

County of Adams

Courts' Self-Help Center – Packets

PARENTING PLAN

This packet contains information, forms, and instructions on developing a parenting plan with the other parent in a child custody case.

DISCLAIMER

Court staff cannot give you legal advice or help you complete these forms. The information in this packet is not a substitute for professional legal advice. The Court, the Adams County Bar Association and the Family Law Committee assume no responsibility and accept no liability for actions taken by users of these documents, including reliance on their contents. If you want to obtain the services of an attorney but do not know whom to contact, please call the Pennsylvania Lawyer Referral Service at 1-800-692-7375. A list of Attorneys Practicing in Adams County available for consultation on filling out self-help custody and divorce forms can be found on the Courts' Self-Help webpage at <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter>

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GENERAL INFORMATION

A. Introduction

1. This is the **PRE-TRIAL CONFERENCE MEMORANDUM** packet. This packet should be used when a Judge in your custody case orders you to complete a **PARENTING PLAN or if you need a guideline to help you and your co-parent to resolve your custody case.** Please note:
 - i. If you do not have a Custody Order, and would like to obtain one, use the Obtaining a Custody Order packet.
 - ii. If you have a Custody Order and would like to change the Order, use the Modification of a Custody Order packet.
 - iii. If you need to enforce a Custody Order, use the Enforcing a Custody Order packet.
2. This packet of information has been created by members of the Adams County Bar Association. These materials are intended to assist individuals involved in a custody action by providing general information and legal forms. **IT IS HIGHLY RECOMMENDED THAT YOU HIRE AN ATTORNEY TO REPRESENT YOU IN ANY CUSTODY ACTION.** The information provided herein is not legal advice and is not to be used as a substitute for professional legal advice. Just as you would consult a medical professional for a medical issue, you should consult a legal professional for a legal issue.

B. Legal Definitions

1. **Custody** means the legal right to keep, control, care for and make decisions for a child and includes the terms “legal custody,” “physical custody,” and “shared custody.”
2. **Legal Custody** is the right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions.
 - i. **Sole Legal Custody:** The right of one individual to exclusive legal custody of the child.
 - ii. **Shared Legal Custody:** The right of more than one individual to legal custody of the child.
3. **Physical Custody** is the actual physical possession and control of a child. When a person has physical custody of the children, regardless if they have legal custody, they can make decisions regarding the child’s health in an emergency situation. There are different types of physical custody schedules, including:
 - i. **Primary Physical Custody:** The right to assume physical custody of the child for the majority of the time. The child lives with one party for the majority of the time.

- ii. **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. The child lives with each party for an equal or substantially equal amount of time.
 - iii. **Partial Physical Custody:** The right to assume physical custody of the child for less than a majority of the time. The child lives with one party some of the time but not the majority of the time. A common example is when one party has the children every other weekend from Friday to Sunday, and occasionally one day during the week that they do not receive the child on the weekend.
 - iv. **Sole Physical Custody:** The right of one individual to exclusive physical custody of the child.
 - v. **Visitation:** Pennsylvania no longer uses the term Visitation. Partial Physical Custody, defined above, is equivalent to Visitation as defined in some states.
 - vi. **Non-Professional Supervised Physical Custody:** Custodial time during which an adult, designated by the court or agreed upon by the parties, monitors the interaction between the child and the individual with those rights.
 - vii. **Professional Supervised Custody:** Custodial time during which a professional, with education and training on the dynamics of domestic violence, sexual assault, child abuse, trauma and the impact of domestic violence on children, oversees the interaction between the child and the individual with those custody rights and promotes the safety of the child during the interaction.
 - viii. **Household Member:** A spouse or an individual who has been a spouse, an individual living as a spouse or who lived as a spouse, a parent or child, another individual related by consanguinity or affinity, a current or former sexual or intimate partner, an individual who shares biological parenthood or any other person, who is currently sharing a household with the child or a party.
4. **Relocation:** A change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights.
5. Further information about the preceding legal definitions and about custody law may be found in the statutes that govern custody, Title 23 Pa. Consolidated Statutes Sections 5321 to 5340 (23 Pa.C.S. §§ 5321 – 5340), and in the Pennsylvania Rules of Civil Procedure, Pa.R.C.P. 1915.1 – 1915.25.

