



**LYCOMING COUNTY  
COMPLAINT  
FOR CUSTODY  
SELF-HELP KIT  
Instructions**

**REMEMBER**

*The law often changes. Each case is different. This self-help kit is meant to give you general information and not give you specific legal advice.*

## **INTRODUCTION**

This packet will help you file the forms to ask for different types of custody of your child or children. When you file for something “on your own” with no attorney representing you, it is called filing “pro se.”



### **BEFORE YOU DECIDE TO FILE**

Here are some points to consider before you decide whether to file for custody:

1. If there is already a Custody Order, you CANNOT use this packet. You must file a petition to modify that order using a Petition to Modify an Existing Order packet. You can do this pro se (on your own). All custody packets are available from the Law Library in the basement of the Courthouse; online at [www.lyco.org](http://www.lyco.org) under the “Courts/Law Library/Forms” tabs; or from North Penn Legal Services, Penn Tower, 25 West Third St., Suite 400, Williamsport, PA 17701.
2. If you and the other parent are in agreement about custody, you can file a Stipulation that includes your agreement. After you file it, you will get a Court Order signed by a Judge that confirms your agreement. You can do this pro se (on your own). All custody packets are available from the Law Library in the basement of the Courthouse; online at [www.lyco.org](http://www.lyco.org) under the “Courts/Law Library/Forms” tabs; or from North Penn Legal Services, Penn Tower, 25 West Third St., Suite 400, Williamsport, PA 17701.
3. If the child or children live with you and the other parent doesn’t spend much time with them, that may change if you decide to “go to Court.” The other parent may surprise you by coming to Court and asking for more custody time than they have had. The Court will usually give both parents regular periods of custody, unless there is a Children and Youth recommendation or a psychologist’s report that would restrict a parent’s contact with the children. Even if there is a Protection From Abuse Order because one parent has abused the other, this will usually not restrict a parent’s right to custody. Therefore, you may decide not to file for custody if things are satisfactory without an Order.
4. If you are *not* a parent of the child(ren), you will need the self-help kit called “Standing: Who Can File for Custody?” You should include the form from that kit called “I Have Standing Because” with your Compliant. All custody packets are available in the Law Library in the basement of the Courthouse; online at [www.lyco.org](http://www.lyco.org) under the “Courts/Law Library/Forms” tabs; or from North Penn Legal Services, Penn Tower, 25 West Third St., Suite 400, Williamsport, PA 17701.

## **CUSTODY TERMS**

- LEGAL CUSTODY** - Means the right to make major decisions affecting the best interest of a minor child, including, but not limited to, medical, religious, and educational decisions.
- SHARED LEGAL CUSTODY** - Means the right of more than one individual to legal custody of the child.
- SOLE LEGAL CUSTODY** - Means the right of one individual to exclusive legal custody of the child.
- PHYSICAL CUSTODY** - Means the actual physical possession and control of a child.
- PRIMARY PHYSICAL CUSTODY** - Means the right to assume physical custody of the child for a majority of the time.
- PARTIAL PHYSICAL CUSTODY** - Means the right to take possession of a child away from the custodial parent for a certain period of time.
- SHARED PHYSICAL CUSTODY** - Means the right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.
- SOLE PHYSICAL CUSTODY** - Means the right of one individual to exclusive physical custody of the child.
- SUPERVISED PHYSICAL CUSTODY** - Means 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.
- PERSON ACTING AS A PARENT** - A person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.
- RELOCATION** - Means a change in residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights.

