

# Child Custody & Child Support



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\*\*Please note: this hand out provides general legal information, not legal advice. If you are seeking legal advice, you may contact Philadelphia Legal Assistance's Family Law Intake Hotline at 215-981-3838.\*\*

# Child Custody

## “Best Interests of the Child”—Factors the Court Considers (Partial List—see attachment for full list)

- Party more likely to encourage...frequent and continuing contact
- Present and past abuse (domestic violence)
- Parental duties performed by each party on behalf of the child
- Any history of drug or alcohol abuse (including other household members)
- Stability (in child’s education, family life, and community life)
- Party more likely to attend the child’s daily physical, emotional, developmental, educational and special needs
  - ex. who takes child to the doctors, feeds the child, bathes the child, participates in school functions, etc.)
- Siblings (and availability of extended family)
- Attempts by a parent to turn the child against the other parent
- **What Court Will NOT Consider: Income, Age, Sex/Gender, Race/National Origin, Sexual Orientation**

## Criminal Background

- The Court **must** consider: guilty pleas, nolo contendere rulings, and enumerated offenses
  - **Enumerated Offenses** – list of crimes the Court considers when making a custody decision:
    - Criminal homicide
    - Arson
    - Contempt of a court order or agreement
    - **Crimes related to children:** Kidnaping, Endangering the Welfare of a Child, Corruption of Minors, Luring Child into a Motor Vehicle
    - **Sex crimes:** Rape, Incest, Statutory Sexual Assault, Indecent Assault, Bestiality, Sexual Exploitation of Children, violation of one’s status as a sex offender, Prostitution
    - **Other violent offenses:** Terroristic Threats, Stalking, Aggravated Assault, False Imprisonment, Unlawful Restraint
- The Court **may not** consider: dismissed or withdrawn charges
- The Court **may, but may not**, consider pending charges and charges that are not “enumerated”

## Criminal Background

- **What the Court Will Do**

- If a party (or household member of a party) has been convicted of one of these crimes, the Court must determine whether that person *poses a threat of harm to the child*
- The Court will order an evaluation (called an Assessment and Treatment Alternatives Evaluation or an "ATA Evaluation") to determine whether a threat to the child exists and whether counseling is necessary
  - The Court may **order** the person to attend counseling
  - The Court may also require another evaluation to determine whether further counseling is necessary
  - Note: The person ordered to receive counseling must pay for the counseling.

## What you should do if you have an enumerated offense:

- If there is no custody order in effect...
  - **DO** attempt to come to an agreement with the opposing party regarding custody
  - If no agreement can be reached, **DO** cooperate with the evaluation process and counseling in order to obtain custody
- If there is already a custody order in effect...
  - Do nothing; but **DO** continue to follow the order

### What you should NOT do if you have an enumerated offense:

- If there is no custody order in effect...
  - DO NOT attempt to take or withhold the child from the opposing party
- If there is already a custody order in effect...
  - DO NOT violate the custody order (you should never do this anyway)

### How to file for custody when you have an enumerated offense:

- Try to come to an agreement with opposing party beforehand.
  - Can file a Stipulation at the same time you file your Petition for custody. This turns your agreement into an official custody order.
- If you can't come to an agreement on a final custody arrangement, try to make a temporary arrangement to follow until the hearing date.
  - This can act as a "trial period."
- Cooperate with the evaluation and counseling process.

## How to file for custody in special circumstances:

- **Emergency**
  - The day you file, a custody master will review. If the master agrees there is an emergency, the master will put a temporary order in place
- **Expedited (Mondays ONLY)**
  - Held if one parent is not allowed to see the child or if a medical or educational problem needs to be solved quickly
  - No other witnesses besides you and the opposing party

## How to serve custody petitions:

- ▶ Regular custody petitions are served by mail by The Family Court
- ▶ Expedited and Emergency petitions must be personally served

## Possible Requests:

- You can request a Judge or Custody Master to order any of the following:
  - Drug Tests (be prepared to take one yourself)
  - Mental Health Evaluation (often referred to as MHE)
  - Home Investigation (if you believe the home is unsafe or lacks basic needs for the child)

## Common types of evidence in a custody hearing:

- Your testimony
- The opposing party's testimony
- Testimony of other witnesses (including children)
- School or daycare records
- Therapist records or other mental health records
- Medical or hospital records
- Photographs

## What to do in custody court:

- Be respectful
- Call the opposing party by their name (not "her" or "he")
- Do not interrupt or talk while the judge or other party is talking (wait, you will get your turn)
- Do not discuss money (such as child support)
- Listen carefully to the question asked and answer accordingly (ask to repeat/clarify, need be)

## What to wear/not wear to court:

- ▶ Dress as if you are going to church
- ▶ Do not wear clothing with holes
- ▶ Do not wear anything too tight or revealing

# Child Support

\*\*Remember, child custody and support determinations are SEPARATE. Payment or non-payment of support is not a concern in custody court. Child support is a separate matter handled by different masters.