C. Custody Factors (23 Pa. C.S. §5328)

- 1. In ordering any form of custody, the Court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including:
 - i. Which party is more likely to ensure the safety of the child.

- ii. The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.
- iii. The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).
- iv. Violent or assaultive behavior committed by a party.
 - v. Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.
 - vi. The parental duties performed by each party on behalf of the child.
 - vii. The need for stability and continuity in the child's education, family life and community life, except if changes are necessary to protect the safety of the child or a party.
- viii. The availability of extended family.
- ix. The child's sibling relationships.
 - x. The well-reasoned preference of the child, based on the child's maturity and judgment.
- xi. The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.
- xii. Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
- xiii. Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- xiv. The proximity of residences of the parties.
- xv. Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- xvi. The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- xvii. The history of drug or alcohol abuse of a party or member of a party's household.
- xviii. The mental and physical condition of a party or member of a party's household.
- xix. Any other relevant factor.

D. Criminal Convictions and Charges

1. Where a party seeks any form of custody the Court shall consider whether that party or member of that party's household has been convicted of or has pleaded

guilty or no contest to any of the offenses listed below or an offense in another jurisdiction substantially equivalent to any of the offenses listed below. The Court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that parent when considering the following charges:

Criminal homicide, simple assault, aggravated assault, terroristic threats, recklessly endangering another person, stalking, kidnapping, unlawful restraint, false imprisonment, luring a child into a motor vehicle or structure, interfering with custody of children, rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, indecent assault, indecent exposure, sexual intercourse with animals, cruelty to animals, aggravated cruelty to animals, animal fighting, possession of animal fighting paraphernalia, offenses relating to sex offenders, arson, incest, concealing death of child, endangering welfare of children, offenses relating to dealing in infant children, prostitution, offenses related to obscene and other sexual materials and performances, corruption of minors, sexual abuse of children, unlawful contact with minor, sexual exploitation of children, contempt for violation of a permanent or temporary Protection From Abuse Order or agreement, driving under the influence of alcohol or controlled substance, driving after imbibing alcohol or utilizing drugs, and offenses related to The Controlled Substance, Drug, Device and Cosmetic Act prohibiting manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

2. If you have obtained information about a criminal charge filed against the other party for an offense listed above, you may move for a temporary Custody Order or modification of an existing Custody Order. The Court must schedule an expedited hearing and the Court shall consider whether the party who is or has been charged with an offense poses a risk of physical, emotional or psychological harm to the child.
3. You can find out information about pending criminal charges, criminal convictions, guilty pleas and no contest pleas in Pennsylvania by logging on to the Web Portal for the Unified Judicial System of Pennsylvania at <http://ujportal.pacourts.us/>. Once on this website, you can look up the docket information for all minor courts (Magisterial District Judges) and Common Pleas Courts in Pennsylvania. If you have correctly spelled the last name of the individual, you can find out if there are convictions or charges pending against the individual in all counties in Pennsylvania.
4. Criminal Record / Abuse History Verification
 - i. The plaintiff or petitioner must file and serve with any Complaint for Custody or Petition for Modification a criminal record verification form regarding any criminal or abuse history of the plaintiff or petitioner and

anyone living in the plaintiff or petitioner's household. This form is available on the Adams County Court's self-help webpage at <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter>. The plaintiff or petitioner must attach a blank criminal history verification form to a Complaint or Petition served upon the defendant or respondent. The defendant or respondent must file with the court a verification regarding any criminal or abuse history of the defendant or respondent and anyone living in the defendant or respondent's household on or before the initial in-person contact with the court, but not later than 30 days after service of the Complaint or Petition upon the defendant or respondent. If a trial is scheduled, both parties shall file and serve updated verification forms at least five days prior to trial.

- ii. The Obtaining a Custody Order packet and the Modification of a Custody Order packet contain Criminal Record / Abuse History Verification forms for both parties. Additional copies of the blank Verification may be obtained from outside the law library on the third floor of the Adams County Courthouse or from the Courts' Self-Help Center at <https://www.adamscountypa.gov/courts/courtadministration/selfhelpcenter>.

