



**LYCOMING COUNTY
INTERVENTION IN A
CUSTODY CASE
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.

INTERVENTION IN A CUSTODY CASE

Normally a custody case involves just the two parents of the child(ren). But sometimes a person who is *not* a parent may want to have some type of custody. The right to be involved in the case, and ask for custody, is called having “standing.”

If there is already a custody order between the parents and you want to have some type of custody of the child(ren), you must do two things:

1. First, you must file a Petition to Intervene and Modify. By doing this, you ask a judge for permission to participate in the custody case. The judge will determine whether you have “standing.”

There are very strict rules about who else can be included in a custody case, and it depends on what type of custody you are asking for. If you are a grandparent or a great-grandparent, you have a greater chance of being granted standing.

If you are not a grandparent or great-grandparent, you will have to show that you are *in loco parentis*. This means that you have acted toward the child(ren) “in the place of a parent.” You will have to show that you performed the duties of a parent for a substantial period of time, and that you did this with the permission of the parents.

2. Second, if you are granted standing, you will then have to go through the regular custody process to obtain some type of custody.



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.

Who Can Intervene?

- 1. If you are *in loco parentis*, you can ask for *any* type of custody.** *In loco parentis* means that the child(ren) have lived with you and you have acted as their parent for a substantial length of time.
- 2. If you are a Grandparent and you want:**
 - (A) Legal custody (decision-making power)
and/or
 - (B) Substantial physical custody (child lives with you primarily or you have the child at least half the time)

Then you will need to show:

- Your relationship with the child(ren) began with the consent of a parent of the child or under a court order.
AND
- You are willing to assume responsibility for the child(ren)
AND
One of the following things:
 - The child(ren) have been determined to be dependent under 42 PA.C.S.Ch. 63 (Children and Youth)
OR
 - The child(ren) are substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity,
OR
 - The child(ren) lived with you for at least 12 months in a row, except for brief absences of the child(ren) from your home.
AND
 - The parents took the child(ren) from your home less than six months ago.

- 3. If you are a Grandparent or Great-Grandparent and you want:**

- (A) Partial Physical Custody (Child lives primarily with parent but spends time with you.)
and/or
- (B) Supervised Physical Custody: (Your time with the child is monitored by someone.)

Then you will need to show:

- A parent of the child(ren) is deceased and you are the parent or grandparent of the deceased parent.
OR
- The parents of the child are married and have started and continued a divorce proceeding.
OR
- The child(ren) lived with you for at least 12 months in a row, except for brief absences of the child(ren) from your home.
AND
- The parents took the child(ren) from your home by the parents less than six months ago.

THE INTERVENTION PROCESS

There are six steps in the intervention process. This packet provides the forms you need and guides you through these steps.

- Step One:** Read the instructions in this packet and fill out the forms
- Step Two:** File the forms and copies at the Prothonotary's Office.
- Step Three:** Wait for the copies to be mailed to you with a date for the hearing.
- Step Four:** Serve the other parties with notice of the hearing.
- Step Five:** Attend the hearing and make your case. If the Judge lets you intervene, you will be scheduled for a custody conference.
- Step Six:** Participate in the custody conference and if you do not reach an agreement, go further in the court system.

INTERVENTION IN A CUSTODY CASE

PART ONE: INSTRUCTIONS

1. FIRST FORM – MOTION COVER SHEET

Complete the caption (heading) by using THE SAME CAPTION AS IN THE CURRENT CUSTODY ORDER. The same person who is listed as the Plaintiff in the custody case must be the Plaintiff in this action. The same person listed as Defendant in the custody case must be the Defendant in this action. You should also use the same case number that appears on the Custody Order

If you do not have a copy of the current custody order, you will need to get a copy at the Prothonotary's Office. You will be charged \$.50 per page.

Write your name on line 1, and "Petition to Intervene and Modify" on line 3. In box 4, put a check in front of "Evidentiary Hearing." In box 6, write your name and address. Leave the rest of the form blank.

