

INSTRUCTION BOOKLET
FOR CUSTODY AND/OR VISITATION

**COMPLAINTS AND MODIFICATION PETITIONS ACCEPTED
BETWEEN THE HOURS OF
8:00 A.M. UNTIL 11:30 A.M. AND 1:00 P.M. UNTIL 4:00 P.M.
MONDAY THROUGH FRIDAY**

ERIE COUNTY, PENNSYLVANIA

DEFINITIONS

COMPLAINT - Paperwork required that initiates or starts a custody case.

MODIFICATION - Paperwork required to modify an existing custody order.

PLAINTIFF - The person initially suing for custody/visitation.

DEFENDANT - The person who is initially sued for custody/visitation.

SHARED LEGAL CUSTODY - The right of more than one individual to participate in major decisions about the child, including medical care, education, religion, etc.

SOLE LEGAL CUSTODY - When only one individual has the right to make major decisions about the child, including medical care, education, religion, etc.

SOLE PHYSICAL CUSTODY - When only one individual has the right to have physical custody of the child.

SHARED PHYSICAL CUSTODY - The right of more than one individual to assume physical custody of the child.

PRIMARY PHYSICAL CUSTODY - The right to assume physical custody of the child for the majority of the time.

PARTIAL PHYSICAL CUSTODY - The right to have physical custody of the child for less than a majority of the time.

SUPERVISED PHYSICAL CUSTODY (also known as "Visitation") - The right of the non-custodial parent to spend time with the child but only if an agency, an adult designated by the Court or someone agreed upon by the parties is supervising the visit.

NON-CUSTODIAL PARENT - The parent with whom the child does not live with most of the time.

THIRD PARTY - Any person who is not a natural parent of the child.

STANDING - The legal right to be a part of a custody suit.

JURISDICTION - The proper Court in which to file the lawsuit.

BEST INTEREST OF THE CHILD - A legal decision made by a judge after considering a list of factors pertaining to the child's interests. *See* 23 Pa.C.S.A. 5328.

CONSENT AGREEMENT - An agreement reached between the parties which becomes an Order of Court.

CUSTODY CONCILIATION SUMMARY - A brief summary of the issues of agreement and disagreement discussed by the parties at a custody conciliation.

RELOCATION - A change in the child's residence which significantly impairs the ability of a non-relocating party to exercise custodial rights.

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INTRODUCTION

The goal of the Office of Custody Conciliation is to assist parents in working out the terms of their shared custody arrangement in a non-threatening, non-adversarial manner through MEDIATION. Mediation is negotiation and communication with the help of a neutral third party.

The role of the conciliators and the purpose of the conferences are not to assign blame for the breakup of your relationship or assess the worthiness of either one of you as parents but rather to help preserve the irreplaceable relationship your child(ren) are entitled to have with both parents.

Please review all the material in this booklet. It will assist you in becoming familiar with the forms and prepare you to participate in the custody conciliation process.

The information contained in this booklet is merely a summary of the custody process in Erie County. There are both state and local rules governing the custody process and it is your obligation to proceed in a manner consistent with those rules. **OUR STAFF CANNOT PROVIDE LEGAL ADVICE.** If you intend to proceed without an attorney, you must file an entry of appearance stating an address where you agree pleadings and other legal papers may be served. An **Entry of Appearance as a Self-Represented Party** form is available at eriecountypa.gov/courts/family-court/custody-conciliation. There is also a sample Entry of Appearance as a Self-Represented Party form on page 30 of this booklet. The following resources may be of assistance to you if you have a legal question:

ERIE COUNTY BAR ASSOCIATION

LAWYER'S REFERRAL SERVICE

429 WEST SIXTH STREET

ERIE, PA 16507

PHONE: (814) 459-4411

NORTHWESTERN LEGAL SERVICES

1001 STATE STREET

SUITE 700

ERIE, PA 16501

PHONE: (814) 452-6949

STEPS IN THE CUSTODY PROCESS

- If both parties are in agreement to the custody arrangement, call the Custody Office to schedule an agreement conference.
- If both parties are **not** in agreement to the custody arrangement, either party will have to file a Complaint for Custody with Custody Office to schedule an Intake Conference.
- At the Intake Conference, if the parties reach an agreement as to the custody arrangement, it shall be formalized into an Order of Court. Both parties shall receive a handwritten copy of the agreement following the Intake Conference and a typed copy signed by the Judge will be mailed to both parties.
- If an agreement cannot be reached at the Intake Conference, the case will be scheduled for a Custody Trial or a Temporary Consent Order may be issued and a conciliation conference scheduled for a later date if agreed upon by the parties.
- At the conciliation conference, if a consent agreement cannot be reached, the case will be scheduled for a Custody Trial.

CHILDREN COPE WITH CUSTODY AND/OR VISITATION

The custody conciliation process includes both parents attending a four-hour seminar called **Children Cope with Custody and/or Visitation** that is held at Family Services, 5100 Peach Street, Erie, Pennsylvania. The Custody Office will provide the parties information for the seminar at the agreement conference, or if the parties are not in agreement, the parties will be ordered to complete when the Complaint for Custody is filed.