## Support Liability

- Parents are liable for support of unemancipated children under 18
- May be liable for children over 18 if still in high school or child is unable to support self

## Who can file for child support:

- ▶ Any person caring for the child may (regardless of whether a custody order has been issued)
- ▶ Unemancipated minor parent or spouse can file on her/his own
- ▶ DPW or other public body may file (on your behalf)

## **Paternity**

- Acknowledgment of Paternity
  - Document given to unmarried mothers in hospital after birth
  - Father can acknowledge paternity by executing this form
  - Mother can contest father's acknowledgment
  - Acknowledgment may be revoked within 60 days
  - After 60 days, acknowledgment may only be revoked if show fraud, duress or material mistake of fact

## **Martial Presumption of Paternity**

- ▶ If mother is married, there is a presumption that the husband is the father
- ▶ Presumption can be overcome if husband is not able to have children or if husband had "no access" to wife at time of conception

## **Support Conference**

- Petition is filed and conference with permanent hearing office is scheduled
  - Defendant can contest paternity if it has not been established yet, request genetic testing
  - If paternity is established, defendant is properly served, and defendant fails to appear, a temporary order may be issued
  - A Final Order may be entered by agreement
  - If there is no agreement and one party is contesting, a temporary order may be entered and a hearing will be scheduled
  - Even though the hearing is not on the record, take all relevant documents with you

## Support Master's Hearing

- ▶ Hearing on the record where rules of evidence apply
- ▶ Only chance for parties to present evidence and make an argument
- ▶ Master files report with recommended interim order with amount of support and effective date
- ▶ Interim order DOES take effect immediately
- ▶ Report sent out to parties, parties have 20 days to file exceptions
- ▶ If no exceptions are filed within 20 days, that becomes the final order

## Calculating Support

- Child support is based on a formula using net income and/or earning capacity

### Income

- ▶ Gross Income: any form of payment due and collectible by:
  - ▶ Salaries, bonuses, fees, commission, SSD, social security retirement benefits, workers compensation, unemployment compensation, lottery winnings, insurance, settlements, awards, verdicts
  - ▶ Alimony may be considered
  - ▶ Public Assistance and SSI are not considered income

### Net Income

- ▶ Court may only deduct the following from monthly gross income to arrive at net income:
  - ▶ Federal, state and local income taxes, FICA and non-voluntary retirement payments, union dues, and alimony paid to other party
- ▶ No effect on support obligation if party voluntarily quits, takes job with less pay, goes to school or is fired for cause
- ▶ Adjustments made for substantial continuing involuntary decreases in income
- ▶ Season workers—use yearly average
- ▶ Earning capacity: age, education, training, health, work, experience, earnings history and child care responsibilities

## Support Exceptions Hearing

- Hearing before a judge is to be scheduled within 60 days from date of filing of exceptions
- Only make argument on exceptions, no new evidence
- Judge can grant or deny exceptions
  - If denied, recommended order becomes final order
  - If granted, judge can amend order or remand back to Master's Hearing

## Guidelines Calculation & Formula Adjustments

- ▶ If child is receiving SSD
- ▶ Day care expense (shared proportionately—must be reasonable and necessary to maintain employment or education)
  - ▶ Use full amount of cost if receiving child care subsidy
  - ▶ Tax credit taken into consideration
- ▶ Health care expense (shared proportionately)
  - ▶ Obligation of parent who pays premium will be adjusted
  - ▶ Custodial parent is responsible for the first \$250
- ▶ Private School tuition and Summer Camp (allocated between the parties—must be reasonable)
- ▶ Support amount is reduced if obligor has child 40% or more of overnights
- ▶ Shared custody: order may still be entered
  - ▶ IF calculation would give one parent more than  $\frac{1}{2}$  of the mount of the parties combined income, support amount will be adjusted

## What to do if you have a legal question about custody or support...

- Contact Philadelphia Legal Assistance through our intake hotline
- Call the Family Law Intake Line at **215.981.3838**
- Call on Monday or Wednesday between the hours of 10:00 a.m. and 12:00 p.m.
- \*Note: Callers are not able to leave a message. The Family Law Intake Line may be closed early if call volume is high.

# CHILD CUSTODY IN PHILADELPHIA COUNTY

## WHAT IS A CUSTODY ORDER?

A custody order is a written order signed by a judge. It defines the amount of time each party will spend with the child (physical custody) and how major decisions are made about the child (legal custody).

**Note:** People who file for custody and people they file against are called "parties." Each is a "party."

**Physical custody** – There are several types:

- **Shared** – More than one party is allowed to take physical custody of the child, and each of them has significant periods of time with the child.
- **Primary** - A party spends the majority (more than half) of the time with the child. The other party may get partial or supervised custody.
- **Partial** – A party spends less than a majority of time with the child.
- **Supervised** – Custodial time during which an agency or adult named by the court monitors interaction between a party and the child.
- **Sole** - One party has physical custody all of the time.