## **MYTHS AND REALITIES**

- MYTH:** If a parent does not pay child support, the parent does not have a right to spend time with the child.
- REALITY:** Child support and custody rights are viewed as separate issues by the Court. A parent may not deny custody to the other parent because he/she is not paying child support. The court will not prevent a parent from seeing a child just because the parent has not made support payments.
- MYTH:** If the child is living with the mother, and the mother and father have never been married, the mother has legal custody of the child and the father cannot take the child without the mother's permission.
- REALITY:** Without a Court Order for custody, each parent has an equal right to have the child live with her/him and to make decisions about the child. A Custody Order spells out specific rights and responsibilities about physical custody and decision-making for the child. There are various types of custody. (Please see the definitions of custody terms immediately before this section.) Any custody agreement that is not a Court Order will not be enforced by the Court.
- MYTH:** The mother will always be given custody of a young child.
- REALITY:** All parties are equal before the Court, without regard to gender. The Court determines custody based on what is best for the child(ren). Generally, the Court considers it in a child's best interest to spend significant time with both parents.
- MYTH:** A Court Order for custody cannot be changed.
- REALITY:** A Custody Order may always be changed by the Court. Either parent may file a petition to modify the Order at any time.
- MYTH:** If one parent has primary physical custody of the child, that parent will be able to limit contact with the other parent if they so desire.
- REALITY:** Even if one parent has primary physical custody, the other parent is granted partial physical custody rights, except in unusual circumstances. Although many custodial parents think the non-custodial parent be denied contact "because he's always drunk and high," or "because she's living with another man," these reasons alone are not enough to stop a parent's right to be with her/his child. A parent's physical custody rights will only be limited if it can be shown that a parent's addiction, tendency to physical violence, emotional instability or other behavior will have a harmful effect on the child. Usually, professional evidence is needed to prove this. The Court may, however, place conditions upon a parent's right to spend time with the child, such as no drinking alcohol during custody time. If the Court has evidence that the non-custodial parent may harm the child or act improperly toward the child, the Court may require supervised visitation.
- MYTH:** A parent who has primary physical custody can move the child and change the child's school district.
- REALITY:** Pennsylvania law says that a parent cannot move a child a distance that will significantly impair the other parent's ability to exercise custody rights without the permission of the other parent or the Court. This applies whether or not you have a Custody Order. Plus, if the parents have an Order granting them shared legal custody, neither parent can change the child's school without the other parent's agreement or permission by the Court.

## THE CUSTODY PROCESS

**There are seven steps in the custody process. This packet provides the forms you need and guides you through these steps.**

- Step One:** Read the instructions in this packet.
- Step Two:** Fill out the forms in this packet, and make copies.
- Step Three:** File the forms and copies at the Prothonotary's Office.
- Step Four:** Wait for the copies to be mailed to you with a date for the custody conference.
- Step Five:** Serve the documents on the other party.
- Step Six:** Attend the custody conference.
- Step Seven:** If you do not reach an agreement at the conference, go further in the court system.



**COMPLAINT FOR  
CUSTODY**

**PART ONE: INSTRUCTIONS**

*These are the instructions for filling out the forms. The forms are found in Part Two of this packet.*

**1. FIRST FORM – MOTION COVER SHEET**

Complete the caption (heading) by printing your name as the Plaintiff and the other party's name as the Defendant. Use middle initials and print neatly. Leave "Docket No." blank; the court will assign a number to your case. Note: If grandparents or other third parties have physical custody, there will be more than one Defendant, because both parents must always be parties.

Write your name on line 1, and "Complaint for Custody" on line 3. In box 4, put a check in front of "Court Conference." In box 6, write your name and address. Leave the rest of the form blank—this is for the Court to fill out.

**2. SECOND FORM – ORDER AND NOTICE**

Complete the caption as on the Motion Cover Sheet. Print the Defendant's name on the blank after the word "You." Check the box for "obtain." Check the box for the type(s) of custody you are seeking. (See the "Custody Terms" section earlier in this packet.) Print the child or children's INITIALS on the second blank after the heading. Do not write the children's names, because that information is confidential and not available to the public. Do not do anything further on this sheet.

**3. THIRD FORM – ENTRY OF APPEARANCE AS SELF-REPRESENTED PARTY**

Complete the caption as on the Motion Cover Sheet. Fill out the blanks in the form, and write the information requested. Skip paragraph 4 if you never had an attorney.

**4. FOURTH FORM – COMPLAINT FOR CUSTODY**

The caption should be completed as on the other forms. The numbers below match the numbers on the Complaint.

1. Print your name, address, and phone number.
2. Print the other party's name, address, and phone number. If there is more than one party, simply add additional phrases such as "Defendant John Doe is the paternal/maternal grandparent."
3. Check any boxes that apply and fill in appropriate dates and counties. You may check more than one statement.
4. Print the appropriate word to show which party is mother and which is father. Check the type(s) of custody you are requesting. (See definitions earlier in this packet.) Write each child's initials and age. Do not write the names(s) or date(s) of birth, because that is confidential information not available to the public.