Some of the program's objectives include exploring the experience of separation and divorce from the child/ren's perspective, sharing specific skills parents can use to support a child/ren's adjustment and suggestions on how to avoid placing a child/ren's in a no-win situation with parents.

The fee for this program is paid directly to Family Services. Your attendance at this seminar is **mandatory** if you are involved in either a Divorce or Custody proceeding. For more information, you may contact Family Services at (814) 866-4500.

OBTAINING A CUSTODY ORDER BY AGREEMENT

If both parents **are in agreement** regarding their custody arrangements and wish to have that agreement formalized into an Order of Court, **both** parents must be willing to appear **voluntarily** for a conference and both parties must also **agree** to attend the four (4) hour seminar called Children Cope with Custody and/or Visitation that is held at Family Services. Call our office at (814) 451-6234 to schedule an Agreement Conference appointment. No notices will be sent to either party. At this conference, we will put into writing all of the terms of the agreement. Be prepared to pay the appropriate filing fee and we will give you the necessary paperwork to obtain a docket number so that the agreement will be made into an Order of Court.

INSTRUCTIONS FOR FILING YOUR COMPLAINT FOR CUSTODY
FILING FEES ARE DUE WHEN SUBMITTING YOUR COMPLAINT FOR CUSTODY

If there is no agreement and no existing Custody Order or if either party is reluctant to meet **voluntarily**, then you must proceed by filing a Complaint for Custody. All parties will be required to appear at an Intake Conference and attend the Children Cope with Custody and/or Visitation seminar. If you do not want to file your own Complaint for Custody, your attorney may prepare and file one for you.

1. If you are filing your own Complaint for Custody, you may obtain the necessary paperwork as fill in forms from eriecountypa.gov/courts/family-court/custody-conciliation.

Print one (1) original form of the following DO NOT PRINT ON BOTH SIDES OF THE PAPER:

- **Complaint for Custody**
- **Criminal Record/Abuse History Verification**

For each of the above forms: fill in the blanks and make four (4) photocopies (you will need to make two (2) additional copies for each additional defendant).

DO NOT USE THE SAMPLE PAGES AS YOUR COMPLAINT FOR CUSTODY or YOUR CRIMINAL RECORD/ABUSE HISTORY FORMS.

The following instructions are for filing and serving the defendant/s:

2. Bring your five (5) completed Complaint for Custody forms and your five (5) completed Criminal Record/Abuse History Verification forms as well as and two (2) additional blank Criminal Record/Abuse History Verification forms for each defendant and the **appropriate filing fee** (payable to Prothonotary) to the Custody Conciliation Office, Erie County Courthouse, 140 West Sixth Street, Room 02, Erie, PA 16501. **COMPLAINTS FOR CUSTODY WILL BE ACCEPTED BETWEEN 8:00 A.M. AND 11:30 A.M. AND BETWEEN 1:00 P.M. AND 4:00 P.M.**

3. The Custody Conciliation Office will schedule you for an Intake Conference. We will attach all the necessary papers to your Complaints for Custody at this time.

4. Take the original and copies of your Complaint for Custody with scheduling order to the Prothonotary's Office on the first floor, Room 120 for filing and certification. If you do not have a current Custody Order or a Divorce docket number, you will be assigned a docket number upon filing your Complaint for Custody and paying the fee to the Prothonotary's Office.

5. Bring your receipt with the docket number back to the Custody Conciliation Office.

continued on next page

6. **YOU must serve all parties by one (1) of the following methods:**

- **U.S. Mail:** One (1) certified copy is to be sent by **certified mail, restricted delivery**, and one (1) certified copy by **regular first class mail**.
You should mail the petitions the day you file or the next.
- **Personal service:** Personal service is done by an adult non-relative such as a sheriff, constable or third party who will then complete an **Affidavit of Service**.

YOU MUST HAVE PROOF THAT EACH PARTY WAS SERVED.

**THE SIGNED GREEN CARD RETURNED TO YOU BY THE POST OFFICE or
THE COMPLETED AFFIDAVIT OF SERVICE WILL SERVE AS YOUR PROOF.**

***THE CUSTODY CONCILIATION OFFICE IS NOT RESPONSIBLE
FOR SERVICE OR MAILING TO THE PARTY/IES.***

7. You must contact Family Services to schedule yourself for the Children Cope with Custody and/or Visitation seminar. You must complete the registration form that is attached to your Complaint for Custody and return it to Family Services along with your payment prior to the date you are scheduled to attend. Bring the Certificate of Completion with you to the Intake Conference.

8. Once the Intake Conference is scheduled, it cannot be cancelled or rescheduled by either party without written consent of the parties or by further Order of Court.

9. You must appear on time for your intake conference and **bring photo I.D.**

The following information must be included in a Complaint for Custody. You may obtain the Complaint for Custody form from eriecountypa.gov/courts/family-court/custody-conciliation. **DO NOT USE THE SAMPLE PAGES AS YOUR COMPLAINT FOR CUSTODY.** Then follow the instructions for filing your Complaint for Custody and serving the defendant/s on pages 5-6.

