

ADAMS COUNTY COURT OF COMMON PLEAS
CUSTODY LITIGATION HANDBOOK
FOR SELF-REPRESENTED PARTIES

Introduction

A custody action is a civil lawsuit, usually between separated parents, regarding legal and physical custody of their minor child. State law authorizes courts to make determinations about whether one or both parents can make important decisions regarding their child (legal custody) and how the child shares time between the parents (physical custody). In rare cases, a child's grandparents or other family members may also have the legal right to participate in this type of litigation.

The litigation process is adversarial. It can worsen the divisiveness, tension, worry, frustration and hurt that families and children experience when they are faced with an uncertain future due to changes in the family structure. Typically, parents are in a better position to jointly make decisions for their children than a judge who is a stranger to the family. For this reason, our court has established a custody conciliation process to assist parents in negotiating compromises and settlements regarding custody of their children. Parents also have the option to engage in mediation outside of the court process at any time. The purpose of the conciliation conference is not to assign blame for the breakup of the relationship or assess the worthiness of either parent but instead to help preserve the irreplaceable relationship that children are entitled to have with both parents. Resolving the matter by mutual compromise promotes positive co-parenting relationships and reduces conflict in families, particularly for the children.

This booklet is not a substitute for proper legal advice regarding your specific situation. If you choose to represent yourself without the assistance of a lawyer, who has specialized training and education, you put yourself at a disadvantage. You are required to follow all state and local rules of procedure and evidence. You won't be allowed to overlook a procedure because you didn't know how to do it. You will be held to the same standard as an attorney licensed to practice law in the Commonwealth of Pennsylvania.

The Court is not permitted to appoint a lawyer for you in a custody case. IT IS STRONGLY SUGGESTED THAT YOU CONSULT WITH A LAWYER WHO IS EXPERIENCED IN FAMILY LAW MATTERS. A LIST OF ATTORNEYS AVAILABLE TO CONSULT WITH YOU FOR A REDUCED FEE REGARDING CHILD CUSTODY, DIVORCE, AND SUPPORT MATTERS IS AVAILABLE ON THE ADAMS COUNTY COURT OF COMMON PLEAS' SELF-HELP WEBPAGE AT <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter>. If you meet certain qualifications, you may be able to secure an attorney for limited custody representation through Mid-Penn Legal Services (call 1-800-326-9177). Just as you would consult a medical specialist for a medical problem, you should consult a legal specialist for a legal problem – a lawyer.

GENERAL INFORMATION

Self-represented parties must follow the Pennsylvania Rules of Civil Procedure governing the construction, filing and service of a pleading, including service of notice to the opposing party. “Service” is the word used to describe the procedure wherein you must provide a copy of your pleading to the other party in the case. If the other party has an attorney, then you must provide a copy of your pleading to the attorney instead. Every party in the case has a right to know what the other party is filing with the court, so that everyone can be prepared when attending a court proceeding. **Failure to properly serve the opposing party with notice of your action may result in a postponement or dismissal of your case.** Self-help packets with specific instructions are located on the Court’s self-help webpage at <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter> and in the lobby of the Adams County Courthouse located at 117 Baltimore Street, Gettysburg.

Court Staff, including Custody Conciliators and staff members of the Prothonotary, Clerk of Court, Domestic Relations, and the Court Administration Offices are not permitted to provide legal advice. Judges and their staff members are also not permitted to provide legal advice. These people are not permitted to help you fill out a packet or tell you how to proceed with your case.

If you need to make a request to the court, you must file your request in the proper written form at the Prothonotary’s office and serve a copy of your request upon all other parties (or their attorneys) and then file a certificate of service proving that you have complied with the rules regarding service. While it may seem confusing that the Prothonotary’s office requires you to provide a self-addressed stamped envelope for all parties in the case, the Prothonotary’s office is only sending a courtesy copy of the documents to the other parties. This does NOT constitute proper service. You are still responsible for properly serving the other parties with your pleadings and proving to the court that you properly served them.

