



CUSTODY 101

FOR POTTER COUNTY, PENNSYLVANIA



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- ▶ This mini-course will show you the basics of how custody works in Pennsylvania. It is designed to give you the information you will need to decide exactly what arrangements you want to ask the court to grant.
- ▶ ***A Way Out*** has advocates who can help walk you through the filing process.



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- ▶ You will need to come to our office and complete an intake process to access our services. This allows our advocate to identify the resources that best fit your needs.
- ▶ All decisions about your case are yours to make.
- ▶ All information you provide during this process is strictly confidential.
- ▶ So, let's get started!



WHO HAS CUSTODY?

Until there is a COURT ORDERED Custody Order in place, each parent has the same right to have access to, and time with a child including visiting and/or having the child with them at any time.

Before you begin any custody proceedings, it will be helpful to review the following definitions to help you decide what kind of custody arrangement you want.



WHAT IS “LEGAL CUSTODY?”

Legal custody is about who is legally in charge of the child.

It is the authority to make significant, non-emergency decisions for a child. The court will award the parties in a custody case with either **sole legal custody** or **shared legal custody**.

WHAT IS “PHYSICAL CUSTODY?”



Physical custody is about who the child lives with and where.

It is the actual physical possession and control of a child.

The court will award the parties in a custody case with **primary physical custody**, **shared physical custody**, or **partial physical custody**.

- ▶ **Primary physical custody** is when the child lives with one parent most of the time. Generally, if a parent is awarded primary physical custody an order of shared legal custody is also awarded.
- ▶ **Shared physical custody** is when both parties share nearly equal physical time with the child.
- ▶ **Partial physical custody** is when one parent has the child on certain nights or during a specific scheduled time.

HOW DO I FILE FOR CUSTODY?



To start a custody case, you will need to file a **Petition for Custody** with the Prothonotary/Clerk of Courts office in the *state and county where the child and a parent, or an individual acting as a parent, lived for at least six months (or since the child's birth) immediately prior to the filing of the custody complaint.*

If this is Potter County, a Legal Advocate at ***A Way Out*** can provide a **Petition for Custody** packet and assist you in completing the forms.

However, Legal Advocates are not permitted to provide legal advice.

IS THERE A COST?



YES. There is generally a fee to file a custody complaint / petition.

In Potter County, that fee is \$103.75

If you cannot pay this fee you can request a waiver of fees by filling out a **Petition to Proceed In Forma Pauperis** (IFP).

You will need to file the completed form with the Prothonotary who will provide it to a judge to review and decide if he/she will grant the fee waiver.



IF THERE IS A CUSTODY ORDER IN PLACE, CAN I CHANGE IT?

YES. If a custody order is already in place and you feel the order is not in the best interest of the child, you can file a **Petition to Modify Custody**.

The petition will need to be filed in the state/county where the currently effective order was issued.



WHAT IF ONE PARENT ISN'T FOLLOWING THE CUSTODY ORDER?

If a custody order is already in place but the other parent is not following it, you can file a **Petition for Civil Contempt of a Custody Order.**

The petition will need to be filed in the state/county where the currently effective order was issued.

IF I FIND OUT THAT MY CHILD IS AT RISK OF BEING HURT BY THE OTHER PARENT, WHAT CAN I DO?



In case of an emergency situation where you feel the child or children are in immediate danger, you can file a **Petition for Special Relief**.

The petition will need to be filed in the state/county where the currently effective order was issued.

WHAT HAPPENS AFTER I FILE A PETITION?



Once your petition is filed and the other parent has received their copy of the filing, an appointment will be scheduled for both you and the other parent to meet with the county's ***child custody mediator***.

The mediator listens to both parties' concerns and provides a recommended custody agreement to the judge.

Then a custody hearing is scheduled for the judge to review the mediator's recommendation and hear any additional testimony before issuing a court order outlining the terms of the custody agreement.

FOR MORE INFORMATION...



Contact **A Way Out** during our business hours, Monday – Friday from 8:30 a.m. – 4:30 p.m. at **814-274-0368**

or on our **24 Hour Helpline at 814-274-0240**

The **Potter County Prothonotary/Clerk of Courts** office can also answer questions about the filing process. Their number is **814-274-9740**. Forms can be downloaded from the county website at www.pottercountypa.net

Click on **DEPARTMENTS** in the menu bar at the top and select “Prothonotary/Clerk of Courts” from the drop down menu