E. Rules of Civil Procedure

1. A copy of the Pennsylvania Rules of Civil Procedure and Adams County Local Rules can be obtained from the law library located on the Third Floor of the Adams County Courthouse. The applicable rules of court are Rules 1915.1 through 1915.25 of the Pennsylvania Rules of Civil Procedure.

F. Basic Procedure – **PARENTING PLAN**

1. This packet contains instructions and forms for completing the **PARENTING PLAN**. If the Judge in your custody case orders you to complete a **PARENTING PLAN**, you may use the instructions and forms from this packet to do so. If there is no custody order involving the children and you want to obtain a custody order, you should not use this packet but rather you should use the Obtaining a Custody Order packet and use the parenting plan packet to facilitate a discussion with your co-parent to possibly resolve your case. If you have an existing custody order and you wish to modify it, you should not use this packet but rather you should use the Modification of a Custody Order packet. If you are experiencing difficulties with regard to the other party following an already existing custody order, then you should not use this packet but rather you should use the Enforcing a Custody Order packet.

G. Service

1. **STOP!! READ THE FOLLOWING PARAGRAPH CAREFULLY!**

2. The Pennsylvania Rules of Civil Procedure require that all documents (including Petitions, Complaints and Orders) that you file with the Court must be served by you on the other party, or their attorney of record, if any. This includes any Orders you receive scheduling an appearance before the Judge as a result of your filing. Although the Prothonotary's Office may send a copy of a Scheduling Order to the parties, **THIS IS NOT SERVICE**. If you do not properly serve all other parties, your case may be delayed, or even dismissed. This packet includes information on how to properly serve the other party.

INSTRUCTIONS FOR COMPLETING THE PARENTING PLAN

A. Completing the **PARENTING PLAN**

1. **In a contested custody proceeding, the Judge may require that the parties submit PARENTING PLANS for the care and custody of the child to aid the Court in resolving the custody dispute. You may also use this form to guide your informal discussion with your co-parent in an attempt to settle the custody dispute.**
 - i. If the parties cannot come to an agreement on a custody schedule at the custody presentation or at conciliation, the Judge will schedule a date and time for trial.
 - ii. If a trial is scheduled, the Judge may order you and the other parties to each complete a **PARENTING PLAN**.
 - iii. You must complete, file, and serve the **PARENTING PLAN** on the other party at least a week prior to the date of the trial.
 - iv. Please refer to the following instructions for completing the **PARENTING PLAN**.
2. **CAPTION**
 - i. Print the name of the Plaintiff in the line for Plaintiff, the name(s) of the other parent or guardian of the child/ren in the line(s) for Defendant(s), and the case number. This should appear exactly as the caption looks on all other documents for this case, such as the COMPLAINT FOR CUSTODY or PETITION TO MODIFY CUSTODY. **DO NOT REVERSE THE NAMES!**
3. **THIS PARENTING PLAN INVOLVES THE FOLLOWING CHILD/CHILDREN**
 - i. Print the INITIALS, age, and residence of each child that will be involved with the parenting plan. Do not use full names of the child/ren. The child/ren involved in this custody case are the child/ren you should list here. Please use initials instead of a child's name.
4. **CHILDREN NOT ADDRESSED BY THIS PARENTING PLAN**
 - i. Print the initials, age, and residence of all other children you have, that are not part of this custody case. Please use initials instead of a child's name.

5. LEGAL CUSTODY

- i. Circle whether both parties plan to decide together or whether the Plaintiff or Defendant only will make decisions as to the listed legal custody items.

6. EXPLAIN THE PROCESS YOU WILL USE TO MAKE DECISIONS

- i. Explain how you and your co-parent plan to make decisions pertaining to the child/ren involved with this custody case.

7. PHYSICAL CUSTODY

- i. List where and with whom the child/ren involved in this custody case will be residing.

8. DESCRIBE WHICH DAYS AND WHICH TIMES OF THE DAY THE CHILD/CHILDREN WILL BE WITH EACH PERSON

- i. For each day of the week, list the planned custody schedule of the child/ren involved with this custody case.

9. DESCRIBE WHERE AND WHEN THE CHILD/REN WILL BE DROPPED OFF AND/OR PICKED UP

- i. Print the location, time and day of the planned custody exchanges, based on the planned custody schedule.