You are responsible for keeping the Prothonotary informed of your current contact information at all times, so that you can receive important information about your case. To change/update your contact information, you must file an Appearance of Self-Represented Party form with the Prothonotary. This form is available as part of the “Family Law-Obtaining a Custody Order” packet located on the Court’s self-help webpage at <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter>. This form is also available at the Prothonotary’s Office.

APPLICABLE LAWS

In Pennsylvania, child custody actions are governed by state and local laws and rules:

State Rules: Title 23 of the Pennsylvania Consolidated Statutes, section 5321 et seq., Pennsylvania Rules of Civil Procedure 1915.1 et seq and the Pennsylvania Rules of Evidence.

Local Rules: Adams County Rules of Civil Procedure and Adams County Rules of Judicial Administration. These rules can be found on the Adams County website at: <https://www.adamscountypa.gov/courts/courtadministration/localrules>.

TERMINOLOGY USED IN CUSTODY CASES

“Best Interest of the Child Factors”

The factors that the Judge must consider when making a custody decision. These factors are outlined in 23 Pa. C.S.A. §5328.

“Caption”

The heading on the pleading which sets forth the names of the parties and the case number of the legal action. You must use the **same caption** for all legal documents filed in your case. DO NOT change names or reverse the names on the caption on subsequent pleadings.

“Child”

An unemancipated person under 18 years of age. 23 Pa. C.S. §5322.

“Child Custody Determination.”

A court order providing for legal custody, physical custody and/or visitation with respect to a child. The term includes a permanent, temporary, initial and modification orders. 23 Pa. C.S.A. §5402.

“Child custody proceeding.”

A proceeding in which legal custody, physical custody or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence, in which the issue may appear. 23 Pa. C.S.A. §5402.

“Complaint”

The formal pleading filed in the Prothonotary’s Office that initiates the custody lawsuit. The Complaint must substantially conform to the form required by Pennsylvania Rule of Civil Procedure No. 1915.3. This form is included in the Custody Self-Help Packet on the Court’s Self-help website.

“Conciliation Conference”

A conference presided over by a Custody Conciliator where the parties to the custody action and their attorneys meet informally to discuss the situation in a meaningful way, which often leads to compromises and agreements between the parties and narrows any issues for trial.

“Consent Agreement”

An agreement reached between the parties which is adopted as an Order of Court at the request of the parties.

“Custody Conciliator”

An attorney appointed by the Court to facilitate the discussion of the parents and counsel during the custody conciliation conference and to memorialize the outcome of the conference to the Court.

“Defendant”

The person being sued in the initial pleading.

“Guardian Ad Litem”

An attorney appointed by the Court to advocate for the child’s best interests.

“Home county/home state”

The county or state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child six months of age or younger, the term means the county or state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period. 23 Pa. C.S.A. §5402.

“In Forma Pauperis”

If a litigant cannot afford to pay the filing fees, an in forma pauperis petition can be filed. If the Judge finds that the litigant is unable to afford the filing fees, then the filing fees will be waived.

“In Loco Parentis”

A type of legal standing that permits someone to proceed in a custody case if they have acted as a parent to the child.

“Interim Order”

A temporary Court Order.

“Intervenor”

A person who is permitted to be added as a party to the custody action with the permission of the Court (such as a child’s grandparent or stepparent).

“Jurisdiction”

The authority of the Court to act regarding particular parties and the subject matter of the litigation.

“Legal custody”

The right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions. 23 Pa. C.S.A. §5322.

“Modification”

A child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination. 23 Pa. C.S.A. §5402.

“Parental duties.”

Includes meeting the physical, emotional and social needs of the child. 23 Pa. C.S.A. §5322.

“Partial physical custody.”

The right to assume physical custody of the child for less than a majority of the time. 23 Pa. C.S.A. §5322.

“Party”

The named Plaintiff, Defendant or Intervenor in a case.

“Person acting as a parent.”

A person, other than a parent, who:

- (1) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and
- (2) has been awarded legal custody by a court or claims a right to legal custody under the laws of this Commonwealth. 23 Pa. C.S.A. §5402.

“Petition”

A formal pleading filed in the Prothonotary’s Office, in the form and with the contents required by the Pennsylvania Rules of Civil Procedure for the particular procedure. For example, a “Petition for Modification of Custody” or a “Petition for Contempt”.