5. Print the appropriate word to reflect with whom the children presently live. Then give the required information about the children’s residences. You must describe where and with whom the children have lived for the past five years (or since birth, if younger than five years). List addresses in order, beginning with the earliest date. See example below:

LIST MINOR CHILDREN BY INITIALS ONLY

<u>People in that Home</u>	<u>Address</u>	<u>Dates</u>
Plaintiff & Defendant & S.R.F. & D.R.T.	123 Broad Street Montoursville, PA	6/2012 to 7/2013
Plaintiff & S.R.F. & D.R.T.	R.D. #4 Montgomery, PA	7/2013 to 12/2015
Plaintiff & present husband & S.R.F. & D.R.T.	2800 West Second St. Williamsport, PA	12/2015 to present

6. Part 6 contains information about any prior or other pending custody actions. Be sure to attach previous Orders. The **first paragraph** refers to any prior custody proceedings. Check “yes” or “no.” If you check “yes,” complete the blanks as indicated. The **second paragraph** refers to any pending action in Pennsylvania. If you know of any other custody action involving the children, you must complete this section. If you check “no,” then do not give any further information. The **third paragraph** refers to any other person who has custody or had custody for a period of time in the past. If you check “no,” then do not give any more information. If someone other than the Plaintiff or Defendant has had custody for a period of six months or more during the recent past, you should check “yes” and give the name and address of that person on the blank line. Lastly, check whether or not there is a Protection From Abuse order in effect, and attach a copy if there is.
7. Print “physical custody” if you want the children to live with you or if you want periods of time when the children are with you. In addition, print “legal custody” if you want the right to make major decisions affecting the best interest of the child.
8. The purpose of this part is to be sure that notice will be given to all people who are required to be notified. Check all statements that apply, and fill in the names and addresses requested.
9. Fill out this section if you are *not a parent*. Choose the appropriate section and write about your situation. Instead of filling out this section, you may fill out and attach the form called, “I have Standing Because.” This form is in the self-help custody kit called, “Standing: Who Can File for Custody?” This kit is available from the Law Library in the basement of the Courthouse; online at [www.lyco.org](http://www.lyco.org) under the “Courts/Law Library/Forms” tabs; or from North Penn Legal Services, Penn Tower, 25 West Third Street, Suite 400, Williamsport, PA 17701.



In the “**WHEREFORE**” statement, check the appropriate box stating what type(s) of custody you are asking for (see definitions of terms earlier in this packet).

**Sign, print your name, and date the Verification** at the end. You are subject to penalties if you include false information in the Complaint.

**5. FIFTH FORM – COMPLETED CRIMINAL/ABUSE HISTORY VERIFICATION**

Complete the caption as on previous forms. Write your name on the first line of the first paragraph. Check any boxes that are appropriate and fill out the required information. Sign, print, and date the final page.

**6. SIXTH FORM – BLANK CRIMINAL/ABUSE HISTORY VERIFICATION**

Complete the caption as on previous forms. Leave the rest of the form blank. This is for the other party to fill out and file after you serve it on them.

**7. SEVENTH FORM – CONFIDENTIAL INFORMATION FORM**

This form is three pages long. This is the **ONLY PLACE** you list the names and birthdates of the children. This form will not be seen by the public.

Fill out the caption like you have done in the other documents. On the line that says “Court,” write “Lycoming County.”

On the third line, write “Complaint for Custody,” where it asks for the title of the pleading, and write the date you are filing the Complaint.

For the rest of the first page, you only need to fill out the first column. You do not need to write anything for “full name of adult.” Just list each child’s initials, name, and date of birth separately, with the dotted line dividing each child’s information. If there are more than two children, use the additional page.

After you have listed each child, sign the form that states, “I certify that this filing complies . . .” Write the date and print the additional information requested under your signature. This means that you promise you have not put the children’s names or birthdates on the forms available to the public.

**8. AND 9. EIGHTH AND NINTH FORMS – FORMS TO WAIVE THE FILING FEE**

In order to file a new custody action, there is a fee that must be paid to the Prothonotary. This fee changes from time to time. As of January 1, 2018, it is \$155.00.