The explanation in italic should not be recopied, just each question with the appropriate answer.

The person who is initiating the complaint : IN THE COURT OF COMMON PLEAS
PLAINTIFF

VS. : OF ERIE COUNTY, PENNSYLVANIA

The person/s who the complaint is filed against : DOCKET NO. (You will obtain the number from the
DEFENDANT Prothonotary's office when you pay the filing fee).

COMPLAINT FOR CUSTODY

1. The plaintiff is The person who is initiating the complaint, residing at Entire street address, city, state & zip code.
Telephone Number _____
2. The defendant is The person/s who the complaint is filed against, residing at Entire street address, city, state & zip code
Telephone Number _____
3. The plaintiff/defendant seeks: **(circle all that apply)** (shared legal custody) (sole legal custody)
(circle who is filing)
(partial physical custody) (primary physical custody) (shared physical custody)
(sole physical custody) (supervised physical custody) of the following child/ren:

<u>Name (of Child/ren)</u>	<u>Present Address (of Child/ren)</u>	<u>Birth Date (of Child/ren)</u>
_____	_____	_____
_____	_____	_____

- a) The child/ren (was) (was not) born out of wedlock. (Circle one)
- b) The child/ren is presently in the custody of _____ who resides at _____.
- c) During the past five (5) years, the child/ren has resided with the following persons and at the following addresses:

<u>List the Persons</u>	<u>List the Addresses</u>	<u>Dates</u>
_____	_____	_____
_____	_____	_____

- d) The mother of the child/ren is _____, currently residing at _____.
- e) She is married divorced or single. (Circle one)

f) The father of the child/ren is _____, currently residing at _____.

g) He is married divorced or single. *(Circle one)*

4. The relationship of the plaintiff to the child/ren is that of _____. The plaintiff currently resides with the following persons:

Name and Relationship to Plaintiff

5. The relationship of the defendant to the child/ren is that of _____. The defendant currently resides with the following persons:

Name and Relationship to Defendant

6. The plaintiff/defendant (has) (has not) participated as a party or witness, or in another capacity, in other litigation *(Circle one)* *(Circle one)* (court case) concerning the custody of the child/ren in this or any other Court. The Court term and number and its relationship to this action is: _____.

(This question is asking if you have ever been to Court prior to this concerning these child/ren. If you have, please give the year and the docket number of that Order and attach a copy of the Order to this Complaint for Custody. If you have never been to Court for custody of these child/ren simply answer "This does not apply").

a) The plaintiff/defendant (has) (has no) information of a Custody proceeding concerning the child/ren pending in *(Circle one)* *(Circle one)* a Court of this Commonwealth or any other state. The Court term and number and its relationship to this action is: _____.

(This question is asking if there is any other Court action scheduled to take place concerning these child/ren in this or any other Court. [For example, a juvenile or dependency hearing]. If there is, list the date of the hearing and the docket number. If you do not know of any other hearing simply answer "This does not apply").

b) The plaintiff/defendant (knows) (does not know) of a person, not a party to the proceedings, who has *(Circle one)* *(Circle one)* physical custody of the child/ren or claims to have custody or visitation rights with respect to the child/ren. The name and address of such person is: _____.

(If any of the child/ren have ever lived with another third party, such as a grandparent or another relative for any considerable length of time, that party may be entitled to custody rights and should be listed here and also served with a copy of this Complaint for Custody).

7. The best interest and permanent welfare of the child/ren will be served by granting the relief requested because:

(Simply state the reasons why you felt it was necessary to file this Complaint for Custody).

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

(If any of the child/ren have ever lived with a third party such as a grandparent or other relative for any considerable length of time, that party may be entitled to custody rights and should be listed here and also be served with a copy of this Complaint for Custody).

9. I am not a parent of the child/ren, nevertheless, I have standing for the following reason:

a) If the plaintiff is a grandparent who is not in loco parentis to the child/ren 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). _____

(Your facts must establish that: (1) your relationship with the child/ren began either with a parent's consent or via a court order, (2) you are willing to assume responsibility for the child/ren, AND (3) one of the following: (a) a court order has been issued determining the child/ren to be a dependent child/ren, or (b) the child/ren is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or (c) the child/ren has for a period of at least twelve (12) consecutive months, resided with the grandparent, excluding brief temporary absences of the child/ren from the home, and is removed from the home by the parents, in which case the action must be filed within six (6) months after the removal of the child/ren from the home).

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. _____

(Your facts must establish that: (1) the child/ren's parent is deceased, (2) the child/ren's parents have been separated for at least six (6) months or have commenced and continued a divorce proceeding; or (3) the child/ren has, for a period of at least twelve (12) consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child/ren from the home, and the child/ren has been removed from the home by the parents within the past six (6) months).

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/ren, you must plead facts establishing standing. _____

(You must establish that you stand in loco parentis to the child/ren).