“Physical custody”

The actual physical possession and control of a child. 23 Pa. C.S.A. §5322.

“Plaintiff”

The person who initiates the lawsuit.

“Pleading”

The formal written allegations by the parties to the lawsuit of their respective claims and defenses, with the intended purpose being to provide notice of what is to be expected at trial.

“Pre-Trial Conference”

A conference with the Judge and the parties’ counsel or self-represented parties to exchange information, set deadlines, make special requests and organize the case for an upcoming trial so that the parties, counsel and the Judge will know what to expect.

“Primary physical custody”

The right to assume physical custody of the child for the majority of time. 23 Pa. C.S.A. §5322.

“Pro Se”

Representing one’s self.

“Relocation”

A change in a residence of the child which significantly impairs the ability of a nonrelocating party to exercise custodial rights. 23 Pa. C.S.A. §5322.

“Shared legal custody”

The right of more than one individual to legal custody of the child. 23 Pa. C.S.A. §5322.

“Shared physical custody”

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. 23 Pa. C.S.A. §5322.

“Sole legal custody”

The right of one individual to exclusive legal custody of the child. 23 Pa. C.S.A. §5322.

“Sole physical custody”

The right of one individual to exclusive physical custody of the child. 23 Pa. C.S.A. §5322.

“Supervised physical custody”

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. 23 Pa. C.S.A. §5322.

“Service of Process”

Service of process, also called “Service”, means the formal delivery to the other party (or their counsel if represented) of legal papers filed with the Prothonotary, in the manner required by the Pennsylvania Rules of Civil Procedure, so as to ensure that the other party has timely notice of the allegations in the pleadings and when the proceedings will occur in court. Proof of service must be filed before the court can make a final decision in your case.

“Standing”

A legally recognized right to participate as a party in a custody action.

“Third party”

A person other than the child’s parent.

“Venue”

The proper place for a custody action to be filed. Typically, this is the location where the child has lived for the last six months.

“Verification”

A written statement of fact by the signer supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

STEPS IN THE CUSTODY CASE IN ADAMS COUNTY COURT

1. First, you must determine whether you are beginning a new custody case or filing a pleading in a custody case that already exists for your child. If you are beginning a new custody case, you must file a Custody Complaint. If you are filing a pleading in a custody case that already exists for your child, then you will need to determine if you are filing a Petition for Modification or a Petition for Contempt.
 - a. Petition for Modification is the pleading you will file if you want to *change* something in your custody order.
 - b. Petition for Contempt is the pleading you will file if you want to *enforce* your current custody order.

2. After you file your pleading, the Prothonotary will forward it to the Judge who is assigned to the case to schedule a presentation of your pleading. Please make sure that you have filed an Entry of Self-Represented Party form with your correct contact information so that the Judge's staff knows how to reach you.
3. You must serve a copy of the Judge's Order and your pleading on the opposing party according to the Pa. Rules of Civil Procedure so that the other party knows when the presentation will be.
4. At presentation, the Judge may ask questions of both parents about the circumstances, each parent's living arrangements and work schedules so that the Judge can establish a temporary schedule, which the Judge will outline in an interim Order. If you and your co-parent have an agreement, you can present it to the Judge at the time of the presentation.
5. If you and your co-parent do not have an agreement, then the Judge will schedule you both to attend a Custody Conciliation Conference. You must file a Custody Conciliation Conference Memorandum at least five (5) days prior to the Conciliation Conference so that the Conciliator can be prepared to discuss the case with you. The form required can be found in the packets for "Family Law-Obtaining a Custody Order" or "Family Law-Modifying a Custody Order" located at:
<https://adamscountypa.gov/courts/courtadministration/selfhelpcenter>
6. If you and your co-parent do not arrive at an agreement at the Custody Conciliation Conference, the Conciliator will file a report and the Judge will schedule a pre-trial conference to organize the case for trial. At least five (5) days before the pre-trial conference, you must file a pre-trial memorandum at the Prothonotary's Office and serve a copy on the other party (or their attorney if they have one). The information that you are required to put in the pre-trial conference memorandum is listed in Pa. R.C.P. No. 1915.4-4.
7. At the pre-trial conference, the Judge will review both parties' pre-trial memoranda, discuss trial procedure and set a date for trial and an interview of your child/ren.