If you don’t think you can pay the filing fee, you may ask the Court to waive the cost. You will need to fill out and file two forms, in addition to the documents above. If you can afford to pay the filing fee, you will have to do so. The Court waives this cost only in cases where income is extremely low.

**EIGHTH FORM – ORDER TO PROCEED WITHOUT PAYMENT OF FEES AND COSTS**

Fill in the caption as on the other documents. There is nothing more for you to fill out on this document. If the Court grants the Petition, your custody action can proceed. If not, you will be notified and you will have to pay the costs in order to continue.

## **NINTH FORM – PETITION TO PROCEED WITHOUT PAYMENT OF FEES AND COSTS**

Fill out the caption as on the other documents. The rest of the form is quite clear. You are asked to fill in facts about your personal finances. Be sure to include income from all sources, including government benefits like Public Assistance, unemployment compensation, and food stamps. Don't forget money your spouse receives, if you are married; from your parents if they help you; from friends or other family members; or from an Order for child support. Finally, identify all persons who depend on your income for support, including children who live with you. Do not list the children's names—only their initials and age.

Sections 4 and 5 of this Petition are important. Be sure that you read these paragraphs. They require you to inform the Court of any improvement in your financial situation which might permit you to pay some or all of the costs at a later date. When you date and sign the Petition after paragraph 5, you are promising that the information you have filled in is true. There will be consequences if you make false statements.

You have now completed the forms necessary to request the Court to allow you to proceed without paying the costs.

### **COPIES**

*After you have completed forms one through seven, clip them together in order, with the Motion Cover Sheet on the front. You will then need to get copies made. You need a copy for yourself, one for the Defendant, and one for each additional Defendant, if there are any. The original will stay at court, in the Prothonotary's office.*

*If you are filing a request to proceed without paying costs, you will need to make one copy of those documents, too (forms eight and nine).*

*You are now ready to file all of the papers with the Prothonotary.*



## **HOW TO FILE THE COMPLAINT**

Take all of your completed forms (including the copies) to the Prothonotary's Office on the first floor of the Lycoming County Courthouse at 48 West Third Street, Williamsport, on any weekday (Monday through Friday) between 8:30 a.m. and 5:00 p.m. Separate the papers into the three groups shown below, and put them in the order shown below. You **MUST** have the groups of documents listed under First Group and Second Group. If you are asking the Court to waive the filing fee, you should also have the documents listed under Third Group.

**1. FIRST GROUP:** (1) Motion Cover Sheet, (2) Order and Notice, (3) Entry of Appearance as Self-Represented Party, (4) Complaint for Custody, (5) Completed Criminal/Abuse History Verification, and (6) Blank Criminal/Abuse History Verification

*You will need an original and at least two copies of all these forms.*

**2. SECOND GROUP:** Confidential Information Form (2 pages if there are less than three children, 3 pages if there are three children or more).

*You will need an original and at least two copies of all these forms.*

**3. THIRD GROUP:** If you are asking to have the filing fee waived, you will need: (1) Order to Proceed Without Payment of Fees and Costs, and (2) Petition to Proceed without Payment of Fees and Costs.

*You will need an original and one copy of each of these documents.*



**The Prothonotary will give the case a number and will file stamp all of the documents. The Prothonotary will keep all the forms. The case will be given a date for a Family Court Conference, and then the copies will be mailed back to you.**

**The original documents that you filled out become part of the permanent court record and remain in the Prothonotary's Office. Of the copies that are mailed back to you, keep one copy of each document for yourself.**

**You must then promptly serve one copy of the First Group (see above) and one copy of the Second Group (see above) of documents on the Defendant and any other parties. Go to the next set of instructions to find out how to serve the Defendant. You do not have to serve the Third Group of documents.**

## **HOW TO SERVE THE OTHER PARTY**

It is not enough to simply talk to the other party (Defendant) about the custody action or the conference date. You must give the Defendant legal notice that you have filed for custody. This kind of notice is called “service.”

Service of the papers is **YOUR** responsibility. **IT IS IMPORTANT TO SERVE THE OTHER PARTY AS SOON AS POSSIBLE.** If you do not serve the other party in time for them to have reasonable notice and opportunity to prepare for the conference, the Court may reschedule the conference for a later date.

