establish that you have standing to obtain partial physical custody or supervised physical custody of the children.

LINE 9(c).

If you stand in loco parentis to the child, provide facts to establish in loco parentis standing.

LINE 10.

Attach the Criminal Record/Abuse History Verification Form.

SIGN AND DATE THE COMPLAINT.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

	:	
PLAINTIFF	:	FAMILY COURT DIVISION
VS.	:	CIVIL ACTION
	:	DOCKET NO. _____
DEFENDANT	:	

COMPLAINT FOR CUSTODY

1. The plaintiff is _____, residing at _____

2. The defendant is _____, residing at _____

3. Plaintiff seeks ___ (shared legal custody) ___ (sole legal custody) ___ (partial physical custody) ___ (primary physical custody) ___ (shared physical custody) ___ (sole physical custody) ___ (supervised physical custody) of the following child(ren):

Name	Present Address	Age	Born out of Wedlock? (Y/N)

The child(ren) is currently in the custody of _____, who resides at _____

During the past five years, the child(ren) has resided with the following persons and at the following addresses:

(List All Persons)	(List All Addresses)	(Dates)

A parent of the child(ren) is _____, currently residing at _____

This parent is ___ (married) ___ (divorced) ___ (single).

A parent of the child(ren) is _____, currently residing at

This parent is ___ (married) ___ (divorced) ___ (single).

4. Plaintiff's relationship to the child(ren) is that of _____.

Plaintiff currently resides with the following persons:

Name	Relationship

5. Defendant's relationship to the child(ren) is that of _____.

defendant currently resides with the following persons:

Name	Relationship

6. Plaintiff ___ (has) ___ (has not) participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child in this or another court. The court, term and number, and its relationship to this action is:

Plaintiff ___ (has) ___ (has no) information of a custody proceeding concerning the child pending in a court of this Commonwealth or any other state. The court, term and number, and its relationship to this action is:

Plaintiff ___ (knows) ___ (does not know) of a person not a party to the proceedings who has physical custody of the child or claims to have custodial rights with respect to the child. The name and address of such person is:

7. The child's best interest and permanent welfare will be served by granting the relief requested because (set forth facts showing that the granting of the relief requested will be in the child's best interest and permanent welfare):

--

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child have been named as parties to this action. All other persons, named below, who are known to have or claim a right to custody of the child will be given notice of the pendency of this action and the right to intervene:

Name	Address	Basis of Claim

9. Standing.

- a. If the plaintiff is seeking physical or legal custody of a child and is in loco parentis to the child, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5324(2).

--

- b. If the plaintiff is a grandparent seeking physical or legal custody of a grandchild and is not *in loco parentis* to the child, the plaintiff shall plead facts establishing standing under [23 Pa.C.S. § 5324\(3\)](#).

--

- c. If the plaintiff is seeking physical or legal custody of a child and is not in loco parentis to the child, the plaintiff shall plead facts establishing standing pursuant to 23 Pa.C.S. § 5324(4) and (5).

--

- d. If the plaintiff is a grandparent or great-grandparent seeking partial physical custody or supervised physical custody of a grandchild or great-grandchild, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5325.

10. Plaintiff has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.Civ.P. 1915.3-2.

Wherefore, Plaintiff requests the court to grant ___ (shared legal custody) ___ (sole legal custody) ___ (partial physical custody) ___ (primary physical custody) ___ (shared physical custody) ___ (sole physical custody) ___ (supervised physical custody) of the child(ren).

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. § 4904 relating to unsworn falsification to authorities.

Date: _____
_____ Plaintiff

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

	PLAINTIFF	:	
VS.		:	FAMILY COURT DIVISION
		:	
		:	DOCKET NO. _____
		:	
	DEFENDANT	:	

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

1. Participants. Please list ALL members in your/the participant’s household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701-6713, or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

Please list ALL members in the opposing party’s household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701-6713, or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

SUBJECT CHILD(REN) – Attach additional sheets if necessary:

Name	Date of Birth

2. Criminal Offenses. As to the following listed Pennsylvania crimes or offenses, or another jurisdiction’s substantially equivalent crimes or offenses, check the box next to any applicable crime or offense in which you or a household member:

- A. has pleaded guilty or no contest;
- B. has been convicted;
- C. has charges pending; or
- D. has been adjudicated delinquent under the Juvenile Act, 42 Pa.C.S. §§ 6301 - 6375, and the record is publicly available as set forth in 42 Pa.C.S. § 6307.

