



**LYCOMING COUNTY
CONTEMPT OF
CUSTODY ORDER
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.

CONTEMPT OF CUSTODY ORDER

Sometimes problems arise when you have a Custody Order. The other party may be violating the Order and you want to have that addressed.

Contempt is a very serious matter. However, it is usually best for everyone if the parties resolve the problem without going to court. You may be able to fix it by talking to the other party.

THE LYCOMING COUNTY COURT REQUIRES THAT YOU TRY TO RESOLVE CONTEMPT MATTERS BEFORE GOING TO COURT. You must do this unless you would be harmed by trying to resolve the matter first. You must do this *in writing* (email or text is O.K.).

When the other party has an attorney, you must contact the attorney. When the other party does not have an attorney, you must notify the other party directly.

The notice must state how the other party is violating the order and must warn them that you will file for contempt if the problem is not fixed. This packet contains a letter you can use.

After you notify the other party or their attorney, you must give him/her time to correct the problem before you file a petition for contempt. **You cannot send the letter to the other party and then file for contempt before the other party has a chance to fix the problem.**

If the other party does not correct the problem and/or assure you they will follow the Order in the future, and/or give you additional time to make up for any lost custody time, then you may file a Contempt Petition to get the matter before the court.

The court will reject your Petition if you do not follow these steps. If you do have a hearing on the contempt, be ready to tell the Judge exactly what you did to try to solve the problem on your own.



THE CONTEMPT OF CUSTODY PROCESS

There are seven steps in the contempt of 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: Try to resolve the issue out of court in writing. If that does not work, go on to the next steps.

Step Three: Fill out the forms in this packet, and make copies.

Step Four: File the forms and copies at the Prothonotary's Office.

Step Five: Wait for the copies to be mailed to you with a date for the contempt hearing.

Step Six: Serve the papers on the other party.

Step Seven: Attend the hearing and make your case.

CONTEMPT OF CUSTODY ORDER

PART ONE: INSTRUCTIONS

1. FIRST FORM – MOTION COVER SHEET

Complete the caption (heading) by using THE SAME CAPTION AS IN YOUR CUSTODY ORDER. Your caption will never change. The same person who is listed as the Plaintiff in your Custody Order must be the Plaintiff in this action. The same person listed as Defendant in your Custody Order must be the Defendant in this action. You should also use the same case number that appears on your Custody Order

Write your name on line 1, and “Petition for Contempt” 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 your custody order. Leave the rest of the form blank.

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 FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF A CUSTODY OR VISITATION ORDER

Complete the caption as on your custody order.

For paragraph 1, you are the Petitioner because you are filing this petition. Check whether you are the plaintiff or defendant in the caption. Fill out your name, address, and phone number.

For paragraph 2, the other party is the Respondent. Check whether the other party is the plaintiff or defendant in the caption. Fill out the other party’s name, address, and phone number.

For paragraph 3, write the date of the custody order and the name of the judge who entered the order. Then check the type of custody you were granted in the order. Then write the initials and ages of the children addressed in the custody order. Do not write their names or birthdates, as that is confidential information not available to the public.

For paragraph 4, write how the other party has violated the order.

For paragraph 5, check the appropriate statement. If you tried to resolve the matter, check the first statement. If you did not try to resolve the matter because doing so would harm or prejudice you, check that statement.

At the end of the form, fill in the date and your signature.

5. FIFTH FORM – CERTIFICATION OF ATTEMPT TO RESOLVE CONTEMPT

This is where you tell the court what you have done to try to resolve the matter outside of court.

If you contacted the other party or the other party’s attorney, check the line after (a). Check whether or not the party is represented, and who you wrote to about the contempt. Check the box that describes the response, and fill in the lines with the information requested.

If you did not contact the other party or the other party’s attorney, check the line after (b), and explain why.

Read the paragraph starting, “I verify.” Write the date and sign your name.

The third page of this form (labeled Exhibit B p. 3) is a letter you can use to send to the other party. If you choose to use it, fill out all the information requested, and make a copy of the letter before you send it to the other party. Include the copy of the letter with your petition for contempt. Send the letter certified mail (see directions later).

6. SIXTH 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.

7. SEVENTH 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.

8. EIGHTH DOCUMENT – A COPY OF YOUR CURRENT ORDER

You MUST include a copy of the order that is being violated. 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 “Contempt of Custody,” 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 a contempt 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, one for the other party, and one for each additional party, if there are any. The original will stay at court, in the Prothonotary's office. Remember, you need a copy of your current custody order to attach. If you do not have a copy, you can get one from 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 nine and ten).

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



HOW TO FILE THE PETITION FOR CONTEMPT

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 for Contempt, (5) Certification of Attempt to Resolve Conflict, (6) A Copy of Your Custody Order, (7) Completed Criminal/Abuse History Verification, and (8) 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 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 party and any other parties. Go to the next set of instructions to find out how to serve the other party.

HOW TO SERVE THE OTHER PARTY

It is not enough to simply talk to the other party about the contempt action or the hearing date. You must give the other party legal notice that you have filed for contempt. 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 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 party’s 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 party as soon as possible after you receive them in the mail from the Prothonotary’s Office. The other party should receive them ***at least ten (10) days before the hearing date.***

Once the other party 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 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 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.

12 and 13: 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.

TWELFTH 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.

THIRTEENTH 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.