**Legal custody** - There are two types:

- **Shared** – More than one party has the right to make major decisions for the child.
- **Sole** – One party makes all major decisions for the child.

## WHO MAY FILE FOR CUSTODY IN PHILADELPHIA?

**Jurisdiction** – Generally, a child must have lived in Philadelphia for at least 6 months before the court will hear your case. Exceptions: if the child is under 6 months old, or for certain emergencies such as abandonment or abuse of the child or the child's parent or sibling.

**Standing** – Who may file for custody?

- A **parent** of the child may file for any form of physical or legal custody.
- **Someone who has acted *in loco parentis*** to a child may file for any type of physical or legal custody. You have acted *in loco parentis* if the child is not your legal child, but you have acted as a parent and taken on the responsibilities of parenthood for a period of time with the consent of a parent or other legal custodian or under court order.

- A **grandparent** of the child who is **NOT *in loco parentis*** to the child may file for any form of physical or legal custody, **IF**:
  - A parent of the child allowed the grandparent to form a relationship with the child **OR** the court ordered that the grandparent and child be permitted to form a relationship; **AND**
  - The grandparent is willing to take responsibility for the child; **AND**
  - When one of the following conditions is met:
    - ✓ The dependency court has determined that the child is "dependent" under PA's child abuse and neglect law; **OR**
    - ✓ The court determines that the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; **OR**
    - ✓ The child has lived with the grandparent for at least 12 consecutive months (not counting brief absences) and is removed from the home by the parents. In this case, the grandparent must file for custody within six months after the removal of the child from the home.
- Grandparents and great-grandparents may also file for partial physical custody or supervised physical custody in the following situations:
  - The parent of the child has died **OR**
  - The parents of the child have been separated for at least six months or have started divorce proceedings **OR**
  - The child has lived with the grandparent for at least 12 consecutive months (not counting brief absences) and is removed from the home by the parents. In this case, the grandparent must file for custody within six months after the removal of the child from the home.

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# CHILD CUSTODY IN PHILADELPHIA COUNTY

## HOW TO FILE FOR CUSTODY

### Where do I go?

- If you prepare your own petition, file it with the Clerk of Court of Family Court at 1133 Chestnut Street. All custody forms with instructions are on the Philadelphia Bar Association's website at <http://www.philadelphiabar.org/page/FamilyLawSectionResources?appNum=1>.
- If you need help preparing your custody petition, go to the Intake Unit of Philadelphia Family Court. It is in Room M-6 at 34 S. 11<sup>th</sup> Street, Philadelphia, PA. Staff will help you prepare your petition. Bring important papers and information such as previous custody orders, protection from abuse orders, the opposing party's address, and social security numbers for all parties.

### What does it cost?

- It costs \$90.38 to file for custody.
- It costs an extra \$42.68 to file for emergency custody.
- Fees are different (or none) for other filings.

**What if I cannot afford the filing fee?** You may ask to be excused from paying the fee by filing a petition to proceed *In Forma Pauperis* (IFP). Ask for and fill out an IFP Petition. If you are on welfare, medical assistance or SSI, bring your welfare photo ID or proof that you receive these benefits. If you are not on welfare, medical assistance or SSI, bring proof of income.

**What if I have an urgent situation?** There are 2 ways to try to speed up your custody hearing:

- **Emergency Petition** – This is reserved for cases that must be addressed the same day, such as those involving extreme danger to the child. To file a Petition for Emergency Relief, you must already have one of the following petitions pending: Complaint for Custody, Petition to Modify, or a Petition for Contempt. A master will decide that day whether to grant your emergency petition. If you get emergency custody, the court will schedule a hearing in the very near future to hear testimony and receive evidence from both parties.

- **Expedited Petition** – If there is a matter that needs immediate court attention but is not an emergency, you may file a petition for an expedited hearing. Time-sensitive situations for which you may obtain an expedited hearing include when you believe the other party has been charged with a crime and is a risk to the child's safety, the child needs urgent medical or educational attention, you are being denied access to the child, or the other party has changed the terms of the custody arrangement without your agreement. In these situations, a master will decide whether to schedule an expedited hearing. You may only file expedited petitions on Monday, or if the court is closed on Monday, on Tuesday. You must also file one of the following petitions: Complaint for Custody, Petition to Modify, or Petition for Contempt.

**What happens after I file?** You and the opposing party will receive a notice by mail with a hearing date and must appear in court on that date. If you have filed an emergency petition, you will be told that day how to proceed. Be sure to follow the instructions.

## HOW DOES THE COURT DECIDE CUSTODY?

A judge or master, after holding a hearing, decides the custody arrangement based on what is in the *best interest of the child*. The court is required to consider all relevant factors. **It must give more consideration to factors which affect the safety of the child.** The law lists many factors to consider:

1. Which party is more likely to encourage and permit frequent and continuing contact between the child and the other party.
2. Abuse, past and present, by a party or member of a party's household. Is there a continued risk of harm to the child or an abused party? Which party can better protect and supervise the child?
3. What each party does to parent the child.
4. The need for stability and continuity in the child's education, family life and community life.
5. The availability of extended family.
6. The child's relationships with sisters and brothers.
7. The preference of the child. The court must determine if the child carefully thought about his/her preference. The court must also assess the child's maturity and judgment.