10. I have attached the Criminal Record/Abuse History Verification form required pursuant to PA.R.C.P. No. 1915.3-2. *(You must file and serve with your Complaint for Custody a completed Criminal Record/Abuse History Verification regarding any criminal or abuse history of your own and anyone living in your household.)*

Wherefore, the plaintiff/defendant requests the Court to grant: ***(circle all that apply)***

(Circle one)

*(shared legal custody) (sole legal custody) (partial physical custody)
(primary physical custody) (shared physical custody) (sole physical custody)
(supervised physical custody) of the child.*

I verify that the statements made in this Complaint for Custody 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

Signature

Print Name

Plaintiff/Defendant

(circle one)

_____ : **IN THE COURT OF COMMON PLEAS**
Plaintiff :
VS. : **OF ERIE COUNTY, PENNSYLVANIA**
 _____ : **NO.** _____
Defendant :

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

REPORT OF CHILD ABUSE AND PROTECTIVE SERVICES REQUESTED BY COURT

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. §§ 67016713, 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. § 67016713, 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	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:
- has pleaded guilty or no contest;
 - has been convicted;
 - has charges pending; or
 - 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. §§ 9122.01 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"/>	_____	_____

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

THE INTAKE CONFERENCE

This is a conference to develop a custody schedule for the child/ren that will become an Order of Court. This is not a court hearing, evidence and testimony are not formally presented and the child/ren are **not** interviewed. There is no third party (for example, a stepparent or grandparent) present in the conference unless everyone agrees. It is not necessary for your attorney to be present during this conference; participation, conversation and input should be from you. However, either party may have an attorney present.

Custody arrangements are as individual as you are and are based upon each party's circumstances. No one knows better than you what your child/ren's personality is and your lifestyles. This is your opportunity to make your own decisions about what is best for you and your child/ren's. The Court does not want to interfere in these personal decisions unless forced to do so because you are not able to work out your own custody arrangement.

At this meeting, areas of agreement and disagreement are identified and the parents have the opportunity of working out the terms of their custody arrangement with the assistance of a **Custody Conciliator**.

The terms of your agreement will be formalized into an Order of Court and signed by a Family Court Judge. Most matters are resolved at this level; however, if full agreement of the custody arrangements cannot be accomplished at this stage and if the parties agree, you will be scheduled to attend another conciliation conference. A Temporary Court Order may be issued upon consent of the parties that you must follow until the conciliation conference. The purpose of the Temporary Order is to ensure that there is no break in contact between the child/ren and both parents until such time as a more permanent arrangement can be formulated in the conciliation conference or by the Court. If no agreement is reached the Custody Conciliator will prepare a **Custody Conciliation Summary** that is submitted to the Court and a Custody Trial will be scheduled by Court Administration on a later date.

(This is the consent agreement form we will be working with during the conferences. Please take a minute to familiarize yourself with the areas that we will be discussing).

CONSENT AGREEMENT

We have agreed to the following appropriate arrangement for the custody of our child/ren:

1. The parents shall share the legal and physical custody of their child/ren. The name(s) of the child/ren is/are as follows: _____.
2. The child/ren shall reside with the (mother/father) except that the (mother/father) shall have (partial custody/visitation) with the child/ren as follows:
 - a. Weekdays - _____.
 - b. Weekends - _____.
 - c. Summer/Vacation periods - _____.
 - d. The holidays of Memorial Day, July Fourth and Labor Day shall be alternated beginning with _____. The hours for Memorial Day and Labor Day shall be from 10:00 a.m. until 6:00 p.m. and the hours for July 4th shall be from 12:00 noon until July 5th at 12:00 noon unless mutually agreed to do otherwise.
 - e. Easter - _____.
 - f. Thanksgiving - _____.
 - g. Christmas - _____.
3. ALL HOLIDAY SCHEDULES SHALL SUPERSEDE ANY OTHER PARTIAL CUSTODY OR VISITATION SCHEDULE UNLESS MUTUALLY AGREED TO DO OTHERWISE.
4. The child/ren shall be with the mother on Mother's Day and with the father on Father's Day. The hours shall be from 10:00 a.m. until 6:00 p.m. unless mutually agreed to do otherwise.
5. Each parent shall plan a birthday celebration for the child/ren on one of their regularly scheduled partial custody days near the child/ren's birthday.
6. Each parent shall keep the other informed of the child/ren's health, progress in school, and general welfare and shall consult the other parent concerning major decisions affecting the child/ren.
7. Each parent is entitled to receive directly from schools, health care providers, or other relevant sources, information concerning their child/ren.
8. Neither parent shall engage in any conduct that presents to the child/ren a negative or hostile view of the other.
9. Each parent shall encourage the child/ren to comply with the custody arrangement and foster in the child/ren a positive view of the other.
10. This custody arrangement may be modified by an agreement of the parties when required for the best interest of the child/ren.
11. If not already done, the parties agree to attend the Children Cope with Custody and/or Visitation seminar.
12. Jurisdiction of the aforementioned child/ren and this matter shall remain in the Court of Common Pleas of Erie County, Pennsylvania unless and until jurisdiction would change under the Uniform Child Custody Jurisdiction and Enforcement Act 23 Pa. C.S.A. 5401 et. seq.
13. VIOLATION OF THIS ORDER BY ANY PERSON MAY RESULT IN CIVIL AND CRIMINAL PENALTIES, INCLUDING PROSECUTION PURSUANT TO SECTION 2904 OF THE PENNSYLVANIA CRIMES CODE, INTERFERENCE WITH CUSTODY OF CHILDREN.

