#### 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

### TERMS THAT ARE USED IN THE COMPLAINT:

**PLAINTIFF** 

Person who is filing complaint

**DEFENDANT** 

Person against whom you are filing

### HOW TO FILL IN THE COMPLAINT:

HEADING (CAPTION).

Fill in the names of the plaintiff and defendant in the heading of the complaint. The Court will give the complaint a docket number and put it on the copy that is mailed to you.

LINE 1.

If you are filing this complaint, you are the plaintiff. Fill in the name and address of the plaintiff.

LINE 2.

Fill in the name and address of the defendant.

LINE 3.

Indicate what type of custody you are seeking and fill in the names, addresses, and ages of the children who are the subjects of the complaint. Indicate whether the children were born out of wedlock, who presently has custody of the children and where that person resides, and with whom the children have lived for the past five years. Provide the names, residence, and marital status of the parents of the children.

LINE 4.

Fill in your relationship to the children and identify by name and relationship anyone who lives with you in your home.

LINE 5.

Fill in the relationship of the defendant to the children and identify by name and relationship any people who live with the defendant.

#### 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.	
COM	IPLAINT FOR CUSTODY	
1. The plaintiff is	, residing at	
2. The defendant is	, residing at	
	dy) (sole legal custody) (partial physical custody) (primary physical custody) (supervised physical custody) of the	hysical
Name	Present Address Ag	ge

The child (was)(was not) born out of wedlock.		
The child is presently in the custody of		
During the past five years, the child has resided 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		
This parent is (married) (divorced) (single).		•
4. The relationship of plaintiff to the child is that of	of	

Name	Relationship
. The relationship of defendant to the child is that of	
The defendant currently resides with the following persons:	
Name	Relationship
. Plaintiff (has) (has not) participated as a party or with tigation concerning the custody of the child in this or anoth	
nd its relationship to this action is:	
nd its relationship to this action is:	
nd its relationship to this action is:	

custody of the child or claims to	have custodial rights with respect to	the child. The name and
<b>A</b>	ent welfare of the child will be serve showing that the granting of the relieve of the child):	
-		
physical custody of the child have	nts to the child have not been terminate been named as parties to this action. claim a right to custody of the child we ght to intervene:	All other persons, named
Name	Address	Basis of Claim
	nt who is not in loco parentis to the ch 23 Pa.C.S. § 5323, you must plead f	

	a grandparent or great-grandparent who is seeking partial physical custo custody pursuant to 23 Pa.C.S. § 5325, you must plead facts establis § 5325.	
	s a person seeking physical and/or legal custody pursuant to 23 Pa.C who stands in loco parentis to the child, you must plead facts established	
		<del></del>
10. Plaintiff has atta to Pa.R.C.P. No. 19	ched the Criminal Record/Abuse History Verification form required pur 15.3-2.	suant
physical custody) (p	requests the court to grant (shared legal custody) (sole legal custody) (primary physical custody) (shared physical custody) (sole physical custody) of the child.	
(supervised physical		
(supervised physica		

(Attorney for Plaintiff) (Plaintiff)

I verify that the statements made in this Complaint are tr	
statements herein are made subject to the penalties of 1	8 Pa.C.S. § 4904 relating to unsworn
falsification to authorities.	
	Plaintiff

#### DOMESTIC RELATIONS INFORMATION SHEET INFORMATION ON PARENT #1 AND/OR SPOUSE #1 First Name Middle Initial Last Name Alias (if any) Residential Address Email Address Mailing Address Date of Birth Social Security No. DPW No. Height Weight Race Hair Eyes Distinguishing Features Medical Insurance Carrier Name, Address Place of Employment Home Phone No. Work Phone No. Mobile No. Children Covered? Policy No. Yes No Occupation Attorney's Name and Address Salary Attorney ID No. Attorney Phone No. INFORMATION ON PARENT #2 AND/OR SPOUSE #2 Alias (if any) First Name Middle Initial Last Name Residential Address Email Address Mailing Address DPW No. Date of Birth Social Security No. Weight Race Hair Eyes Distinguishing Features Height Place of Employment Medical Insurance Carrier Name, Address Home Phone No. Work Phone No. Mobile No. Policy No. Children Covered? Yes No Attorney's Name and Address Occupation Salary Attorney ID No. Attorney Phone No. INFORMATION IF THERE IS A CLAIM FOR SUPPORT Total No of People in DPW No. Receiving Assistance? District Receiving From Semi-monthly Grant Amount Yes No Parties Ever Married? Place Divorce Date Place Marriage Date Separation Date No Yes Maternal Grandmother's Maiden Name Maternal Grandfather's Name