# CHILD CUSTODY IN PHILADELPHIA COUNTY

8. Attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.
9. Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
10. Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
11. How close the parties' homes are to one another.
12. Each party's availability to care for the child or ability to arrange appropriate child-care.
13. 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 from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
14. The history of drug or alcohol abuse of a party or member of a party's household.
15. The mental and physical condition of a party or member of a party's household.
16. Any other relevant factor.

## What about criminal charges and convictions?

The court must also consider certain criminal charges and convictions, mostly relating to violent crimes, including domestic abuse, but also including DUI and drug-related offenses. If you learn that the other party is facing certain criminal charges and poses a risk to the child, you may file a motion for temporary custody or, if there is an existing custody order, a motion to modify custody, and the court must hold a hearing in an expeditious manner (quickly). If a party or a member of a party's household has certain criminal charges or convictions, the court **MUST** take several steps, including evaluations and possibly counseling.

To obtain evidence of a criminal charge or conviction in Pennsylvania, go to <http://ujportal.pacourts.us/docketsheets/cp.aspx> and follow the instructions carefully. Print the information you find and take it to court. If you do not have internet access, you may ask the judge to check this website for evidence of a criminal charge or conviction.

**Parenting Plans** – When the parties do not agree on custody, the court may require each party to submit a parenting plan to help it make a decision. The plan must include a detailed description of how the parties will be involved in making decisions about the child and a schedule of when the child will live with each party. Your plan must be presented to the court in a special format. There are limits to how plans may be used in court. See Parenting Plan brochure for more detailed information.

## HOW DO I PREPARE FOR THE HEARING?

**Testimony** – Each party may present their side and ask questions of the other side. You may prepare a list of your main points as well as questions that you want to ask the other party and bring that list to court with you.

**Evidence** – You may bring school or medical records or other important papers or photographs. You have the right to see everything that the other side wants to show the court. Make two copies of whatever you plan on giving to the court — the judge or master gets the original, the other side gets a copy and you keep a copy.

**Witnesses** – You may want to bring witnesses to testify on your behalf. Witnesses must present a subpoena to be admitted into the court. Ask any court employee at 34 S. 11<sup>th</sup> Street to get a subpoena. **Blue** subpoenas are for “friendly” witnesses; **Red** subpoenas are for witnesses who may not want to testify and may be enforced by court order. Give your witnesses the subpoena before the hearing date and have them show it to the security guard upon entering the courthouse.

You may want to prepare and bring with you a list of questions to ask your witnesses and any witnesses the other party brings. Remember:

- Witnesses may only testify to events they have actually seen.
- If your witness can't come to court, you may ask the judge to permit your witness to testify by telephone. You should try to ask by letter before the hearing date. Letters or affidavits from witnesses will not be accepted without the witness present.

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# CHILD CUSTODY IN PHILADELPHIA COUNTY

**Tests and evaluations** – If you have concerns about the other party's substance abuse, mental health, or home safety you may ask the court to order the following services:

- Drug test
- Mental Health Evaluation
- Home Investigation

Be prepared to tell the court why it should issue any of these orders.

## WHAT HAPPENS IN COURT?

Custody cases are handled in several different ways, depending on many factors. At different points in your case, you may

- meet with a conference officer to see if you can reach an agreement;
- meet with a mediator, if there has not been domestic violence and there is no open DHS case for your family;
- meet with a master to see if you can agree;
- have a hearing before a master; or
- have a hearing before a judge.

Before your case is complete, you will have done one or more of these things.

**Remember:** An agreement made at court cannot become a court order until both parties and a judge sign it. Make sure you understand and agree with any agreement that you are asked to sign. Do NOT sign until you understand it fully and agree with it.

## WHAT IF I DISAGREE WITH THE CUSTODY ORDER?

If a master or judge makes a decision in your case after a hearing, you have the right to appeal that decision. Read your order carefully to make sure that you do not miss any deadlines for appeal if you believe the decision is wrong.

- If you disagree with a master's proposed order after a hearing, you may file *exceptions* within 20 days after you receive the written recommendation. In your exceptions, you must explain in writing why you think the master's proposal is wrong. Make sure the court receives your exceptions within 20 days. After you file, you will have a hearing before a judge. You must explain to the judge what the master did wrong.

- If you disagree with a judge's order, you may file a request for reconsideration. You may wish to talk to an attorney if you want to file such a request. You may also file an appeal with the Superior Court of Pennsylvania within 30 days of the date of the court order. Appeals are very complicated. If possible, you should talk to an attorney if you want to appeal to Superior Court. Remember, filing a request for reconsideration does not extend the 30 day time period for appealing to Superior Court.