We agree to abide by the agreement developed this _____ day of _____, 20____ and submit it to the Court of Common Pleas to be formalized into an Order of Court.

Mother

Father

Custody Conciliation Conciliator

CONCILIATION CONFERENCE

The objective of the conciliation conference is to foster agreement between the parties in such a way that they are committed to a custody arrangement that will become an Order of Court. The conciliator's role is to aid the parties in reaching a custody agreement using the methods and techniques employed in mediation.

This is not a court hearing where testimony, witnesses or evidence are presented formally, therefore, it is not necessary to have an attorney present during the conciliation process; however, either party may have an attorney present.

The conciliation conference is scheduled for 1-1/2 hours in an effort to help resolve the issues and help you reach an agreement. If no agreement is reached the Custody Conciliator will prepare a **Custody Conciliation Summary** that is submitted to the Court and a Custody Trial will be scheduled by Court Administration on a later date.

Plaintiff

VS.

Defendant

: IN THE COURT OF COMMON PLEAS
: OF ERIE COUNTY, PENNSYLVANIA
: FAMILY DIVISION - CUSTODY
:
:
:
:
DOCKET NO. _____

PRE-TRIAL NARRATIVE STATEMENT

Party: _____ Attorney: _____

Witnesses: (Please indicate relationship, if any to party)

Experts: (Please indicate date of any report)

Exhibits:

Estimated Length of Trial: _____

Trial Date (if known): _____

Special Circumstances: _____

Date

Signature of Party or Counsel

Please Print Name of Party or Counsel

Plaintiff
VS.

Defendant

: IN THE COURT OF COMMON PLEAS
: OF ERIE COUNTY, PENNSYLVANIA
: FAMILY DIVISION - CUSTODY
:
: DOCKET NO.

PARENTING PLAN OF MOTHER/FATHER/PARTY WITH STANDING

This parenting plan involves the following child/ren:

CHILD/REN'S NAME	DATE OF BIRTH

LEGAL CUSTODY

(who makes major decisions on behalf of the child/ren):

Circle One

- a.) Diet – both parties decide together/Plaintiff/Defendant
- b.) Religion – both parties decide together/Plaintiff/Defendant
- c.) Medical care – both parties decide together/Plaintiff/Defendant
- d.) Mental Health care – both parties decide together/Plaintiff/Defendant
- e.) Discipline – both parties decide together/Plaintiff/Defendant
- f.) Choice of School – both parties decide together/Plaintiff/Defendant
- g.) Choice of Study – both parties decide together/Plaintiff/Defendant
- h.) School Activities – both parties decide together/Plaintiff/Defendant
- i.) Sports Activities – both parties decide together/Plaintiff/Defendant
- j.) Additional items – both parties decide together/Plaintiff/Defendant

Explain what process you will use to make decisions. (For example, the parent confronted with or anticipating the choice will call the other parent when the choice presents itself, and the other parent must agree or disagree within 24 hours of any deadline.)

PHYSICAL CUSTODY

(where the child/ren live)

The child/ren's residence is with _____

Describe which days and which times of the day the child/ren will be with each person:

Week 1

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Mother							
Father							
(Other)							

Week 2

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Mother							
Father							
(Other)							

Describe where and when you will exchange custody of the child/ren (day and time of day)

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Place							
Time							

If one of you doesn't show up, how long will the other wait? _____

If there are any extraordinary costs (taxi, train, airplane, etc.) who will pay for which costs? _____

HOLIDAYS

(where will the child/ren stay)

HOLIDAY	ODD-NUMBERED YEARS	EVEN-NUMBERED YEARS
Thanksgiving Day		
Thanksgiving Vacation		
Christmas Eve		
Christmas Day		
Christmas Vacation		
New Year's Eve		
New Year's Day		

Easter Day		
Spring Break		
Fall Break		
Mother's Day		
Father's Day		
Child/ren's Birthday		
Memorial Day		
Fourth of July		
Labor Day		
Other		
Other		
Other		

Summer Vacation Plans _____

SPECIAL ACTIVITIES OR SCHOOL ACTIVITIES

(will both of you attend)

Child/ren's name	Activity	If not, which of you will attend

TEMPORARY CHANGES TO THIS PARENTING SCHEDULE

From time to time, one of you might want or need to rearrange the custody schedule due to work, family or other events. You should attempt to agree on these changes. If you cannot agree, the parent receiving the request will make the final decision.