2. SECOND FORM – ORDER AND NOTICE

Complete the caption as on the existing Custody Order. Write the other parties' names on the line after the word "You." Check the word "Modify" and Check the type(s) of custody in the existing order. 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 your custody order. Fill out the blanks in the form, and write the information requested. Skip paragraph 4 if you never had an attorney.

4. FOURTH FORM – PETITION TO INTERVENE AND MODIFY

Complete the caption as on the custody case. The following numbers below match the numbers on the Petition.

1. Write your name, your relationship to the child, and your address.
2. Write the name of the Plaintiff, the Plaintiff's relationship to the children, and the address of the Plaintiff.
3. Write the name of the Defendant, the Defendant's relationship to the children, and the address of the Defendant.
4. Write the initials and ages of the children addressed in the custody order. Do not write their names or birthdates, because that is confidential information not available to the public.
5. Check the box to show you are attaching a copy of the Custody Order. If you do not have a copy, you will need to get one at the Prothonotary's Office. You will be charged \$.50 per page.
6. Write the reason the Custody Order should be changed.
7. Write what you want the new Custody Order to say.

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 AND 7. SIXTH AND SEVENTH FORMS – TWO BLANK CRIMINAL/ABUSE HISTORY VERIFICATIONS

Complete the captions as on previous forms. Leave the rest of the forms blank. These are for each of the other parties to fill out and file after you serve it on them.

8. EIGHTH DOCUMENT – A COPY OF THE CURRENT CUSTODY ORDER

You MUST include a copy of the current custody order for the child(ren). You may get a copy at the Prothonotary’s Office if you do not have one. You will be charged \$.50 per page.

9. NINTH 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 “Petition to Intervene and Modify,” where it asks for the title of the pleading, and write the date you are filing the petition.

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.

10. AND 11. TENTH AND ELEVENTH FORMS – FORMS TO WAIVE THE FILING FEE

In order to file this petition, 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 \$25.75.

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.

TENTH 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 contempt action can proceed. If not, you will be notified and you will have to pay the costs in order to continue.

ELEVENTH 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 ages.

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.

COPIES

After you have completed forms one through nine, 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, and one copy for each of the other parties. The original will stay at court, in the Prothonotary's office. Remember, you need a copy of the current custody order to attach. If you do not have a copy, you can get one from the Prothonotary's Office. You will be charged \$.50 per page.

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

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



HOW TO FILE THE PETITION TO INTERVENE AND MODIFY

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) Petition to Intervene and Modify, (5) A Copy of Your Custody Order, (6) Completed Criminal/Abuse History Verification, and (7) Two Blank Criminal/Abuse History Verifications for the other parties

You will need an original and at least three 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 three 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 file stamp all the documents and will keep all the forms, including the copies. The case will be given a date for a hearing in front of a Judge, 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 other parties. Go to the next set of instructions to find out how to serve the other parties.

HOW TO SERVE THE OTHER PARTIES

It is not enough to simply talk to the other parties about the hearing. You must give the other parties legal notice that you have filed to intervene and modify the Custody Order. This kind of notice is called “service.”

Service of the papers is **YOUR** responsibility. **IT IS IMPORTANT TO SERVE THE OTHER PARTIES AS SOON AS POSSIBLE.** If you do not serve the other parties in time for them to have reasonable notice and an opportunity to prepare for the hearing, the Court may reschedule the hearing 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 other parties’ address. “Restricted delivery” means that the return receipt must be signed by the other party 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 other party a copy of the papers by regular mail.

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

Once the other parties have signed the green receipt, indicating that they received the documents, service is complete. You will have proof that service is complete when you receive the green receipt with the other party’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 other party, 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 parties; or
- (b) by handing a copy to an adult member of the family with whom the other parties reside; 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 parties' usual place of business and handing a copy to the opposing parties' 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 hearing.

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.