## WHAT IF THE OTHER PARTY VIOLATES THE ORDER?

If a party violates a custody order, you may file a petition for contempt and the court will schedule a hearing to decide whether the other party is in contempt and whether to issue sanctions, such as a fine or imprisonment, or to temporarily change the terms of the order until a full hearing is held on a petition to modify. A form and instructions are available on the Philadelphia Bar Association's website.

## WHAT IF I WANT TO MOVE AWAY WITH MY CHILD?

The custody law requires parents who want to relocate to take a number of steps. These steps begin with notice to the other party at least 60 days prior to the planned relocation. In limited circumstances, the party who plans to move may be permitted to give notice to the other party later than 60 days before the move, but at least 10 days prior to the move. The steps follow a required order and must have a particular structure. There are strict timelines for the entire process.

## IS LEGAL HELP AVAILABLE?

Philadelphia Legal Assistance      215-981-3800  
Philadelphia Bar Association Lawyer  
Referral & Information Service      215-238-6333

You may download all custody forms with instructions from the Philadelphia Bar Association's website at <http://www.philadelphiabar.org/page/FamilyLawSectionResources?appNum=1>.

# CHILD SUPPORT IN PHILADELPHIA COUNTY

## What should I bring to the pre-trial conference?

You should bring the original and 2 copies of:

- proof of your income for the last six months;
- last year's tax return;
- a completed income and expense report (included with your Notice to Appear).

## What happens at the pre-trial conference?

If paternity has not been established, the Hearing Officer will ask for an acknowledgment of paternity or order genetic testing, as appropriate. Once paternity has been established, the Hearing Officer will examine income information from both parties and set the amount of support to be paid based on the support guidelines. **If the parties agree to the amount of support, it becomes an Order of the Court and is signed by a Judge. If the parties do not agree, the Guideline amount becomes a Temporary Order and the case is referred to a Support Master for a hearing.**

## What happens at the Support Master's Hearing?

At this hearing, the parties will have a chance to explain why they agree or disagree with the amount of support set by the Hearing Officer. The Support Guidelines are assumed to be correct. Therefore, if you disagree with the amount of support, you must show a reason why they are not correct such as: special circumstances of the child, earning capacity not met, additional income available. The Master will file a report regarding his/her decision along with a proposed order. If there are no objections, the Master's report becomes final.

## What if I disagree with the Order?

- If you do not agree with the master's proposed support order, you may file *exceptions* within 20 days after you receive the written recommendation. In your exceptions, you must explain in writing why you think the master's proposal is wrong.

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The exceptions must be filed in person or received by mail within the 20 days and will not be accepted by fax. After the exceptions are filed, there will be a hearing before a judge. You will need to explain to the judge what the master did wrong. The judge will issue a final order.

- If you disagree with the judge's order, you may file an appeal in Superior Court within 30 days of the date of the court order. Appeals are very complicated. You may want to talk to an attorney if you decide to appeal to Superior Court.

## How do I get Child Support once I have an Order?

Child Support payments are collected and enforced by the State through PASCDU. This agency receives payments from the people who owe support and then distributes these payments to you. Most new child support orders require wage attachment unless a reason can be shown why wage attachment should not be done.

If you are having problems with your Child Support, you can go to the Enforcement and Collection division of Family Court located on the 3<sup>rd</sup> Floor of 34 S 11<sup>th</sup> St.

If you have a support order and the other party is not obeying the order, you can file a contempt petition. There is no charge for a contempt petition.

## What if I want to change my Order?

Orders are reviewed automatically once every 3 years. You may, however, request a review before that time if your circumstances have changed. If you wish to request a review or change the order, you must file a support modification petition.

The process for modifying support is similar to the initial filing. At the hearing on the modification, you must show that there has been a significant change in circumstances and that the change was not voluntary.

**Legal representation may be available from:**

**PHILADELPHIA LEGAL ASSISTANCE**

215-981-3800

**PHILADELPHIA BAR ASSOCIATION'S LAWYER REFERRAL AND INFORMATION SERVICE**

215-238-6333

# CHILD SUPPORT IN PHILADELPHIA COUNTY

## What is Child Support?

A child support order is a written order signed by a judge stating a specific amount of money to be paid at specific times for the care of a child. It may also include information about who is responsible for health insurance for the child. **If you receive welfare benefits, you may be required to file for child support. See the brochure *Domestic Violence and Welfare Support Requirements***

## Who may file for Child Support in Philadelphia?

In order to obtain child support, you must show that the child lives primarily with you. This requirement is called *standing*. You do not need a custody order to file for support.

You must also show that the Philadelphia court is the proper court to hear your case. This requirement is called *jurisdiction*. You may show jurisdiction in one of two ways: 1) you live in Philadelphia; or 2) the person from whom you are seeking child support lives or regularly works in Philadelphia.