Case ID No

INFORMATION ON CARETAKER OF CHILD(REN) OTHER THAN PARENTS (IF ANY)							
First Name Middle Initial Last Name			Alias (if any)				
Mailing Address				Reside	ential Address		
Attorney Name/Address/Phone No.				Careta	ker Email Address		
Home Phone No.	Work Phone	No.	Mobile No.		Date of Birth	Relationship to chi	ldren
INF	ORMATI	ON ON CH	ILD(REN)				
First Name Midd	le Initial		Last Name			Gender	Date of Birth
Social Security No.		Place of Birth (Ci	ity, State)			Active on Cash Assist Yes No	ance?
Father Listed on Birth Certificate?	Born Out of	Wedlock?	Was Paternity E	stablishe	d?	Date of Paternity Esta	blishment
Yes No	Yes N	No	Yes No				
First Name Middle Initial Last Name				Gender	Date of Birth		
Social Security No.		Place of Birth (Ci	ity, State)	Active on Cash Assistance?		ance?	
						Yes No	
Father Listed on Birth Certificate?	Born Out of	Wedlock?	Was Paternity E	stablishe	d?	Date of Paternity Esta	blishment
Yes No	Yes 1	No	Yes No				
First Name Midd	le Initial		Last Name			Gender	Date of Birth
Social Security No.		Place of Birth (Ci	y, State)		Active on Cash Assistance?		
						Yes No	
Father Listed on Birth Certificate?	Born Out of	Wedlock?	Was Paternity E	stablishe	d?	Date of Paternity Esta	blishment
Yes No	Yes N	No	Yes No				
First Name Midd	le Initial		Last Name			Sex	Date of Birth
Social Security No.		Place of Birth (Ci	ity, State)			Active on Cash Assist Yes No	ance?
Father Listed on Birth Certificate?	Born Out of	Wedlock?	Was Paternity E	stablishe	d?	Date of Paternity Esta	blishment
Yes No	Yes 1	No	Yes No				

# IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

٧.0	PLAINTIFF	:	FAMILY C	OURT DIVISION	
VS		:	DOCKET N	NO	
	DEFENDANT	_ : :			
	CRIMINAL RECORD /	ABUS	E HISTORY \	/ERIFICATION	
	, h 18 Pa.C.S. § 4904 relating to	•		•	
any other or was ad Juvenile <i>i</i>	Unless indicated by my che member of my household had judicated delinquent where Act, 42 Pa.C.S. § 6307 to a fally equivalent crime in any or	ve been the real	en convicted o ecord is publi the following	r pled guilty or ple icly available purs crimes in Penns	ed no contes suant to the ylvania or a
Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
	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)					
	23 Pa.C.S. § 6114 (relating to contempt for violation of protection order or agreement)					
	Driving under the influence of drugs or alcohol					
	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device					
any othei	Unless indicated by my ched r member of my household l ent with a Children & Youth ag	have a hi	story of v	/iolent	or abusive of	
Check all that apply				Self	Other household member	Date
	A finding of abuse by a G Agency or similar agency in similar statute in another juri	n Pennsyl				
	Abusive conduct as def Protection from Abuse Act in similar statute in another juri	n Pennsyl	der the vania or			
	Involvement with a Children or similar agency in Pennsy jurisdiction. Where?:	/Ivania or	another			
	Other:					

3. conviction or	Please list any evaluation, counseling of finding of abuse:	r other treatment received following
4. that person's	If any conviction above applies to a hou name, date of birth and relationship to the	· · ·
5. household h	If you are aware that the other party or r as or have a criminal record/abuse histor	• •
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
		Printed Name