

## 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-11<sup>th</sup> 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.

DATE AND SIGN THE VERIFICATION THAT THE STATEMENTS ARE TRUE.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

_____	:	
PLAINTIFF	:	FAMILY COURT DIVISION
vs.	:	CIVIL ACTION
_____	:	
DEFENDANT	:	Docket No.
	:	

**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
_____	_____	_____
_____	_____	_____
_____	_____	_____

The child (was)(was not) born out of wedlock.

The child is presently in the custody of \_\_\_\_\_, who resides at \_\_\_\_\_

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

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

A parent of the child is \_\_\_\_\_ currently residing at \_\_\_\_\_

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

A parent of the child is \_\_\_\_\_ currently residing at \_\_\_\_\_

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

4. The relationship of plaintiff to the child is that of \_\_\_\_\_.



The plaintiff currently resides with the following persons:

Name	Relationship
_____	_____
_____	_____

5. The relationship of defendant to the child is that of \_\_\_\_\_.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.(a) If the plaintiff is a grandparent who is not in loco parentis to the child and is seeking physical and/or legal custody pursuant to 23 Pa.C.S. § 5323, you must plead facts establishing standing pursuant to 23 Pa.C.S. § 5324(3).

\_\_\_\_\_  
\_\_\_\_\_

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(b) If the plaintiff is a grandparent or great-grandparent who is seeking partial physical custody or supervised physical custody pursuant to 23 Pa.C.S. § 5325, you must plead facts establishing standing pursuant to § 5325.

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(c) If the plaintiff is a person seeking physical and/or legal custody pursuant to 23 Pa.C.S. § 5324(2) as a person who stands in loco parentis to the child, you must plead facts establishing standing.

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10. Plaintiff has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 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.

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(Attorney for Plaintiff) (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.

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Plaintiff

**DOMESTIC RELATIONS INFORMATION SHEET**

Date

Case ID No

**INFORMATION ON PARENT #1 AND/OR SPOUSE #1**

First Name	Middle Initial	Last Name	Alias (if any)		
Mailing Address			Residential Address	Email Address	
Date of Birth		Social Security No.		DPW No.	
Height	Weight	Race	Hair	Eyes	Distinguishing Features
Place of Employment			Medical Insurance Carrier Name, Address		
Home Phone No.	Work Phone No.	Mobile No.	Policy No.	Children Covered? Yes          No	
Occupation			Attorney's Name and Address		
Salary \$ _____ per _____			Attorney ID No.	Attorney Phone No.	

**INFORMATION ON PARENT #2 AND/OR SPOUSE #2**

First Name	Middle Initial	Last Name	Alias (if any)		
Mailing Address			Residential Address	Email Address	
Date of Birth		Social Security No.		DPW No.	
Height	Weight	Race	Hair	Eyes	Distinguishing Features
Place of Employment			Medical Insurance Carrier Name, Address		
Home Phone No.	Work Phone No.	Mobile No.	Policy No.	Children Covered? Yes          No	
Occupation			Attorney's Name and Address		
Salary \$ _____ per _____			Attorney ID No.	Attorney Phone No.	

**INFORMATION IF THERE IS A CLAIM FOR SUPPORT**

Receiving Assistance? Yes    No	DPW No.	District Receiving From	Semi-monthly Grant Amount	Total No of People in Household	
Parties Ever Married? Yes    No	Marriage Date	Place	Separation Date	Divorce Date	Place
Maternal Grandmother's Maiden Name			Maternal Grandfather's Name		

**INFORMATION ON CARETAKER OF CHILD(REN) OTHER THAN PARENTS (IF ANY)**

First Name	Middle Initial	Last Name	Alias (if any)	
Mailing Address			Residential Address	
Attorney Name/Address/Phone No.			Caretaker Email Address	
Home Phone No.	Work Phone No.	Mobile No.	Date of Birth	Relationship to children

**INFORMATION ON CHILD(REN)**

First Name	Middle Initial	Last Name	Gender	Date of Birth
Social Security No.	Place of Birth (City, State)		Active on Cash Assistance? Yes No	
Father Listed on Birth Certificate? Yes No	Born Out of Wedlock? Yes No	Was Paternity Established? Yes No	Date of Paternity Establishment	
First Name	Middle Initial	Last Name	Gender	Date of Birth
Social Security No.	Place of Birth (City, State)		Active on Cash Assistance? Yes No	
Father Listed on Birth Certificate? Yes No	Born Out of Wedlock? Yes No	Was Paternity Established? Yes No	Date of Paternity Establishment	
First Name	Middle Initial	Last Name	Gender	Date of Birth
Social Security No.	Place of Birth (City, State)		Active on Cash Assistance? Yes No	
Father Listed on Birth Certificate? Yes No	Born Out of Wedlock? Yes No	Was Paternity Established? Yes No	Date of Paternity Establishment	
First Name	Middle Initial	Last Name	Sex	Date of Birth
Social Security No.	Place of Birth (City, State)		Active on Cash Assistance? Yes No	
Father Listed on Birth Certificate? Yes No	Born Out of Wedlock? Yes No	Was Paternity Established? Yes No	Date of Paternity Establishment	

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA

\_\_\_\_\_  
Plaintiff

v.

\_\_\_\_\_  
Defendant

:  
:  
:  
:  
:

No. \_\_\_\_\_

CUSTODY

**CRIMINAL RECORD / ABUSE HISTORY VERIFICATION**

I, \_\_\_\_\_, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

<u>Check all that apply</u>	<u>Crime</u>	<u>Self</u>	<u>Other household member</u>	<u>Date of conviction, guilty plea or no contest plea, or pending charges</u>	<u>Sentence</u>
<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. § 2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<b>Check all that apply</b>	<b><u>Crime</u></b>	<b><u>Self</u></b>	<b><u>Other household member</u></b>	<b><u>Date of conviction, guilty plea or no contest plea, or pending charges</u></b>	<b><u>Sentence</u></b>
<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. § 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. § 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. § 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"/>	_____	_____



<b>Check all that apply</b>	<b><u>Crime</u></b>	<b><u>Self</u></b>	<b><u>Other household member</u></b>	<b><u>Date of conviction, guilty plea or no contest plea, or pending charges</u></b>	<b><u>Sentence</u></b>
<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. § 5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<u>Check all that apply</u>	<u>Crime</u>	<u>Self</u>	<u>Other Household Member</u>	<u>Date of conviction, guilty plea or no contest plea, or pending charges</u>	<u>Sentence</u>
<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"/>	23 Pa.C.S. § 6114 (relating to contempt for violation of protection order or agreement)	<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"/>	_____	_____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct or involvement with a Children & Youth Agency including the following:

<u>Check all that apply</u>		<u>Self</u>	<u>Other Household Member</u>	<u>Date</u>
<input type="checkbox"/>	A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____

Check all that apply

		<u>Self</u>	<u>Other Household Member</u>	<u>Date</u>
<input type="checkbox"/>	Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	Involvement with Children & Youth or similar agency in Pennsylvania or another jurisdiction. Where? _____.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse.

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4. If any conviction above applies to a household member, not a party, state that person's name, date of birth, and relationship to the child.

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5. If you are aware that the other party or members of the other party's household has or have a criminal record/abuse history, please explain:

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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.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name