

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

rev. 12-2012

**PETITION FOR EMERGENCY CUSTODY
INSTRUCTION SHEET**

These instructions are meant to give you general information and not legal advice.

A Petition for Emergency Custody is filed based upon an existing Custody Complaint. It can be filed when the child is at risk of or in immediate physical danger, or has been or is about to be removed from the Court's jurisdiction. Also, this petition can be filed if the other parent of the child has been charged with certain violent crimes. These crimes can include but are not limited to: homicide, aggravated assault, terroristic threats, stalking, false imprisonment, arson or contempt.

NOTE: This emergency petition can only be filed after a Custody Complaint has been filed. The filing fee for the initial Custody Complaint is \$164.00. The **Emergency** Complaint is based upon the information in the original Custody Complaint, and does not require an additional filing fee. However, both complaints could be filed at the same time at a fee of \$164.00.

1. You must complete, date and sign the Petition for Emergency Custody, as follows. Do not leave any section of the Petition blank or incomplete.
 - a. Fill in the names of the plaintiff and defendant and the docket number in the heading of the petition exactly as they appear in the custody complaint. The plaintiff is the person who filed the custody complaint. The defendant is the person against whom the custody action is filed. The plaintiff and defendant keep those titles throughout the case. The Civil Docket Number (CD) is the number assigned your case by the Prothonotary when the case is first filed. If there is already an active custody case on file relative to your current custody situation, you must use that docket number and participant names exactly as they appear in the original case.
 - b. If you are filing the petition for emergency custody, you are the *petitioner*. Fill in your name and address as the petitioner. Indicate whether you are the plaintiff or defendant in the complaint by circling the appropriate term. The person against whom the petition is filed is the *respondent*. Fill in the name and address of the respondent. Indicate whether the respondent is the plaintiff or defendant in the custody complaint by circling the appropriate term.
 - c. On line 3, fill in your relationship to the child(ren). List the name and date of birth (DOB) of each child involved in this petition. On line 4, fill in the other party's relationship to the children.
 - d. On line 5, circle A if there is **no** current custody order related to these children; circle B if there **is** a current custody order, enter the date the last order was issued and describe the order.
 - e. On line 6, circle A if you are filing another complaint or petition along with this petition; circle B if you have already filed another petition or there is a petition already pending. Fill in the date the petition was filed and when it is next listed for a hearing.
 - f. On line 7, explain why you are filing a Petition for Emergency Custody. In the 'WHEREFORE' SECTION: Tell the court what you want the court to do.
2. Complete the top portion of the blank scheduling ORDER, indicating the names of the Plaintiff and Defendant, and the Civil Docket Number of the original Custody Complaint (as assigned by the Prothonotary). You must also circle either 'Hearing' (before the judge) or a 'Conference' (only the parties involved and their attorneys are present). A copy of the original custody complaint must be attached to the Emergency Custody Petition. Leave the remainder of the Order blank.

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NOTE: If the child(ren) named in this action are in immediate danger or are about to be removed from the Court's jurisdiction, complete and submit the Emergency Custody Order as soon as possible. Only submit this Order if the child(ren) are not currently in your possession and are in danger as described above.

When submitting this order, you must specifically describe, in paragraph 7 of the Petition, the exact reason(s) you believe an emergency exists.

3. File the completed Petition for Emergency Custody by hand-delivering, in person, the original and two (2) copies at:

Office of the Prothonotary
Clearfield County Courthouse
230 Market Street, 1st Floor
Clearfield, PA 16830

Once you file this petition, it will be forwarded to the Court Administrator's Office to schedule a conference / hearing, and for further processing.

4. If your petition is granted by the judge, you will receive the Order with a date written on it for a hearing or conference, which will be in the near future. **IMMEDIATELY upon receiving the Certified copy of the Judge's Order, you must PERSONALLY serve the certified copy of the Custody Complaint and scheduling Order on the other party before the hearing date. This can be done either by hand delivering it 'face to face' with the other party, OR by Certified Mail 'Restricted Delivery' via the U.S. Postal Service, OR the preferred method is to hire a Constable to make service on your behalf. Once you have provided service on the other party, you must file your Certificate of Service with the Prothonotary. If service was performed by the U.S. Postal Service, you must attach to your Certificate of Service the 'green card' showing proof of delivery. If Service was provided by a Constable, they will provide you with a Certificate of Service which must be attached to your Certificate of Service form.**

PROVISIONS OF THE LAW THAT MAY HELP YOU FILL OUT THE PETITION

23 Pa. C.S. § 5322. Definitions

"Child." An un-emancipated individual under 18 years of age.

"Legal custody." The right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions.

"Partial physical custody." The right to assume physical custody of the child for less than a majority of the time.

"Physical custody." The actual physical possession and control of a child.