## How do I file for Child Support?

**Where:** The Intake Unit of Philadelphia Family Court, in the main lobby of 34 S 11<sup>th</sup> St., Philadelphia, PA. Court personnel will assist you in preparing your petition.

### What to bring when filing:

- Name and address of the person against whom you are filing;
- Name and birth date(s) of the child(ren);
- Social Security Numbers for everyone involved in the case;
- Tax Return with W-2
- Current order, if there is one;
- Documentation of child care expenses, school tuition, and extracurricular expenses.

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**Cost:** It costs \$23.50 to file.

If you cannot pay the filing fee, you may ask to be excused from paying the fee by filing a petition to proceed *In Forma Pauperis* (IFP). Ask for and fill out an IFP Petition. If you are on welfare or SSI, bring your welfare photo ID or proof that you receive SSI.

## What happens after I file?

You and the person from whom you are seeking support (the opposing party) will be sent a Notice to Appear in Court on a specific date for a pre-trial conference with a Hearing Officer.

## How is the amount of support decided?

State regulations provide a formula, known as the "Support Guidelines," that courts use to calculate the amount of support to be paid. These guidelines instruct courts to look at the combined income of the mother and father and the number of children for whom support is sought. The goal is to ensure that each child receives the same amount of support that they would if the parents lived together. Once that amount is determined, the parties' individual incomes are compared to the Guideline amount to determine the percentage of support for which each party is responsible.

## What is income for the purpose of determining child support?

In general, when determining income for the Guidelines, the Court looks at the actual income of a party as well as that party's earning capacity (potential to earn money based on work experience and education). The Court will also consider whether the person who must pay support is also paying child support for other children. Public benefits, such as welfare or SSI, are not considered income for the purposes of the Guidelines.

For assistance from the court, call Customer Service at 215-686-4007 or go to the website [www.humanservices.state.pa.us/CSWS/index.aspx](http://www.humanservices.state.pa.us/CSWS/index.aspx)

## Enumerated Offenses: Do's & Dont's

- I. What **to Do** If You Have an Enumerated Offense
  - a. If there's no custody order in effect...
    - i. **DO** attempt to come to an agreement with the opposing party regarding custody
    - ii. If no agreement can be reached, **DO** cooperate with the evaluation process and counseling in order to obtain custody
  - b. If there's already a custody order in effect...
    - i. Nothing; **DO** continue to follow the order
  
- II. What **Not to Do** if You Have an Enumerated Offense
  - a. If there's no custody order in effect...
    - i. **DO NOT** attempt to take or withhold child from opposing party
  - b. If there's already a custody order in effect...
    - i. **DO NOT** violate the custody order (you should never do this anyway)
  
- III. How to File For Custody When You Have an Enumerated Offense...
  - a. You can try to come to an agreement with the opposing party beforehand and file a Stipulation at the same time you file your Petition. This tells the court the parties have already come to an agreement and they just want the court to make the agreement an official custody order.
  - b. If you can't come to an agreement on a final custody arrangement, try to make a temporary arrangement to follow until the date of the custody hearing. This can act as a "trial period."
  - c. Cooperate with the evaluation and counseling process.

**\*\*Please note: this hand out provides general legal information, not legal advice. If you are seeking legal advice, you may contact Philadelphia Legal Assistance's Family Law Intake Hotline at 215-981-3838.\*\***

## **Criminal Offenses and Custody**

- I. List of Crimes (called “enumerated offenses,” other offenses may be considered by the Court when making custody decisions)
  - a. Criminal homicide
  - b. Arson
  - c. Contempt of a court order or agreement
  - d. **Crimes related to children:** Kidnapping, Endangering the Welfare of a Child, Corruption of Minors, Luring Child into a Motor Vehicle
  - e. **Sex crimes:** Rape, Incest, Statutory Sexual Assault, Indecent Assault, Bestiality, Sexual Exploitation of Children, violation of one’s status as a sex offender, Prostitution
  - f. **Drug and alcohol-related crimes:** DUI, certain illegal drug crimes
  - g. **Other violent offenses:** Terroristic Threats, Stalking, Aggravated Assault, False Imprisonment, Unlawful Restraint
  
- II. What the Court Will Do
  - a. When a party or household member of a party has been convicted of one of the above crimes, the Court must determine whether that party *poses a threat of harm to the child*
    - i. Judge may ask opposing party this question\*
  - b. The Court will order an evaluation to determine whether a threat to the child exists and whether counseling is necessary
    - i. Party or household member may be **ordered** to attend counseling
    - ii. Court may also require another evaluation to determine whether further counseling is necessary

**\*\*Please note:** this hand out provides general legal information, not legal advice. If you are seeking legal advice, you may contact Philadelphia Legal Assistance’s Family Law Intake Hotline at 215-981-3838.\*\*

# Do you have a LEGAL problem or question?

*We want to help you!*

Philadelphia Legal Assistance (PLA) and Community Legal Services (CLS) provide FREE legal help for low-income residents of Philadelphia. Since our hours sometimes change, please call the numbers listed below to find out when we're taking new cases before coming in.