You should also check the box next to a listed criminal offense even if the offense has been resolved by Accelerated Rehabilitative Disposition (ARD) or another diversionary program, unless it has been expunged pursuant to 18 Pa.C.S. § 9122, or a court has entered an order for limited access, e.g., Clean Slate, pursuant to 18 Pa.C.S. §§ 9122.1 or 9122.2.

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea, or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2701 (relating to simple assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 2702
(relating to aggravated assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2705
(relating to recklessly endangering another person) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2706
(relating to terroristic threats) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2709.1
(relating to stalking) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2718
(relating to strangulation) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2901
(relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2902
(relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2903
(relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2904
(relating to interference with custody of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2910
(relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. Ch. 30
(relating to human trafficking) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 3121
(relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3122.1
(relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3123
(relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3124.1
(relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3125
(relating to aggravated indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3126
(relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3127
(relating to indecent exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3129
(relating to sexual intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3130
(relating to conduct relating to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3301
(relating to arson and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4302
(relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 4303
(relating to concealing
death of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4304
(relating to endangering
welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4305
(relating to dealing in
infant children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5533
(relating to cruelty to
animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5534
(relating to aggravated
cruelty to animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5543
(relating to animal
fighting) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5544
(relating to possession of
animal fighting
paraphernalia) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5902(b) or
(b.1) (relating to
prostitution and related
offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5903(c) or
(a) (relating to obscene
and other sexual
materials and
performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6301
(relating to corruption of
minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 6312
(relating to sexual abuse
of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6318
(relating to unlawful
contact with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6320
(relating to sexual
exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Finding of contempt of a
Protection from Abuse
order or agreement
under 23 Pa.C.S. § 6114 | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Finding of contempt of a
Protection of Victims of
Sexual Violence and
Intimidation order or
agreement under 42
Pa.C.S. § 62A14 | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the
influence of drugs or
alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Manufacture, sale,
delivery, holding, offering
for sale or possession of
any controlled substance
or other drug or device | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

3. Abuse or Agency Involvement. Check the box next to any statement that applies to you, a household member, or your child.

Check all that apply	Self	Household member	Child
<input type="checkbox"/> Involvement with a children and youth social service agency in Pennsylvania or a similar agency in another jurisdiction. What jurisdiction?: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> A determination or finding of abuse (<i>i.e.</i> , indicated or founded report) by a children and youth social service agency or court in Pennsylvania or a similar agency or court in another jurisdiction. What jurisdiction?: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> An adjudication of dependency involving this child or any other child under Pennsylvania’s Juvenile Act, or a similar law in another jurisdiction. What jurisdiction?: _____ Is the case active?: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> A history of perpetrating “abuse” as that term is defined in the Protection from Abuse Act, 23 Pa.C.S. § 6102.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> A history of perpetrating “sexual violence” or “intimidation” as those terms are defined in 42 Pa.C.S. § 62A03 (relating to protection of victims of sexual violence and intimidation).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. If you checked a box in (2) or (3), list any evaluation, counseling, or other treatment received as a result:

5. If you checked a box in (2) or (3) that applies to your household member, who is not a party, state that person's name, date of birth, and relationship to the child.

6. If you are aware that the other party or the other party's household member has a criminal record or abuse history, please explain:

ONLY A PARTY CAN SIGN THIS FORM. IF A PARTY IS REPRESENTED BY AN ATTORNEY, THE ATTORNEY CANNOT SIGN THIS FORM ON BEHALF OF THE PARTY.

I verify that the information above is true and correct to the best of my knowledge, information, or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

Plaintiff/Defendant Signature

Printed Name

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Signature of Filer

Printed Name

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VI. Children and Minors

Chapter 53. Child Custody (Refs & Annos)

§ 5322. Definitions

(a) This chapter.--The following words and phrases when used in this chapter shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Abuse.” As follows:

(1) As defined in section 6102 (relating to definitions). The term includes the crime of stalking pursuant to [18 Pa.C.S. § 2709.1](#) (relating to stalking).

(2) The term does not include the justified use of force in self-protection or for the protection of other persons in accordance with [18 Pa.C.S. § 505](#) (relating to use of force in self-protection) by a party in response to abuse or domestic abuse by the other party.