1. The parent asking for the change will ask (circle as many as apply):
 in person by letter by phone by e-mail
2. The parent asking for the change will ask no later than (circle one):
 12 hours 24 hours 1 week 1 month
3. The parent being asked for a change will reply (circle as many as apply):
 in person by letter by phone by e-mail
4. The parent being asked for a change will reply no later than (circle one):
 12 hours 24 hours 1 week 1 month

May parents contact one another? _____

When the child/ren is/are with one of you, how may they contact the other parent? _____

When and how may mother/father contact the child/ren? _____

In the event that proposed changes, disputes or alleged breaches of this parenting plan and custody order are necessary or desired, the parties agree that such changes will be addressed by the following method (specify method of arbitration, mediation, court action, etc.): _____

OTHER

The following matter(s) shall be specified by the court: _____

Other (anything else you want to agree on): _____

Date: _____

Signature of Mother

Date: _____

Signature of Father

TEMPORARY CUSTODY AND SPECIAL RELIEF

Before a party can request temporary custody or special relief, a Complaint for Custody must have been filed **OR** a Court Order must be in effect.

A party seeking temporary custody or special relief shall present a Special Relief Petition **and** a proposed Order of Court to the Family Motion Court Judge. Such requests shall normally only be decided following a hearing in Motion Court with **all** parties present. Therefore, a copy of that petition and the proposed Order of Court, as noted above, may be served either by personal service or by mail. If the petition and the proposed Order of Court are served through "personal" service, it must give the opposing party two (2) full business days' notice. If service is completed by mail, it must give the opposing party five (5) full business days' notice from the date that it was deposited in the U.S. mail. For example, if a party wishes to present a petition and the proposed Order of Court on Thursday at 9:00 a.m., the notice, petition and proposed Order of Court must either: (1) be personally delivered to the opposing party before 9:00 a.m. on the preceding Tuesday; or (2) be postmarked no later than the Wednesday of the preceding week. Again, you must give written notice to the opposing party of the date and time you plan to appear in Motion Court. The Judge presides in Motion Court Monday through Thursday at 9:00 a.m. If you are pursuing this option, you should consult an attorney and/or research custody procedure.

If your petition for Special Relief/proposed Order of Court is granted, the original Order of Court signed by a Judge and the petition for Special Relief must be filed in the Prothonotary (Room 120). A copy of the Order of Court and the petition for Special Relief shall be sent all parties and the Custody Office.

FAILURE TO COMPLY WITH THE CUSTODY ORDER

In the best of relationships there are disagreements. It is very common that from time to time you will experience differences of opinion, or a conflict in scheduling or unexpected circumstances that may interfere with the specifics of the Custody Order. We suggest and encourage flexibility and compromise when necessary. The responsibility and success of your Custody Order depends on the parties and their ability to cooperate.

Communication is the key to the solution and prevention of problems. If it is difficult to verbally communicate, then we would suggest that you communicate in writing. This letter should be **tactful**. In the letter, focus on the problem in an effective way, offering suggestions and alternatives, not criticism or blame.

If this does not prove effective, you may file a Modification Petition (see page 24 for instructions on filing). The conciliation fee is \$50.00 per 1-1/2 hour session.

If you have tried and exhausted every possible way to resolve your dilemma, then you **may** be justified in filing a **PETITION TO HAVE THE RESPONDENT HELD IN CONTEMPT FOR FAILURE TO COMPLY WITH A CUSTODY ORDER**. Contempt proceedings **ARE NOT** held in the Custody Conciliation Office and the Custody Conciliation Office cannot assist in preparing these petitions; instructions and forms can be found at eriecountypa.gov/courts/family-court/custody-conciliation. Contempt proceedings are held in front of a Judge; you will need to obtain a hearing date and time from **Court Administration/Family Division, Room 205**. You may want to consult an attorney about these proceedings since the Custody Conciliation Office will not be able to address any of your questions or concerns. **BY LAW, THE CUSTODY CONCILIATION OFFICE IS NOT PERMITTED TO GIVE LEGAL ADVICE**. If you do not have an attorney, you may wish to contact the Erie County Bar Association at (814) 459-4411 for information on the Lawyer Referral and Information Service. In the event that you are unable to engage the assistance of an attorney, you will need to familiarize yourself with the local rules of Court, as well as the Pennsylvania Rules of Civil Procedure and relevant Pennsylvania statutes to assist you in preparation for your proceeding. You may also find guidance for the legal process at www.palawhelp.org.

INSTRUCTIONS FOR FILING A MODIFICATION PETITION
MODIFICATION FEE IS DUE WHEN SUBMITTING YOUR PETITION

1. If you are filing your own Modification Petition, you may obtain the necessary paperwork as fill in forms from eriecountypa.gov/courts/family-court/custody-conciliation.

Print one (1) original form of the following DO NOT PRINT ON BOTH SIDES OF THE PAPER:

- Modification Petition
- Criminal Record/Abuse History Verification

For each of the above forms: fill in the blanks and make three (3) photocopies (you will need to make one (1) additional copy for each additional party).