	<b>Philadelphia Legal Assistance The Cast Iron Building 718 Arch Street, Suite 300N (215) 981-3800</b>	<b>Community Legal Services 1424 Chestnut St. (215) 981-3700</b>	<b>Community Legal Services 1410 W. Erie Avenue [at Broad Street] (215) 227-2400</b>
<b>HOURS</b>	Walk-in: Mon & Wed, 9-11:30 Phone: Tues & Thurs, 9:30-12 <i>except</i>  <b>Family Law (No Walk-ins) Mon &amp; Wed, 10 – 12 TELEPHONE ONLY</b>	Walk-in: Mon-Fri, 9-12 <i>everything except:</i>  <b>Private landlord problems: Mon &amp; Wed, 9-12</b>  <b>Public housing/Sec. 8: Tues &amp; Thurs, 9-12</b>	<b>Mon &amp; Wed, 9-12: Medicare, Long-Term Care, In-Home Healthcare Tues &amp; Thurs, 9-12: SSI Appeals &amp; Utilities</b>  <b>Mon, Wed &amp; Fri, 9-12: all other cases</b>
	<i>If you have a problem with...</i>  Welfare Food Stamps Medical Assistance Child Support ( <i>Plaintiffs only</i> ) Child Custody Protection from Abuse Orders ( <i>Plaintiffs only</i> ) Unemployment Compensation Homeownership/deeds/tangled titles Bankruptcy & Debt Collection Probate Lawsuits ( <i>defendants only</i> ) Divorce Phila. county defendants only Must apply online at <a href="http://www.philalegal.org/apply">www.philalegal.org/apply</a>	<i>If you have a problem with...</i>  Employment  Employment Problems with Criminal Records  Landlord/Tenant Problems  Public Housing (HUD, Section 8, Subsidized, PHA)  DHS ( <i>allegations of child abuse</i> )  SSI Disability Benefits Appeals  Utilities ( <i>only after shut-off</i> )	<i>If you have a problem with...</i>  Welfare Food Stamps Medical Assistance SSI Disability Benefits Appeals Long -Term Care In-Home Healthcare Utilities ( <i>only after shut-off</i> ) Homeownership/deeds/tangled titles Property Taxes Mortgages Loans and Consumer Scams Bankruptcy Debt Collection Employment Probate Lawsuits ( <i>defendants only</i> )

## You can also call one of our hotlines:

**Family Advocacy Line** (215) 981-3765

For parents whose children are involved with DHS.  
*Call Monday-Friday 9 am - noon.*

**Family Law Line** (215) 981-3838

Help with Child/Spousal Support, Custody and  
Protection from Abuse Orders

**Utility Hotline** (215) 981-3746

*Call Mon & Wed, 10 am-noon.*

**Save Your Home Philly Hotline** (215) 334-HOME

Help with PECO, PGW, and Water Revenue Board.

**Private Landlord/Public Housing** (215) 981-3700

Help for homeowners with foreclosure. *Call anytime*

**Section 8 Hotline**

Help for tenants experiencing difficulties with their  
landlords of housing situations. *Call Mon-Fri, 9-5.*

## Here are some other places to get legal help:

Defender Association of Philadelphia (criminal cases)

(215) 568-3190

Senior Law Center (wide range of legal problems for senior citizens 60 and over)

(215) 988-1242

AIDS Law Project (all types of legal problems for people who are HIV+)

(215) 587-9377

Women's Law Project (discrimination against women, reproductive rights, family law information)

(215) 928-9801

Women Against Abuse Legal Unit (protection from abuse & some custody cases for battered women)

(215) 686-7082

Woman Against Abuse 24-hour hotline

(866) 723-3014

Lawyer Referral and Information Service (NOT a free service)

(215) 238-6333

People living outside Philadelphia (Bucks, Chester, Delaware, and Montgomery counties)

(877) 429-5994

**Note to people who do not speak English:** We are committed to serving you in your own language. If possible, please call in advance so that we can make sure an interpreter is available.

**Last Updated 2/11/2015**

# Tiene algún problema o pregunta LEGAL?

*Queremos ayudarle!*

Asistencia Legal de Filadelfia (PLA) y Servicios Legales de la Comunidad (CLS) proporcionan asistencia legal GRATIS para residentes de Filadelfia de bajos ingresos. Puesto que nuestras horas a veces cambian, Ud. quizás desee llamar antes de venir a los números indicados abajo para averiguar si estamos aceptando nuevos casos.