“Adult.” An individual 18 years of age or older.

“Agency.” Any organization, society, institution, court facility or other entity which provides for the care of a child. The term does not include a county children and youth social service agency.

“Child.” An unemancipated individual under 18 years of age.

“Household member.” A spouse or an individual who has been a spouse, an individual living as a spouse or who lived as a spouse, a parent or child, another individual related by consanguinity or affinity, a current or former sexual or intimate partner, an individual who shares biological parenthood or any other person, who is currently sharing a household with the child or a party.

“Legal custody.” The right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions.

“Nonprofessional supervised physical custody.” Custodial time during which an adult, designated by the court or agreed upon by the parties, monitors the interaction between the child and the individual with those rights.

“Parental duties.” Includes meeting the physical, emotional and social needs of the child.

“Partial physical custody.” The right to assume physical custody of the child for less than a majority of the time.

“Physical custody.” The actual physical possession and control of a child.

“Primary physical custody.” The right to assume physical custody of the child for the majority of time.

“Professional supervised physical custody.” Custodial time during which a professional, with education and training on the dynamics of domestic violence, sexual assault, child abuse, trauma and the impact of domestic violence on children, oversees the interaction between the child and the individual with those custody rights and promotes the safety of the child during the interaction.

“Relocation.” A change in a residence of the child which significantly impairs the ability of a nonrelocating party to exercise custodial rights.

“Safety of the child.” The term includes, but is not limited to, the physical, emotional and psychological well-being of the child.

“Shared legal custody.” The right of more than one individual to legal custody of the child.

“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.

“Sole legal custody.” The right of one individual to exclusive legal custody of the child.

“Sole physical custody.” The right of one individual to exclusive physical custody of the child.

“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.

“Temporary housing instability.” A period not to exceed six months from the date of the last incident of abuse as determined by a court.

(b) Other law.--In a statutory provision other than in this chapter, when the term “visitation” is used in reference to child custody, the term may be construed to mean:

- (1) partial physical custody;
- (2) shared physical custody; or
- (3) supervised physical custody.

§ 5324. Standing for any form of physical custody or legal custody

The following individuals may file an action under this chapter for any form of physical custody or legal custody:

- (1) A parent of the child.
- (2) A person who stands in loco parentis to the child.
- (3) A grandparent of the child who is not in loco parentis to the child:
 - (i) whose relationship with the child began either with the consent of a parent of the child or under a court order;
 - (ii) who assumes or is willing to assume responsibility for the child; and
 - (iii) when one of the following conditions is met:
 - (A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);
 - (B) the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or
 - (C) the child has, for a period of at least 12 consecutive months, resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.
- (4) Subject to paragraph (5), an individual who establishes by clear and convincing evidence all of the following:
 - (i) The individual has assumed or is willing to assume responsibility for the child.
 - (ii) The individual has a sustained, substantial and sincere interest in the welfare of the child. In determining whether the individual meets the requirements of this subparagraph, the court may consider, among other factors, the nature, quality, extent and length of the involvement by the individual in the child's life.
 - (iii) Neither parent has any form of care and control of the child.
- (5) Paragraph (4) shall not apply if:
 - (i) a dependency proceeding involving the child has been initiated or is ongoing; or

(ii) there is an order of permanent legal custody under 42 Pa.C.S. § 6351(a)(2.1) or (f.1)(3) (relating to disposition of dependent child).

§ 5325. Standing for partial physical custody and supervised physical custody

In addition to situations set forth in section 5324 (relating to standing for any form of physical custody or legal custody), grandparents and great-grandparents may file an action under this chapter for partial physical custody or supervised physical custody in the following situations:

- (1) where the parent of the child is deceased, a parent or grandparent of the deceased parent may file an action under this section;
- (2) where the relationship with the child began either with the consent of a parent of the child or under a court order and where the parents of the child:
 - (i) have commenced a proceeding for custody; and
 - (ii) do not agree as to whether the grandparents or great-grandparents should have custody under this section; or
- (3) when the child has, for a period of at least 12 consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, an action must be filed within six months after the removal of the child from the home.