DO NOT USE THE SAMPLE PAGES AS YOUR MODIFICATION PETITION or YOUR CRIMINAL RECORD/ABUSE HISTORY FORMS).

The following instructions are for filing and serving the party/ies:

2. Bring your four (4) completed Modification Petition forms and your four (4) completed Criminal Record/Abuse History Verification forms as well as and one (1) additional blank Criminal Record/Abuse History Verification form for each party and the **appropriate filing fee** (payable to Prothonotary) to the Custody Conciliation Office, Erie County Courthouse, 140 West Sixth Street, Room 02, Erie, PA 16501. **MODIFICATION PETITIONS WILL BE ACCEPTED BETWEEN 8:00 A.M. AND 11:30 A.M. AND BETWEEN 1:00 P.M. AND 4:00 P.M.**

3. The Custody Conciliation Office will schedule you for a Modification Conference. We will attach all the necessary papers to your Modification Petition at this time.

4. Take the original and copies of your Modification Petition with scheduling order to the Prothonotary's Office on the first floor, Room 120 for filing, certification and paying the fee.

5. Bring your receipt back to the Custody Conciliation Office.

6. **YOU must serve all parties by one (1) of the following methods:**

- **U.S. Mail:** One (1) certified copy by **regular first class mail** and complete a Certificate of Service. ****You should mail your petitions the day you file or the next.****
- **Personal service:** Personal service is done by an adult non-relative such as a sheriff, constable or third party who will then complete an **Affidavit of Service**.

YOU MUST HAVE PROOF THAT EACH PARTY WAS SERVED.

THE COMPLETED CERTIFICATE OF SERVICE or
THE COMPLETED AFFIDAVIT OF SERVICE WILL SERVE AS YOUR PROOF.

THE CUSTODY OFFICE IS NOT RESPONSIBLE
FOR SERVICE OR MAILING TO THE OTHER PARTY/IES.

The following information must be included in a Modification Petition. You may obtain the Modification Petition form from eriecountypa.gov/courts/family-court/custody-conciliation. **DO NOT USE THE SAMPLE PAGES AS YOUR MODIFICATION PETITION.** Then follow the instructions for filing your Modification Petition and serving the defendant/s on page 24.

The explanation in italic should not be recopied, just each question with the appropriate answer.

The person who filed the original petition : IN THE COURT OF COMMON PLEAS
 PLAINTIFF
 VS. : OF ERIE COUNTY, PENNSYLVANIA
The person/s the original petition was filed against : DOCKET NO. (Same number as the initial filing)
 DEFENDANT

MODIFICATION PETITION

1. The plaintiff is The person who filed the original petition, residing at Entire street address, city, state & zip code
 Telephone Number _____
2. The defendant is The person/s the original petition was filed against, residing at Entire street address, city, state & zip code.
 Telephone Number _____
3. The plaintiff/defendant seeks: **(circle all that apply)** (shared legal custody) (sole legal custody)
 (circle who is filing)
 (partial physical custody) (primary physical custody) (shared physical custody)
 (sole physical custody) (supervised physical custody) of the following child/ren:

<u>Name (of Child/ren)</u>	<u>Present Address (of Child/ren)</u>	<u>Birth Date (of Child/ren)</u>
_____	_____	_____
_____	_____	_____

- a) The child/ren (was) (was not) born out of wedlock. (Circle one)
- b) The child/ren is presently in the custody of _____ who resides at _____.
- c) During the past five (5) years, the child/ren has resided with the following persons and at the following addresses:

<u>List the Persons</u>	<u>List the Addresses</u>	<u>Dates</u>
_____	_____	_____
_____	_____	_____
- d) The mother of the child/ren is _____, currently residing at _____.
- e) She is married divorced or single. (Circle one)

f) The father of the child/ren is _____, currently residing at _____.

g) He is married divorced or single. *(Circle one)*

4. The relationship of the plaintiff to the child/ren is that of _____. The plaintiff currently resides with the following persons:

Name and Relationship to Plaintiff

5. The relationship of the defendant to the child/ren is that of _____. The defendant currently resides with the following persons:

Name and Relationship to Defendant

6. The plaintiff/defendant (has) (has not) participated as a party or witness, or in another capacity, in other litigation
(Circle one) (Circle one)

(court case) concerning the custody of the child/ren in this or any other Court. The Court term and number and its relationship to this action is: _____.

(This question is asking if you have ever been to Court prior to this concerning these child/ren. If you have, please give the year and the docket number of that Order and attach a copy of the Order to this Modification Petition. If you have never been to Court for custody of these child/ren, simply answer "This does not apply").

c) The plaintiff/defendant (has) (has no) information of a Custody proceeding concerning the child/ren pending in
(Circle one) (Circle one)
a Court of this Commonwealth or any other state. The Court term and number and its relationship to this action is: _____.