If you have the funds to do so, you can pay the Sheriff, Constable, or process server to serve the papers for you and to file an Affidavit of Service for you. Otherwise, you will need to serve by one of the following two methods. You will then need to fill out an Affidavit of Service, and file the Affidavit of Service at the Prothonotary’s Office.

### **CERTIFIED MAIL AND REGULAR MAIL:**

To serve by this method, you must send all of the documents stated above by **certified mail, with return receipt requested and restricted delivery AND regular mail** to the Defendant’s address. “Restricted delivery” means that the return receipt must be signed by the Defendant only.

When you go to the post office, someone at the window can give you the forms to send the certified mail. The cost **MUST** be paid at that time. When you send the certified mail, you will be given a “sender’s receipt” (a little white receipt). Keep this receipt to include with your proof of service. Also send the defendant a copy of the papers by regular mail.

You should mail the documents to the Defendant as soon as possible after you receive them in the mail from the Prothonotary’s Office. The Defendant should receive them ***at least ten (10) days before the conference date.***

Once the Defendant has signed the green receipt, indicating that he or she has received the documents, service is complete. You will have proof that service is complete when you receive the green receipt with the Defendant’s signature on it. When you receive that green receipt, you must save it. It is to be included with your original receipt and attached to the Affidavit of Service.

If the certified mail is **REFUSED** by the Defendant, you will get a notice from the Post Office saying it was refused. If the regular mail is not returned within fifteen (15) days, service may be considered complete. If mail is returned **UNCLAIMED**, service will need to be made another way.

**PERSONAL SERVICE:**

You can have a person who is 18 years of age or older, who is not a party to the action or an employee or relative of a party to the action, serve the papers. Therefore, if you are the person filing the petition, you should not serve the papers yourself, and you should not have anyone who is related to you or who works for you, serve the papers.

The person who serves the legal papers on the opposing party must do it in the manner required by law. The person can serve the papers:

- (a) by handing a copy to the other party; or
- (b) by handing a copy to an adult member of the family with whom the other party resides; or
- (c) by handing a copy of the papers to an adult person in charge of the residence at the time (example: babysitter, etc.); or
- (d) by going to the opposing party's usual place of business and handing a copy to the opposing party's agent (one that acts for or representative of) or to the person in charge.

**10 and 11: AFFIDAVITS OF SERVICE:** Choose ONE of the two Affidavit of Service forms that follow these instructions. There is one for service by certified mail and regular mail, and one for personal service. You have to fill out and file one of these forms with the Prothonotary after you serve the other party, unless you pay a Sheriff or Constable to do it for you. If you are serving more than one person, you have to complete and file a separate Affidavit for each one.

The Affidavit of Service should be completed and filed with the Prothonotary as soon as service is completed. Make a copy for yourself, and bring it to the custody conference.

**TENTH FORM – AFFIDAVIT OF SERVICE BY CERTIFIED MAIL AND REGULAR MAIL**

- Fill in the caption.
- Fill in the blanks.
- Staple your sender's receipt (the white receipt) and the green card you got back in the mail to the Affidavit.
- Sign and date at the bottom and make one copy of everything.
- File at the Prothonotary's Office before the conference and keep a time-stamped copy for your records.

**ELEVENTH FORM – AFFIDAVIT OF SERVICE BY PERSONAL SERVICE:**

This form is completed by someone else who serves the papers for you, and then you file it with the Prothonotary before the conference.

- Fill in the caption.
- Fill in the blank spaces.
- Check the paragraph that best describes how the papers were served.
- Have the person who served the papers sign, date, and write his/her address and telephone number at the bottom.
- Make one copy and file at the Prothonotary's Office before the conference. Keep a time-stamped copy for your records.

## **THE FAMILY COURT CUSTODY CONFERENCE**

Your case will be scheduled for a conference with a Family Court Hearing Officer. You must attend the conference. If you do not attend and the other party attends, a Custody Order will be issued anyway. If neither party attends, your petition will be dismissed. Do not bring the children to the conference. Other people may come with you for support, but they won't be able to go into the courtroom where the conference is held.

The Family Court Hearing Officer is an attorney who was appointed by the Court to handle custody cases. In Lycoming County, there are two Hearing Officers.