PREPARING FOR A CHILD CUSTODY TRIAL

1. Read your pre-trial scheduling Order carefully and take note of all deadlines and directives. If you do not comply, you may be precluded from introducing evidence and/or presenting witnesses to support your case.
2. Have all exhibits (papers, text messages, photographs, medical records, etc.) with you in the courtroom and pre-marked (for example, Plaintiff's Exhibit 1, Defendant's Exhibit 1, etc.). In addition to the original exhibit, you must bring a copy for the opposing party, one for yourself and an extra copy for the Judge. All exhibits which are admitted by the Court will be kept and made part of the record and will not be returned to you. Therefore, if you have an exhibit that is in a digital format (such as a text message) you must print out the text message before arriving at Court. The Court cannot view a text message exhibit on your phone, because the Court cannot admit your phone into evidence. **DO NOT FILE EXHIBITS AT THE PROTHONOTARY'S OFFICE. DO NOT ATTACH EXHIBITS TO YOUR PLEADINGS.**

3. If you choose to represent yourself, be aware that you are required to know the law, trial procedure, and the rules of evidence. You are strongly advised to hire an attorney or at least consult with an attorney to assist you.
4. The moving party (the person asking for relief from the Court) has the burden of proof. The burden of proof is the measure by which the case will be decided. The non-moving (responding) party must be prepared to show how the moving party has not met their burden of proof. In cases involving child custody, there are numerous factors that the Court must consider when making a decision. A copy of those “best interest of the child” factors can be found on the Court’s self-help website at <https://adamscountypa.gov/courts/courtadministration/selfhelpcenter> (via the link titled “Family Law-Factors to Consider When Awarding Custody”).
5. Bring a pen and paper for writing down notes and questions.
6. If the parties have an agreement regarding the issue, they should tell the Judge at the beginning of the proceeding.

GENERAL PROCEDURE FOR CHILD CUSTODY TRIAL

1. Each party has an opportunity to present their side of the case. The moving party presents his/her case first. The opposing party presents his/her case second. Sometimes the Judge will want to hear testimony from the parents first, before any other witnesses.
2. Have all witnesses present whom you wish to call to testify on your behalf, or available by phone if the Judge has given you permission to do so.
3. After one party’s witness testifies, the opposing party may ask questions of that witness on cross-examination. Cross-examination consists of QUESTIONS ONLY. Do not attempt to testify yourself while conducting cross-examination or dispute the testimony of the other party.
4. Physical evidence (exhibits) must be offered to the Court through the testimony of a party or witness. Failure to properly present physical evidence will likely result in the evidence not being considered by the Court. You are responsible for knowing the legal requirements for admission of physical evidence.
5. Either party may object during the testimony of a party or of a party’s witness.
 - a. If there is an objection, all parties and the witness must stop talking until the Judge makes a ruling. If you make an objection, you must state the legal basis for your objection.
 - b. If the Judge says “sustained”, the witness MAY NOT answer the question.
 - c. If the Judge says “overruled”, the witness MAY answer the question.
6. If there is time, the Judge may allow a brief closing statement by each party after both parties have presented all of their witnesses. The closing statement is an opportunity to sum up what the evidence did or did not show and to tell the Judge what you are requesting.

FREQUENTLY ASKED QUESTIONS

Q: Who can file for custody?

A: Anyone who has legal standing may file for custody. The child's biological or adoptive parents automatically have legal standing. Under specific circumstances, this right sometimes extends to grandparents, stepparents, or other adult individuals who stand in loco parentis to the child, or who have obtained legal standing by other means. Standing is a legal term and can be complex. It is highly recommended that if you are not the biological or adoptive parents of the child, that you seek legal counsel to help you decide whether you do or do not have standing to file for custody. The statutes governing standing can be found at 23 Pa. C.S.A. §§5324 and 5325.

Q: How much does it cost to file? What if I can't afford it?