10. IF ONE OF YOU DOESN'T SHOW UP, HOW LONG WILL THE OTHER WAIT?

- i. For the planned custody exchanges, list how long the other parent should wait at the planned custody exchange location when one parent is late or hasn't shown up.

11. IF THERE ARE ANY EXTRAORDINARY COSTS, WHO WILL PAY?

- i. List which parent (or if both parents) plans to pay for which costs if custody exchanges require extraordinary costs, such as the cost of taxis, trains, and airplanes.

12. HOLIDAYS

- i. For each holiday, list which parent will have custody of the child.
- ii. The **PARENTING PLAN** allows for an alternating schedule (YEAR A/YEAR B) or for one parent to have custody on each year.
 - 1. For example, Mother might like to have custody of the child for Memorial Day in Year A, and give Father custody of the child on this day in the next year, Year B. This schedule would then alternate year to year.
 - 2. For example, Father might like to have custody of the child on every Father's Day, and Mother on every Mother's Day.
- iii. If a listed holiday does not apply, you may draw a line through that holiday or write "Not-Applicable".

- iv. If there are other holidays not listed, please write-in the holiday you wish to schedule in the “Other” spaces.

13. SUMMER VACATION PLANS

- i. In the space provided, describe how you plan to share custody of the child/ren over the summer (non-school) months.
- ii. Please also indicate any periods of time you would like to reserve for vacation that you would like to take with the child/ren and the time required.

14. SPECIAL ACTIVITIES or SCHOOL ACTIVITIES

- i. For each child, list special activities and school activities and whether both parents may attend, and if not, which parent attends.

15. TEMPORARY CHANGES TO THIS PARENTING SCHEDULE

- i. From time to time, one of you might want or need to rearrange the parenting time schedule due to work, family, or other reasons. You can attempt to agree on these changes. If you cannot agree, the parent receiving the request will make the final decision.
- ii. Please describe which methods the asking parent may use to contact the receiving parent. Please check all that apply.
- iii. Please indicate how far ahead of time the request must be made.
- iv. Please indicate the methods the receiving parent may use to reply to the asking parent. Check all that apply.
- v. Please indicate how long the receiving parent has to reply to the request.

16. MAY PARENTS CONTACT ONE ANOTHER?

- i. Indicate whether the parents may contact one another, and describe by which methods.

17. WHEN THE CHILD/CHILDREN IS/ARE WITH ONE OF YOU, HOW MAY THEY CONTACT THE OTHER PARENT?

- i. Please describe how the child may contact the parent not exercising custody when the child is with the parent exercising custody.

18. WHEN AND HOW MAY YOU CONTACT THE CHILD WHEN THE CHILD IS WITH THE OTHER PARENT?

- i. Describe how you may contact the child when the child is with the other parent.

19. CHANGES TO PARENTING PLAN AND CUSTODY ORDER

- i. In the event that proposed changes, disputes or alleged breaches of this **PARENTING PLAN** and Custody Order are necessary or desired, describe how the parties plan to address such changes.

20. OTHER

- i. If there is anything else that you and the other parent want to agree on, please list it here. This will help the Judge in making the custody decision.

21. Completing the PARENTING PLAN

- i. After you have completed the **PARENTING PLAN**
 1. Sign and date the **PARENTING PLAN**.
 2. Have a witness who saw you sign and date the **PARENTING PLAN** sign and date as a witness.
- ii. You must then make at least two (2) copies of the **PARENTING PLAN**.
- iii. File the original and all copies with the Prothonotary's Office at least a week prior to attending the custody trial.
- iv. The Prothonotary will keep the original and return to you the copies of the **PARENTING PLAN**. Save one copy for yourself and serve the other on the other party, see below.

22. Serve the PARENTING PLAN on the other parties

- i. You must serve the **PARENTING PLAN** on all of the other parties at least a week prior to the custody trial.
- ii. Service may be completed by mailing a copy of the **PARENTING PLAN** to the other parties via First Class Mail.
- iii. Please complete the Certificate of Service form, and file the Certificate of Service with the Prothonotary. The Certificate of Service form is located at the end of this packet.