Before you attend the conference, decide what type of custody schedule you think would work best. Then tell that to the Hearing Officer. The Defendant has the right to attend and tell the Hearing Officer what schedule he/she thinks would be best. Be open to negotiating with the other party. Try to resolve your disputes and reach an agreement. Don't expect to get everything you want.

The Family Court Hearing Officer will listen to both parties and try to work out an agreement. If there is not an agreement, the Family Court Hearing Officer will decide on a temporary order, and will tell both parties what the order will say. The order will be mailed to both parties. The Family Court Hearing Officer will schedule a pre-trial conference in front of a judge. The Hearing Officer may also make a referral for a Guardian Ad Litem.

The Family Court Hearing Officer will mail the Order, confirmed by a Judge's signature, to you and to the Defendant. That Order will be a final Order, if you and the Defendant reached an agreement. If you did not reach an agreement, it will be a temporary order, giving you a custody schedule until you reach an agreement at the pre-trial conference or have a custody trial.

**YOU MUST FOLLOW THIS ORDER UNTIL IT IS CHANGED.** Even if you decide to take some further action, as described below, **YOU MUST FOLLOW THE ORDER.** A person who intentionally violates the Order can be found in contempt of court. It is also a criminal offense in Pennsylvania to take a child in violation of a Court Order.

If you strongly disagree with the Family Court Hearing Officer's Order, you may file a Petition for Special Relief to try to change it before a hearing. You must act as soon as you receive papers from the Hearing Officer. You may also want to consult an attorney, who can discuss with you the possibility of further proceedings before a Judge.

# Getting Ready

**To prepare for the Custody Conference, think about your answers to these questions:**

- A. How long have you and the other parent lived separately?**
- Since separation who has the child lived with primarily?
  - When does the other parent see the child?
- B. While you and the other parent lived together, who was primarily responsible for the care of the child?**
- Did you both share pretty much equally in the child's care?
- C. If the child primarily lives with you, does the other parent have the child regularly?**
- Have you been cooperative in arranging for the child to be with the other parent?
- D. If the child primarily lives with the other parent, do you have the child regularly?**
- If not, why not?
  - Has the other parent denied you contact with the child?
- E. Does either parent have a history of alcoholism, drug abuse, violent crime, suicide attempts?**
- If so, have these problems affected the child, or might they affect the child or the parent-child relationship in the future?
- F. Does either parent have a history of abuse of the child or an extremely difficult relationship with the child?**
- G. Does either parent do things to interfere with the child's relationship with the other parent?**
- H. What custody schedule do you suggest? Why?**

**IN ANY SITUATION WHERE PARENTS DO NOT LIVE TOGETHER, THEY HAVE SPECIAL RESPONSIBILITIES TO THEIR CHILD. PLEASE FOLLOW THESE GUIDELINES:**



**DO:**

1. Develop a plan to permit the child to have a regular schedule of time with each parent. If you have a Custody Order, follow that Order and give the other parent extra time when appropriate.
2. Spend time with your child regularly, so the child doesn't feel rejected or abandoned. Be sure your child has a specific place that is his/her own, and room for toys and clothes.
3. Allow the child to call the other parent while he/she is spending time with you.
4. Be sure the other parent always has your current address and phone number
5. Have the child ready on time to be picked up by the other parent, and be on time when you pick up the child. Call the other parent immediately if an emergency keeps you from arriving on time.
6. Encourage your child to respect the other parent.
7. Put your child's interest first. Control your negative feelings toward the other parent, so that the two of you can discuss problems and information about the child without fighting.

**DON'T**

1. Do not cancel your plans with your child, except in an emergency. If you must cancel, be sure to let your child know why it is necessary.
2. Do not make promises to your child that you suspect you will not be able to keep.
3. Do not pump your child for information about the other parent.
4. Do not expect the other parent to do parenting tasks exactly the same as you would.
5. Do not use the child to carry messages to the other parent.
6. Do not talk with the child about child support disagreements.
7. Do not argue with the other parent or call the other parent names when the child is present.
8. Do not make derogatory comments, call names, or discuss negative aspects of the other parent at any time when the child would hear you.
9. Do not ask the child where he/she wants to live, or put the child in a position where he/she must take sides.
10. Do not use the child as a way to hurt the other parent.