A: The cost depends upon the type of pleading you are filing. The Prothonotary's fee schedule can be found at <https://adamscountypa.gov/departments/prothonotary>. You may call the Prothonotary's office before you file your pleading to find out the exact cost of filing your pleading. If you cannot afford the filing fee, then you may file a Petition to Proceed In Forma Pauperis (IFP Petition) to request fees be waived. This packet can be located on the Adams County website, at <https://adamscountypa.gov/courts/courtadministration/selfhelpcenter>.

The Judge will review your filing and will determine whether your IFP Petition will be approved. If it is approved, then you will not have to pay the filing fee. If it is not approved, then you will must pay the filing fee within ten days after denial. If you fail to pay the filing fee, then your case will be dismissed.

Q: What pleading do I file?

A: The type of pleading that you file is based upon what relief you are requesting. If you are initiating a new custody action, then you must file a Custody Complaint. If you are seeking to change the terms of an existing custody order, then you must file a Petition for Modification of Custody. If you are seeking to enforce an existing custody order, then you must file a Petition for Contempt. These three packets can all be located on the Adams County Website, under the Court's Self-Help tab.

Q: Where do I file?

A: You must file all of your pleadings at the Adams County Prothonotary's Office, located on the first floor of the Adams County Courthouse. The Prothonotary will forward your pleadings to the Judge assigned to your case.

Q: What happens after I file my complaint or petition? When do I see the Judge?

A: Your case will be scheduled for a Custody Presentation date and time, and you will see the Judge at the Presentation.

Q: What if I don't know where the other parent lives?

A: See Pennsylvania Rule of Civil Procedure 1930.4 and the custody self-help packets for the directions and forms regarding service. See Pennsylvania Rule of Civil Procedure 430 regarding the requirements for special service by publication.

Q: What if the other party will not pick up their certified mail?

A: Certified mail is just one of many ways you can serve the other party. Please refer to Pennsylvania Rule of Civil Procedure 1930.4 and the self-help packet and serve via a different authorized method.

Q: Can a grandparent or other non-parent file for custody?

A: Grandparents may use the custody self-help forms and must fill in accurate information about why they believe they have “standing” to sue the parents for custody. Both parents must be listed in the complaint as defendants, unless deceased.

Q: What is a Custody Presentation?

A: A Custody Presentation is the first time you will need to come to Court in your custody case. The Presentation is a brief interaction occurring before the Judge. The Judge will gather some relevant information about the case and enter an interim custody order.

Q: What happens at the Custody Conciliation Conference? What is the appropriate dress and conduct? Who can come with me?

A: The Custody Conciliation Conference is overseen by the Conciliator, who is an attorney experienced in handling family law matters. The Conciliator is a neutral party who will help you and your co-parent discuss the issues and forge an agreement to resolve them when possible. Please dress in a business casual manner. The Conciliation Conference is an excellent opportunity for you and your co-parent to attempt to resolve the issue yourselves instead of having the Judge impose a decision upon your family. It also can save time and money. You should approach this meeting with an open mind, aiming toward negotiating and compromising in a peaceful and respectful manner. You may not bring anyone with you to the Conciliation Conference, except your attorney.

Q: What if an agreement is not reached at conciliation?

A: If an agreement is not reached at conciliation, then you will receive an order scheduling your case for a Pretrial Conference.

Q: What is a Pretrial Conference (PTC)?

A: A Pretrial Conference is held before the Judge who is assigned to your case. It is an opportunity for the Judge and the parties to organize and prepare for the trial. The Judge will want to know what witnesses you will be presenting and how much time is needed for the Judge to hear your case. You must file a Pre-trial Conference Memorandum with the Prothonotary at least five (5) days prior to the Pre-trial Conference date and serve the other party with a copy of it, so that the Judge and the other party can understand your perspective on the matter.

Q: What do I need to submit for PTC? Who can come with me?

A: You should file a copy of the Pretrial Conference Memorandum and a copy of your Parenting Plan with the Prothonotary's Office. Remember that you must file and serve the originals at least five days prior to the conference. Sometimes the PTC is conducted by telephone or WebEx. If the PTC is in person, you should not bring anyone else with you, except your attorney.

Q: What if I can't attend a proceeding on the day it is scheduled?