(This question is asking if there is any other Court action scheduled to take place concerning these child/ren in this or any other Court. [For example, a juvenile or dependency hearing]. If there is, list the date of the hearing and the docket number. If you do not know of any other hearing simply answer "This does not apply").

d) The plaintiff/defendant (knows) (does not know) of a person, not a party to the proceedings, who has
(Circle one) (Circle one)
physical custody of the child/ren or claims to have custody or visitation rights with respect to the child/ren. The name and address of such person is: _____.

(If any of the child/ren have ever lived with another third party, such as a grandparent or another relative for any considerable length of time, that party may be entitled to custody rights and should be listed here and also served with a copy of this Modification).

7. The best interest and permanent welfare of the child/ren will be served by granting the relief requested because:

(Simply state the reasons why you felt it was necessary to file this Modification Petition).

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

(If any of the child/ren have ever lived with a third party such as a grandparent or other relative for any considerable length of time, that party may be entitled to custody rights and should be listed here and also be served with a copy of this Modification Petition).

9. I am not a parent of the child/ren, nevertheless, I have standing for the following reason:

a) If the plaintiff is a grandparent who is not in loco parentis to the child/ren 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). _____

(Your facts must establish that: (1) your relationship with the child/ren began either with a parent's consent or via a court order, (2) you are willing to assume responsibility for the child/ren, AND (3) one of the following: (a) a court order has been issued determining the child/ren to be a dependent child/ren, or (b) the child/ren is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or (c) the child/ren has for a period of at least twelve (12) consecutive months, resided with the grandparent, excluding brief temporary absences of the child/ren from the home, and is removed from the home by the parents, in which case the action must be filed within six (6) months after the removal of the child/ren from the home).

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. _____

(Your facts must establish that: (1) the child/ren's parent is deceased, (2) the child/ren's parents have been separated for at least six (6) months or have commenced and continued a divorce proceeding; or (3) the child/ren has, for a period of at least twelve (12) consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child/ren from the home, and the child/ren has been removed from the home by the parents within the past six (6) months).

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/ren, you must plead facts establishing standing. _____
(You must establish that you stand in loco parentis to the child/ren).

10. I have attached the Criminal Record/Abuse History Verification form required pursuant to PA.R.C.P. No. 1915.3-2. *(You must file and serve with your Complaint for Custody a completed Criminal Record/Abuse History Verification regarding any criminal or abuse history of your own and anyone living in your household.).*

Wherefore, the plaintiff/defendant requests the Court to grant: ***(circle all that apply)***
(Circle one)
(shared legal custody) (sole legal custody) (partial physical custody)
(primary physical custody) (shared physical custody) (sole physical custody)
(supervised physical custody) of the child.

I verify that the statements made in this Complaint for Custody 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

Signature

Print Name

Plaintiff/Defendant
(circle one)

NOTIFICATION OF OBLIGATIONS PRIOR TO RELOCATION

Relocation is a change in the child/ren's physical residence, which significantly impairs the ability of a non-relocating party to exercise custody of the child/ren.

Relocation of the child shall not occur unless either (1) every individual with custody rights consents to the relocation; or (2) the court approves the relocation. For a full understanding of your rights and obligations regarding relocation, you should consult an attorney. If you intend to proceed without an attorney, you must refer to and comply with all of the applicable provisions of Section 5337 of Pennsylvania's Domestic Relations Code, Pennsylvania Rule of Civil Procedure 1915.17 and the Local Rules of Civil Procedure regarding relocation. As a starting point, you must be aware that the relocating and non-relocating parties have the following deadlines **(The below information does not fully contain your responsibilities regarding relocation. If you either intend to relocate or object to relocation you should consult an attorney.** If you do not have an attorney, you may wish to contact the Erie County Bar Association at (814) 459-4411 for information on the Lawyer Referral and Information Service.):

I. Any party proposing relocation must:

- At least sixty (60) days prior to relocation, send notice of the proposed relocation, via certified mail, return receipt requested, addressee only, to every individual with custody rights to the child. A form Relocation Notice is available at eriecountypa.gov/courts/family-court/custody-conciliation.
- With the Relocation Notice, you must also serve on the other party a counter-affidavit regarding relocation by which the other party may agree or object to relocation. A Counter-Affidavit Regarding Relocation form is available at eriecountypa.gov/courts/family-court/custody-conciliation.

II. Any party objecting to relocation must, within thirty (30) days of receipt of the notice of relocation: (1) serve a copy of the completed Counter-Affidavit on the other party by certified mail, return receipt requested, addressee only; and (2) if there is an existing custody case, you must also file the original completed Counter-Affidavit with the court. **Failure to object to relocation within thirty (30) days will preclude you from objecting to the relocation.**

THE OFFICE OF CUSTODY CONCILIATION

ERIE COUNTY COURTHOUSE
140 WEST SIXTH STREET, ROOM 02
ERIE, PENNSYLVANIA, 16501

OFFICE HOURS

8:00 A.M. TO 12:00 P.M. & 1:00 P.M. TO 4:30 P.M.
MONDAY THROUGH FRIDAY
(EXCEPT LEGAL HOLIDAYS)
(814) 451-6234

Family Motion Court:

Monday through Thursday at 9:00 a.m.