§ 5328. Factors to consider when awarding custody

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1) and (2.2) which affect the safety of the child, including the following:

- (1) Which party is more likely to ensure the safety of the child.
- (2) The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.
 - (2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).
 - (2.2) Violent or assaultive behavior committed by a party.
 - (2.3) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.
- (3) The parental duties performed by each party on behalf of the child.
- (4) The need for stability and continuity in the child's education, family life and community life, except if changes are necessary to protect the safety of the child or a party.
- (5) The availability of extended family.
- (6) The child's sibling relationships.
- (7) The well-reasoned preference of the child, based on the child's developmental stage, maturity and judgment.
- (8) The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.
- (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.

- (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- (11) The proximity of the residences of the parties.
- (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- (14) The history of drug or alcohol abuse of a party or member of a party's household.
- (15) The mental and physical condition of a party or member of a party's household.
- (16) Any other relevant factor.

(a.1) Exception.--A factor under subsection (a) shall not be adversely weighed against a party if the circumstances related to the factor were in response to abuse or necessary to protect the child or the abused party from harm and the party alleging abuse does not pose a risk to the safety of the child at the time of the custody hearing. Temporary housing instability as a result of abuse shall not be considered against the party alleging abuse.

(a.2) Determination.--No single factor under subsection (a) shall by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances, giving weighted consideration to the factors that affect the safety of the child, when issuing a custody order that is in the best interest of the child.

(b) Gender neutral.--In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter.

(c) Grandparents and great-grandparents.--

(1) In ordering partial physical custody or supervised physical custody to a party who has standing under section 5325(1) or (2) (relating to standing for partial physical custody and supervised physical custody), the court shall consider the following:

- (i) the amount of personal contact between the child and the party prior to the filing of the action;
- (ii) whether the award interferes with any parent-child relationship; and
- (iii) whether the award is in the best interest of the child.

(2) In ordering partial physical custody or supervised physical custody to a parent's parent or grandparent who has standing under section 5325(3), the court shall consider whether the award:

- (i) interferes with any parent-child relationship; and
- (ii) is in the best interest of the child.

§ 5329. Consideration of criminal conviction

(a) Offenses.--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that party when considering the following offenses:

- 18 Pa.C.S. Ch. 25 (relating to criminal homicide).
- 18 Pa.C.S. § 2701 (relating to simple assault).
- 18 Pa.C.S. § 2702 (relating to aggravated assault).
- 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).

18 Pa.C.S. § 2706 (relating to terroristic threats).
18 Pa.C.S. § 2709.1 (relating to stalking).
18 Pa.C.S. § 2718 (relating to strangulation).
18 Pa.C.S. § 2901 (relating to kidnapping).
18 Pa.C.S. § 2902 (relating to unlawful restraint).
18 Pa.C.S. § 2903 (relating to false imprisonment).
18 Pa.C.S. § 2904 (relating to interference with custody of children).
18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).
18 Pa.C.S. Ch. 30 (relating to human trafficking).
18 Pa.C.S. § 3121 (relating to rape).
18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
18 Pa.C.S. § 3124.1 (relating to sexual assault).
18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
18 Pa.C.S. § 3126 (relating to indecent assault).
18 Pa.C.S. § 3127 (relating to indecent exposure).
18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).
18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).
18 Pa.C.S. § 3301 (relating to arson and related offenses).
18 Pa.C.S. § 4302 (relating to incest).
18 Pa.C.S. § 4303 (relating to concealing death of child).
18 Pa.C.S. § 4304 (relating to endangering welfare of children).
18 Pa.C.S. § 4305 (relating to dealing in infant children).
18 Pa.C.S. § 5533 (relating to cruelty to animal).
18 Pa.C.S. § 5534 (relating to aggravated cruelty to animal).
18 Pa.C.S. § 5543 (relating to animal fighting).
18 Pa.C.S. § 5544 (relating to possession of animal fighting paraphernalia).
18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses).
18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances).
18 Pa.C.S. § 6301 (relating to corruption of minors).
18 Pa.C.S. § 6312 (relating to sexual abuse of children).
18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

Section 6114 (relating to contempt for violation of order or agreement).

The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).

75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

Section 13(a)(1) of the act of April 14, 1972 (P.L. 233, No. 64),¹ known as The Controlled Substance, Drug, Device and Cosmetic Act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

(a.1) Determination.--A criminal conviction specified under subsection (a) shall not by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances when issuing a custody order that is in the best interest of the child.

