

DIRECTIONS FOR CUSTODY COMPLAINT

Prothonotary's Filing Fee:

Elk County - \$134.00

Cameron County - \$69.00

\$100.00 Conference Fee

No fees will be refunded.

Read these instructions carefully and look over the forms before you start filling out the papers.

Courthouse employees cannot give you legal advice.

If you have questions about your custody rights,
you should talk to a lawyer.

These forms are to be used to start a custody case in Elk or Cameron County between an adult mother and an adult father of a child or children residing in Elk or Cameron County for at least the past six months or already the subject of a custody order from the judge in Elk or Cameron County.

Talk to a lawyer before filing these forms if:

- Either parent is under 18 years old
OR
- You are a relative (grandparent, aunt, etc.) of the child(ren)
OR
- There is a custody order from another county or state
OR
- The child(ren) has not resided in Elk or Cameron County for the past six months.

1. If you are the person starting the custody case and filing the papers, you are the **Plaintiff** and the person you are filing against is the **Defendant**. The child or children must have lived in Elk or Cameron County for the past six (6) months. You must know an address for the Defendant so the Defendant can be mailed or given copies of the custody complaint and other papers. If you do not know where the Defendant is, you cannot file for custody.

If the child(ren) lives in Elk County, file the custody papers with the Prothonotary's Office at the Elk County Courthouse in Ridgway. If the child(ren) lives in Cameron County, file the custody papers with the Prothonotary's Office at the Cameron County Courthouse in Emporium.

Use a typewriter or pen to fill in the blanks on the forms. Circle the county you are filing the custody papers in. Print clearly, making sure your name and the Defendant's name are spelled right, and also use middle names or middle initials. Make sure you sign all forms on the signature lines for the Plaintiff.

If you want to ask the Court to let you file the custody case without having to pay the filing fees and conference fee, you must ask for a ***Petition to Proceed In Forma Pauperis***. You must fill out the form and file it at the same time you file the custody complaint. The judge will decide if you can afford to pay based on your income. If the judge denies your petition, you will have to pay the filing fees and conference fee before the Prothonotary will file your custody complaint.

2. Fill in the blanks of the **Order and Notice**, and the **Custody Complaint**. Make three (3) copies of the Notice and the Complaint. You must also complete the information requested in the **Order** (found on the Notice) but leave blank the part where a date will be scheduled. Check the box next to "conciliation or mediation conference" as that is the first step in a custody case. Cross out any information that does not apply to your case.
3. Take the original Custody Complaint, Notice, and the three (3) copies to the Prothonotary's office for filing (in Ridgway if child(ren) lives in Elk County OR in Emporium if child(ren) lives in Cameron County). Be prepared to pay the filing fee and the conference fee unless you filled out the Petition to Proceed In Forma Pauperis form. Credit/debit cards are not accepted. You will need cash, a check or money order made payable to the "Prothonotary" for the filing fee and a check or money order for \$100.00 made payable to "Joshua A. Dean, Esq." to cover the conference fee. Once the Prothonotary takes the original paperwork and stamps it with a date stamp, the paperwork is "filed."

4. Ask the clerk at the Prothonotary's Office to certify the three (3) copies. The Prothonotary will send the original and the three (3) copies to court administration to schedule a conference and the judge will sign the order. This will not happen while you wait. The Prothonotary's Office will contact you when you can return to pick up your copies.
5. Once you have your copies back, you will need to deliver a copy to the Defendant. This is called "service." The Defendant must be served at least 10 days before the date of the conference. If the Defendant is not served correctly, the conference cannot be held.

You cannot hand a copy of the paperwork to the Defendant in person, so choose one of the three service methods below:

- a. **Certified Mail:** Mail one certified copy of the Complaint and Notice to the Defendant by regular first class mail and mail the other certified copy to the Defendant using "certified mail, restricted delivery, return receipt requested." You need to go to your post office to get the right mailing forms and you will pay extra postage. A green card will be attached to the certified mailing envelope, and once the Defendant receives the mailed paperwork and signs the green card, the card will be mailed back to you. Keep the green card once you get it back.

Be sure that the Defendant signed the green card. If someone else signed the card, you must send everything to the Defendant again, making sure the mail is certified, restricted delivery, return receipt requested.

After the custody paperwork has been served (when the green card comes back from the certified mail, or if the certified mail is "REFUSED" by the Defendant, but the regular mail is not returned within 15 days), fill out and file the **Proof of Service** with the Prothonotary. If the green card is returned, staple or tape it to the Proof of Service. The Proof of Service must be filed before the date of the conference.

If the certified mail is returned "UNCLAIMED" you must use one of the other methods of service listed below.

- b. **Personal Service:** The Sheriff can serve the Defendant. You must give a certified copy of your paperwork to the Sheriff's Department and a deputy will take the copy to the Defendant, either at the Defendant's home or place of work, etc. There is a fee for the Sheriff to serve the paperwork. The deputy will file an affidavit of service at the Prothonotary's Office.

- c. **Personal Service:** You cannot hand the paperwork to the Defendant. A person who is over 18 years of age who is not a party to your case nor an employee or a relative of either party may hand deliver the certified copy of the paperwork to the Defendant. The person who does this must fill out the **Affidavit of Service** form, give it to you, and you must file the Affidavit with the Prothonotary. The Affidavit of Service must be filed before the date of the custody conference.
6. Before you go to the custody conference, you should think about what kind of custody arrangements and schedules you want. Often agreements are made at the conference and the conference officer will prepare an order for the judge to sign. You, the defendant, and any significant others may be ordered to see a psychologist for custody evaluations and/or bonding assessments. You will be ordered to pay for some or all of the evaluations/assessments. Even if you have been allowed to file the custody case without paying the filing fee or the conference fee, you will have to pay for the evaluation/assessment. If you fail to participate or pay for your portion of the evaluation/assessment, the judge may impose a penalty.
7. If you and the Defendant cannot agree on the custody arrangements, then you and the Defendant will have to attend a pre-trial conference with the judge to discuss the special issues in your case. If you have not talked to a lawyer about your case, you may want to talk to or hire one now. The pre-trial conference is not a hearing so you do not need to bring any witnesses or the child(ren). You will have to fill out a pre-trial form and send it to the judge's office at least seven (7) days before the pre-trial conference. If you and the Defendant still cannot agree on the custody arrangements, then your custody trial will be scheduled. The judge will order you and the Defendant to each prepare a parenting plan. If you do not submit a parenting plan on the day of the custody trial, the judge may impose a penalty.
8. Once a custody trial is scheduled, you will need to prepare for your case. If you plan to represent yourself, read the information included called "7 Tips When Representing Yourself In Court." If you are representing yourself, you are expected to know the correct way to ask questions of your witnesses, the correct courtroom procedures and follow the rules of court. Again, you are strongly encouraged to talk to or hire a lawyer before the custody trial.
9. For more information or forms, visit www.co.elk.pa.us/judicial