A: You must file a written motion for a continuance with the Prothonotary. Your motion must contain the position of the other parent as to your request. You must have a good reason for your request, otherwise it may be denied. Multiple continuance requests are normally not granted.

Q: What if I object to the other side's request for a continuance?

A: You should let the other side know that you object to the request so that they can include that information in their motion.

Q: Can the court give me temporary guardianship?

A: Yes, however this can be a complicated legal issue and it is recommended that you seek legal counsel to assist you. Standby and temporary guardianship procedures are outlined in Title 23, Chapter 56 of the Pennsylvania Domestic Relations Code.

Q: What if I live far away and need to appear by phone or videoconference?

A: You should file a written motion with the Prothonotary requesting to appear by phone or videoconference. These requests are usually granted when a party lives far away from the Courthouse.

Q: What is the appropriate attire and conduct for Court?

A: Business casual is the preferred attire when coming before the Court. This means suits, dresses, or slacks and tops, polo/golf shirts, etc.

Q: What happens if a custody trial is scheduled?

A: If a custody trial is scheduled, then all parties will be given an opportunity to present evidence, either in the form of testimony or exhibits, before the Judge assigned to the case. The Judge will hear the evidence from both sides and will make a ruling to determine what the custody schedule will be for your child, in the context of the applicable statutory factors.

Q: Will my child be interviewed?

A: The Judge will typically interview all children over five years old, if the case is going to trial. This is called an "in camera" interview. "In camera" is a Latin phrase meaning "in chambers". However, if you and the other party agree that your child should not be interviewed, then this will be waived. Parties to the case are not permitted to watch or participate in the interview. If you have a lawyer, then s/he can participate in the interview and ask appropriate questions along with the Judge.

Q: How do I present witnesses at trial?

A: Instruct your witnesses to appear at the time and date that your case is scheduled for trial. The Court does not subpoena witnesses. If you wish to subpoena a witness, you are required to follow the proper procedure for doing so. The Judge will typically sequester the witnesses, which means that the witnesses will sit outside of the courtroom until they are called to testify. After the witness is sworn in by the Judge, you will ask your questions (direct examination) and then the other party will have an opportunity to ask questions (cross examination). Sometimes the Judge will ask questions if s/he needs more information.

Q: How long will it take to get a decision?

A: This depends upon the complexity of your case. Typically, decisions are rendered within 15 days after the conclusion of the trial. However, if there are complex questions of law or fact, then the Judge is permitted to extend that deadline.

Q: What if I do not agree with the Judge's decision?

A: You may file an appeal to the Pennsylvania Superior court within thirty (30) days of the date of the Court Order. Pennsylvania Rules of Appellate Procedure apply to these matters and must be followed exactly, or your appeal may be dismissed by the Superior Court. Due to the complexity of the procedure, you should consult an attorney to help you.

Q: How do I change a custody order after it is entered?

A: You must file a Petition for Modification of Custody.

Q: The other parent never spends time with my child or the other parent wants to “sign off” their parental rights, so how do I get his/her parental rights terminated?

A: This is a complex legal question. You may be able to seek to terminate his or her parental rights, but it is highly recommended that you seek legal counsel for this endeavor. This is a separate action from a custody action and governed by different statutory requirements.

Q: May I keep the other parent from seeing my child because that parent does not pay child support?

A: No. The custody Order must be followed regardless of whether or not child support is being paid. Child support issues must be pursued through the Domestic Relations Office.

Q: At what age does my child get to decide where s/he wants to live?

A: There is no “magic age” in Pennsylvania when a child can decide this. The Court must review all of the factors involving the best interest of the child and the child’s preference is only one of those factors. The weight that the judge gives that preference will depend upon the age, maturity, intelligence, and reasoning of the child.

Q: If my child does not want to go with the other parent on their time, do I have to make my child go?

A: You must follow the terms of the Order or you may be held in contempt of court and face fines, jail time and other penalties. You must follow the Order unless there is a *reasonable* fear for the child's physical safety. However, you may have to justify your refusal at a later contempt proceeding or you may need to file a pleading to modify a Custody Order if your concerns continue. If you have a concern regarding this, it is best to file a Petition for Modification of Custody as soon as possible and speak to a lawyer.

