



**LYCOMING COUNTY
STANDING:
WHO CAN FILE FOR CUSTODY?
INFORMATION KIT**

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.

WHO CAN FILE FOR CUSTODY?

Usually, a custody case involves only the two parents of the child(ren). A parent can always file for custody of his/her child. But sometimes a person who is *not* a parent may want to have some type of custody. The right to ask for custody, if you are *not* a parent, is called having “standing.”

There are very strict rules about who (besides the parents) can ask for custody. These rules are explained in this kit. If you do not fit into one of the categories for standing, your petition will likely be dismissed.

If you file for custody and are *not* a parent of the child(ren), it will be your burden to prove to the Judge that you have standing (the right to file for custody). The form at the end of this kit, called “I Have Standing Because,” is a good way for you to figure out if you have standing, and will help you explain to the Judge why you believe you have standing.

Procedure: If there is no custody order concerning the child(ren):

You must file a Complaint for Custody. You will be the plaintiff. Both parents must be listed as defendants, and you will be responsible for serving both parents with the paperwork. When you fill out the paperwork for the Complaint for Custody, be sure to fill out and include the “I Have Standing Because” form. This form is included at the end of this packet.

If there is already a custody order between the parents concerning the child(ren):

You must file a Petition to Intervene and Modify. You can get the instructions and paperwork in the self-help kit called “Intervention in a Custody Case.” That kit also contains the “I Have Standing Because” form.

You can get both of these kits from the Law Library in the basement of the Courthouse; online at 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.



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.

Rules for Standing

*If you are not a parent of the child(ren), you can only file for custody if A, B, C, or D applies to you.
(More than one of these letters can apply.)*

A. Anyone can file for any type of custody if he/she is *in loco parentis* to the child(ren).

In loco parentis means the child(ren) lives or lived with you and you have acted as the child(ren)'s parent for a substantial period of time.

B. Anyone can file for any type of custody if all four of these things are true:

1. Neither parent has any form of care and control of the child(ren).

AND

2. You have assumed responsibility for the child(ren), or you are willing to assume responsibility for the child(ren).

AND

3. You have a sustained, substantial and sincere interest in the welfare of the child(ren).

AND

4. There is no current dependency proceeding or order of permanent legal custody for the child(ren). [Through Children and Youth.]

C. If you are a *Grandparent* and you want:

Legal custody (decision-making power)

and/or

Substantial physical custody (Child(ren) live with you primarily or you have the child(ren) at least half the time.)

Then you will need to show all three of these things are true:

1. Your relationship with the child(ren) began with the consent of a parent of the child(ren) or under a court order.

AND

2. You are willing to assume responsibility for the child(ren).

AND

3. One of the following three things is true:

(a) The child(ren) have been determined to be dependent under 42 PA.C.S.Ch. 63 (Children and Youth).

OR

(b) The child(ren) are substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity.

OR

(c) 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.

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

Partial Physical Custody (Child(ren) live primarily with parent but spend time with you.)
and/or

Supervised Physical Custody: (Your time with the child(ren) is monitored by someone.)

Then you will need to show *one* of these three things is true:

1. A parent of the child is deceased and you are the parent or grandparent of the deceased parent.

OR

2. *All three* of these things are true:
Your relationship with the child(ren) began with the consent of a parent or a court order.

AND

The parents of the child(ren) have started a proceeding for custody.

AND

The parents do not agree as to whether the grandparents or great-grandparents should have partial physical custody or supervised visitation.

OR

3. *Both* of these things are true:
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.

		: IN THE COURT OF COMMON PLEAS OF
Plaintiff		: LYCOMING COUNTY, PENNSYLVANIA
vs.		: NO.
		: CIVIL ACTION - LAW
		:
Defendant		: CUSTODY

I Have Standing Because:

(You must check box A, B, C, or D. You can check more than one.)

This form is to be included with another petition, and should not be filed by itself.

A. I stand *in loco parentis* to the child(ren). I have acted as a parent to the child(ren) for the time period of _____.

OR

B. Neither parent has any form of care and control of the child(ren)

AND I have assumed or am willing to assume responsibility for the child(ren).

AND I have a sustained, substantial and sincere interest in the welfare of the child(ren).

AND there is no current dependency proceeding or order of permanent legal custody for the child(ren). [through Children and Youth]

OR

C. I am a grandparent who wants substantial physical custody and/or legal custody

AND my relationship with the child(ren) began with the consent of a parent of the child(ren) or under a court order.

AND I am willing to assume responsibility for the child(ren).

AND the child(ren) have: (check which of the following applies to the child(ren))

[] Been determined to be dependent under 42 PA.C.S.Ch.63 (Children & Youth).

OR

[] Are at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity.

OR

[] Lived with me for at least 12 consecutive months, except for brief temporary absences of the child(ren) from my home **AND** the child(ren) were removed from my home by the parents less than six months ago.

OR

D. I am a grandparent or great-grandparent who wants partial physical custody or supervised visitation

AND: (check which of the following applies to you)

[] A parent of the child(ren) is deceased and I am the parent or grandparent of that deceased person.

OR

[] The child(ren) have resided with me for a period of at least 12 consecutive months, except for brief temporary absences **AND** the child(ren) were removed from my home by the parents less than six months ago.

OR

[] My relationship with the child(ren) began with the consent of a parent or court order **AND** the parents of the child(ren) have started proceedings for custody **AND** the parents do not agree as to whether the grandparents or great-grandparents should have partial physical custody/ supervised visitation.