(b) Parent convicted of murder.--No court shall award custody, partial custody or supervised physical custody to a parent who has been convicted of murder under 18 Pa.C.S. § 2502(a) (relating to murder) of the other parent of the child who is the subject of the order unless the child is of suitable age and consents to the order.

(b.1) Parent convicted of certain sexual offenses.--

(1) Notwithstanding any provision of this chapter to the contrary and subject to paragraph (2), if a parent who is a victim of any of the offenses set forth in this paragraph objects, no court shall award any type of custody set forth in section 5323 (relating to award of custody) to the other parent of a child conceived as a result of any of the following offenses for which the other parent has been convicted:

18 Pa.C.S. § 3121.

18 Pa.C.S. § 3122.1.

18 Pa.C.S. § 3124.1, where the offense involved sexual intercourse.

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse.

18 Pa.C.S. § 4302.

(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:

- (i) the parent who is a victim had an opportunity to address the court;
- (ii) the child is of suitable age and consents to the custody order; and
- (iii) the court determines the award is in the best interest of the child.

(3) Paternity of the child shall be established by voluntary acknowledgment of paternity or blood, genetic or other paternity testing acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.

(c) Initial evaluation.--At the initial in-person contact with the court, the judge, conference officer or other appointed individual shall perform an initial evaluation to determine whether the party or household member who committed an offense under subsection (a) poses a threat to the child and whether counseling is necessary. The initial evaluation shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary.

(d) Counseling.--

(1) Where the court determines under subsection (c) that counseling is necessary, it shall appoint a qualified professional specializing in treatment relating to the particular offense to provide counseling to the offending individual.

(2) Counseling may include a program of treatment or individual therapy designed to rehabilitate the offending individual which addresses, but is not limited to, issues regarding physical and sexual abuse, the psychology of the offender and the effects of the offense on the victim.

(e) Subsequent evaluation.--

(1) At any time during or subsequent to the counseling under subsection (d), the court may require another evaluation to determine whether further counseling is necessary.

(2) If the court awards custody to a party who committed an offense under subsection (a) or who shares a household with an individual who committed an offense under subsection (a), the court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation, the court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.

(f) Costs.--The court may order a party to pay all or part of the costs of the counseling and evaluations under this section.

§ 5329.1. Consideration of child abuse and involvement with protective services

(a) Information sharing.--In accordance with section 6340(a)(5.1) (relating to release of information in confidential reports), where a party seeks any form of custody, subject to the examination of the parties, the court shall determine:

(1) With respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63:

- (i) Whether the child is the subject of an indicated or founded report of child abuse.
- (ii) Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse.
- (iii) The date and circumstances of the child abuse.
- (iv) The jurisdiction where the child abuse investigation took place.

(2) With respect to child protective services or general protective services under Chapter 63:

- (i) Whether a party or a member of a party's household has been provided services.
- (ii) The type of services provided.
- (iii) The circumstances surrounding the provision of services.
- (iv) The status of services.
- (v) The date the services were provided.
- (vi) The jurisdiction where the services were provided.

(b) Cooperation.--The following apply:

- (1) The Department of Public Welfare¹ and the county children and youth social service agency shall fully cooperate with the court and assist the court in fulfilling its duties under this section.
- (2) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the governing authority in order to implement the provisions of this section.
- (3) The governing authority shall develop procedures to implement the provisions of this section.
- (4) As used in this subsection, the term "governing authority" shall have the meaning given to it in [42 Pa.C.S. § 102](#) (relating to definitions).

§ 5330. Consideration of criminal charge

(a) Expedited hearing.--A party who has obtained information under [42 Pa.C.S. § 1904](#) (relating to availability of criminal charge information in child custody proceedings) or otherwise about a charge filed against the other party for an offense listed under section 5329(a) (relating to consideration of criminal conviction) may move for a temporary custody order or modification of an existing custody order. The court shall hold the hearing under this subsection in an expeditious manner.

(b) Risk of harm.--In evaluating any request under subsection (a), the court shall consider whether the party who is or has been charged with an offense set forth in section 5329(a) poses a risk of physical, emotional or psychological harm to the child.

(c) No prejudice.--Failure to either apply for information under [42 Pa.C.S. § 1904](#) or act under this section shall not prejudice any party in a custody proceeding.