"Primary physical custody." The right to assume physical custody of the child for the majority of time.

"Shared legal custody." The right of more than one individual to legal custody of the child.

"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.

"Sole legal custody." The right of one individual to exclusive legal custody of the child.

"Sole physical custody." The right of one individual to exclusive physical custody of the child.

"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.

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	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. _____ - _____ -C.D.
	:	<i>[case number as assigned by the Prothonotary]</i>
	:	
	:	
Defendant,	:	

PETITION FOR EMERGENCY CUSTODY
(All sections must be completed by the Petitioner)

1. Petitioner is (name) _____
Petitioner is **plaintiff or defendant** (circle one) in the custody complaint,
and resides at (street,city, state,zip) _____

Phone Number: _____ (home) _____ (work) _____ (cell)

2. Respondent is (name) _____
Respondent is **plaintiff or defendant** (circle one) in the custody complaint,
and resides at (street, city, state, zip) _____

Phone Number: _____ (home) _____ (work) _____ (cell)

3. Petitioner's relationship to the following minor child(ren) is _____
LIST FULL NAME(S) AND DATE OF BIRTH(S) OF CHILD(REN).

4. Respondent's relationship to the child(ren) is _____

5. CIRCLE ONE:

- A. No custody order exists concerning this/these child(ren).
- B. A custody order was entered on _____ (date) that states the following:

6. CIRCLE ONE:

- A. The initial Custody Complaint/petition is being filed with this petition.
- B. The initial Custody Complaint/petition was filed on _____ and a hearing (is) (was) scheduled on _____.

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7. Petitioner believes that a situation exists that requires an emergency hearing because:

This section must be completed in detail for the Petition to be considered.

- a. _____

- b. _____

- c. _____

WHEREFORE, petitioner respectfully requests that this honorable court grant the following relief:

Date: _____
_____ Petitioner

NOTICE: If your petition is granted by the judge, you will receive the Order with a date written on it for a hearing or conference, which will be in the near future. **IMMEDIATELY upon receiving the Certified copy of the Judge’s Order, you must PERSONALLY serve the certified copy of the Custody Complaint and scheduling Order on the other party before the hearing date. This can be done either by hand delivering it ‘face to face’ with the other party, OR by Certified Mail ‘Restricted Delivery’ via the U.S. Postal Service, OR the preferred method is to hire a Constable to make service on your behalf. Once you have provided service on the other party, you must file your Certificate of Service with the Prothonotary. If service was performed by the U.S. Postal Service, you must attach to your Certificate of Service the ‘green card’ showing proof of delivery. If Service was provided by a Constable, they will provide you with a Certificate of Service which must be attached to your Certificate of Service form.**

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of PA.C.S.A. § 4904 relating to unsworn falsification to authorities. I have read and understand the requirements for serving a certified copy of this document on all parties to the case, and filing a Certificate of Service with the Prothonotary.

Date: _____
_____ Petitioner

- ***YOU MUST DATE AND SIGN THE PETITION, and***
- ***DATE AND SIGN THE VERIFICATION THAT THE STATEMENTS ARE TRUE.***

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	:	
Plaintiff,	:	
	:	
vs.	:	NO. _____ - _____ -C.D.
	:	
	:	
Defendant,	:	

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the Petition For Emergency Custody in the above captioned case, it is the Order of the Court that a _____ (hearing) (conference) is scheduled for the _____ day of _____, 20____, at _____ am / pm in Courtroom / Hearing Room #_____, in the Clearfield County Courthouse, Clearfield, PA.

[Custody of _____ shall be placed with _____ pending further hearing in this matter.]

It shall be the responsibility of the Petitioner to immediately serve a certified copy of this Order AND a certified copy of the *Petition for Emergency Custody* upon the other party. It shall also be the responsibility of the Petitioner to file Affidavit of Service with the Prothonotary’s Office.

BY THE COURT:

Judge

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_____	:	
	:	
Plaintiff(s)	:	
vs.	:	NO. _____-_____-CD
	:	
_____	:	
	:	
Defendant(s)	:	
	:	

CERTIFICATE OF SERVICE*

AND NOW, on the date stated below, I, _____,
hereby certify that I this day served the foregoing
'Emergency Custody Complaint' (and) (or) **'Scheduling Order'** by:
[indicate which document]

____ Personally hand delivering to the (opposing party) (opposing attorney)

____ Depositing a copy of the same via United States mail, first class, postage prepaid,
'Certified Mail, Return Receipt Requested'**, at _____
(name of post office) ,

____ Hiring Constable _____, who has provided me with
proof of service (see attached)

addressed to the following: _____

DATE

SIGNATURE

* **Document must be signed, dated, and filed with the Prothonotary.**
** **Green 'Return Receipt' card, with recipient's signature, must be attached to this document.**