	<b>Asistencia Legal de Filadelfia</b> <b>The Cast Iron Building</b> <b>718 calle Arch / Suite 300N</b> <b>(215) 981-3800</b>	<b>Servicios Legales de la Comunidad</b> <b>1424 calle Chestnut 5 piso</b> <b>(215) 981-3700</b>	<b>Servicios Legales de la Comunidad</b> <b>Avenida 1410 W. Erie</b> <b>[La calle Broad]</b> <b>(215) 227-2400</b>
<b>HORAS</b>	Sin cita: lunes y miercoles, 9-11:30 Teléfono: martes y jueves, 9:30-12	Sin cita: lunes-viernes, 9-12	Lunes y miercoles 9-12: Asistencia Medica, Cuidado de largo plazo, y Cuidado del salud en el hogar Marte y jueves 9-12: Beneficios de SSI y Problemas con servicios publicos Lunes, miercoles y viernes 9-12: todos otros casos
	<b>Ley de Familia</b> Lunes y miercoles, 10-12 Solamente por teléfono	<b>Problemas de inquilinos:</b> lunes y miercoles, 9-12 <b>Viviendas públicas/Sec. 8:</b> martes y jueves, 9-12	
	<i>Si tiene problems con...</i>	<i>Si tiene problemas con...</i>	<i>Si tiene problemas con...</i>
	Beneficios de Asistencia Pública-welfare Cupones de Alimento Asistencia Médica Mantenimiento de Niños Custodia de Niños ( <i>solo demandantes</i> ) Ordenes de Protección Contra el Abuso ( <i>solo demandantes</i> ) Compensación de Desempleo Condicion de ser Dueno del Hogar Propio/Escritura/Titulo Enredado Bancarrota y Colleccion de Deudas Sucesorio/de Validación Testamentaria Demandas ( <i>solo demandados</i> ) Divorcio: Condado de Filadelfia ( <i>solo demandados</i> ) Deber solicitar al <a href="http://www.philalegal.org/apply">www.philalegal.org/apply</a>	Problemas Laborales Problemas Laborales Debido a Tener Antecedentes Penales Problemas de Inquilinos Problemas con las Viviendas Públicas ( <i>HUD, Seccion 8, subvencionado y PHA</i> )  Problemas con el Departamento de Servicios Humanos (DHS) ( <i>involucrando quejas de abuso de niños</i> )  Apelaciones de Beneficios de Discapacidad de SSI  Problemas con Servicios Públicos ( <i>solo despues de ser apagados</i> )	Beneficios de Asistencia Pública - welfare Cupones de alimento Asistencia médica Apelaciones de Beneficios de discapacidad de SSI Cuidado a largo plazo Cuidado del salud en el hogar Condicion de ser Dueno del Hogar Propio/Escritura/Titulo Enredado Problemas con hipotecas Impuestos de Propiedad Préstamos y estafas al Consumidor Bancarrota Colleccion de Deudas Problemas Laborales Sucesorio/de Validación Testamentaria Demandas ( <i>solo demandados</i> ) Problemas con Servicios Públicos ( <i>solo despues de ser apagados</i> )

Ud. también puede llamar a nuestras líneas de emergencia:

La Línea de Abogacía de Familia (215) 981-3765

La Línea de leyes de Familia (215) 981-3838

La Línea de Servicios Publico (215) 981-3746

La Línea de "Ayuda en Philly Salve su casa" (215) 334-HOME

Problemas de arrendador Vivienda Publica/privada O sección 8 (215) 981-3700

Para aquellos padres cuales niños estén involucrados con DHS. Llame de lunes a viernes 9 am - 12 pm.  
Ayuda con Apoyo infantil/manutención, Custodia y Protección del abuso. Llame lunes y miércoles 10 am - 12 pm.  
Ayuda con Servicios Publico PGW, PECO y Departamento de Agua  
Ayuda para los propietarios de viviendas con ejecución hipotecaria. Llame a cualquier hora.  
Ayuda para inquilinos que tienen dificultad con los dueños de la propiedad en cuanto a situaciones de vivienda. Llama lunes a viernes 9am -5pm.

Aquí hay otros lugares donde puede obtener asistencia legal:

La Asociación de Abogados Defensores de Filadelfia (casos criminales) (215) 568-3190

Centro de Leyes para Ancianos (variedad de problems legales para personas mayores de 60 años) (215) 988-1242

El Proyecto de la Ley de SIDA (todo tipo de problemas legales para personas con SIDA) (215) 587-9377

El Proyecto de la Ley de Mujeres (discriminación contra mujeres, derechos de reproducción, y información sobre leyes de familia) (215) 928-9801

La Unidad Legal de Mujeres Contra el Abuso (protección contra abuso y algunos casos de custodia para mujeres abusadas) (215) 686-7082

Linea caliente de 24 hora de La Unidad Legal de Mujeres Contra el Abuso (866) 723-3014

El Servicio de Información y Referidos de Abogados (215) 238-6333

La personas que viven fuera de Filadelfia (Condados de Bucks, Chester, Delaware y Montgomery) (877) 429-5994

**Nota a las personas que no hablan inglés:** Nosotros estamos dedicados a servirles en su propio idioma. Si es posible, por favor comuníquese de antemano con nosotros para que nos aseguremos que un interprete esté disponible. Last Updated 2/11/2015