Q: What if my co-parent is not following the current custody order? Should I call the police?

A: The police do not normally get involved in custody matters, because those disputes are governed by civil law instead of criminal law. If a party to a custody case is not following the custody Order, the appropriate remedy is to file a Petition for Contempt and set forth the allegation(s) in that form. The Judge will schedule the matter for a hearing. You must prove that the other party willfully violated the Judge's Order. The Judge is not allowed to change the custody Order when you file a Petition for Contempt. If you want the custody Order changed, you must also file a Petition for Modification of Custody.

Q: What if my situation is an emergency?

A: There is a box that you can check on the pleading requesting an emergency order. The Judge will review your pleading and schedule emergency proceedings when necessary.

Q: What if I want my co-parent tested for drugs?

A: You can address your concerns regarding drug use to the Judge during the Custody Presentation proceeding. If the Judge believes it is appropriate, a provision can be included in the interim custody Order authorizing drug testing. Normally, the party requesting the drug testing must pay for it.

Q: What if I want a home study conducted of my residence or my co-parent's residence?

A: You can address your concerns regarding a home study to the Judge during the Custody Presentation proceeding. The Judge can authorize you to obtain a home study of your co-parent's or your own residence. However, you are responsible for paying for the home study.

Q: What if I want my co-parent to submit to a mental health, drug and alcohol evaluation, or risk of harm evaluation?

A: You can address your concerns regarding a mental health, drug and alcohol evaluation, or risk of harm evaluation to the Judge during the Custody Presentation proceeding. The Judge can authorize these evaluations depending on the circumstances. However, you will likely be responsible for the cost of any evaluation.

Q: Can I take the child and move away from Adams County?

A: If you are proposing to change the residence of your child which significantly impairs the ability of a non-relocating party to exercise custodial rights, then you must notify every other person who has custodial rights to the child and provide a counter-affidavit by which a person may agree or object. Generally, this is called “relocation” and you must follow all procedures in 23 Pa. C.S. §5337 and Pennsylvania Rule of Civil Procedure 1915.17 before you can move with the child away from your current residence. These matters can be very complex; therefore, it is strongly suggested that you seek advice from a lawyer before you proceed.

GENERAL RULES FOR THE COURTROOM

Please dress appropriately for the occasion. Hats must be removed, unless worn for religious or cultural purposes.

Cellphones must be OFF at ALL times unless the presiding Judge has granted permission otherwise. Failure to abide by this rule will result in the phone being taken away for the duration of the proceedings.

NO taking of photographs or recording at any time. *Adams C.R.J.A. No. 140.*

The Judge cannot look at your phone/electronic device to see exhibits – you must follow proper procedural rules to introduce evidence.

All exhibits should be pre-marked.

No food, beverages, tobacco, or gum in the courtroom. If you need a drink of water, please ask one of the Tipstaves.

Only one person may speak at a time. Do not speak over counsel, the witness, the other party or the Judge. Do not interrupt the Judge when s/he is speaking. There must be a clear record of what everyone is saying.

Always speak into the microphones so that your voice can be heard.

Always stand when the Judge enters and exits the courtroom unless instructed otherwise.

Courteous conduct to the Court, the Court staff, attorneys and other parties is expected at all times from everyone.

You must follow all directives of the Court staff.

No one may sit with you at counsel table except a licensed attorney who is representing you.

Carefully read your Court Order so you know where to go. Some proceedings are held at the Adams County Courthouse, located at 111-117 Baltimore Street in downtown Gettysburg. Some proceedings are held at the Human Services Building located at 525 Boyds School Road in Cumberland Township. It is your responsibility to appear at the correct location.

BE ON TIME! The Court has many cases to hear. If you are late, the proceedings will likely begin without you.

*This document is meant to be a general guide for the self-represented litigant and is not legal advice. It is not an exhaustive list. It is strongly suggested that litigants consider retaining or at least consulting with an attorney in family law cases for relevant legal advice. **A list of attorneys who can assist self-represented litigants is available on the court's self-help website at <https://adamscountypa.gov/courts/courtadministration/selfhelpcenter>.***

(12/22)