

COUNTY of BLAIR



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Introduction

This packet is designed to give you general information regarding the custody of children and the custody process in Blair County. The information and any instructions are general and may not be all a person needs to know to file for custody properly. Each custody case is different.

IT IS ALWAYS BEST TO BE REPRESENTED BY AN ATTORNEY IN A CUSTODY MATTER.

If you do not have an attorney, you may call the Lawyer Referral Service at
(814) 693 - 3090

The Lawyer Referral Service has a list of attorneys who practice family law. You will be given several names from which you may choose an attorney to assist you in your filings and the custody process.

Preliminary Questions

The following questions may be helpful to you in deciding if and what custody action you may decide to file in Blair County:

1. Is there a custody order regarding the child in this or any other County or State? Existing custody orders must be listed in any new custody filing.
2. Where has the child lived for the last 6 months? If the child has not lived in Blair County for the last 6 months, the Blair County Courts may not have authority to hear the case.
3. Are you and the other parent in agreement regarding the custody situation? A custody agreement may be filed as an initial filing or at any time during the custody process and usually does not require the parties to participate or appear for any court proceeding.
4. Do you have "standing" to file for custody? Parties other than the natural parents have only limited circumstances in which they may file for custody.

The Custody Office Staff cannot provide legal advice. If you are uncertain as to the answers to these or any other questions, please contact an attorney for legal advice.

GENERAL INFORMATION ON CUSTODY

Public Policy

It is the policy of the Commonwealth of Pennsylvania and the Court of Common Pleas of Blair County when considering custody matters, that BOTH PARENTS have the right to have a relationship with their children and children have a right to have a relationship with both parents. There is a strong public policy against limiting the relationship between parent and child unless the parent presents a grave threat to the child's welfare. Generally, the rights and responsibilities of child rearing are to be shared by the parents.

What to Expect

The custody of children is an emotionally charged situation that is taken very seriously by the court. While there eventually may be the need for a custody hearing with a judge, there are no quick fixes for the long term shared parenting of children. The court does not grant immediate custody after the filing of a petition. Both parents are given the opportunity to be notified of any proceeding scheduled and to reach agreement through the custody conciliation process.

Best Interest

It is almost always better for the parents to decide what custody arrangement will be best for the children. A judge does not know the parents or children and can only base a decision on a hearing in which it is likely that parents will be put in the worst light possible. The ability and effort of parents to cooperate in order to reach an agreement outside of court is considered critical to a child's well-being. When a custody case does go to court the parents lose control of the situation to a judge. A custody decision by a judge will most likely not meet the approval or be satisfactory to at least one or both of the parents.

Grandparents and Third Parties

Pennsylvania law provides limited circumstances in which grandparents and "third parties" or persons other than a natural parent, may have rights to pursue either primary custody or partial custody and visitation. The right to petition for custody and the final determination as to any custody granted are based upon the circumstances of each case.

Custody and Child Support

Child support and custody are separate matters under the law. A court will not prevent a parent from seeing a child just because the parent has not made support payments. Likewise, the payment of child support does not guarantee what the custody arrangement will be with the children. Both are determined for the benefit of the children.

This is general information and may not apply to your case. If you have any questions, please consult an attorney for legal advice.

**DEFINITIONS OF FILING TERMS
USED IN THE CUSTODY PROCESS
(revised 9/17/2014)**

Please take the time to read the following terms and definitions that may assist you in completing and understanding the custody filings and orders.

CASE CAPTION – The heading at the top of custody filings and orders that states the parties names, the court the case has been filed with, and the docket number.

DOCKET NUMBER – The number assigned to the case by the Prothonotary Office/Clerk of Courts for the purposes of identification by the court filing system. The case caption and docket number must be used on any filing or order that relates to the custody case.

PLAINTIFF – The party named first on the caption as the person who has filed the initial custody complaint.

DEFENDANT – The party named second on the caption.

CUSTODY COMPLAINT – The legal document that initiates a custody case by providing specific information about the Plaintiff, Defendant and the children involved as well as the type of custody the Plaintiff is asking the Court to grant.

CUSTODY SCHEDULING ORDER – The order required by Blair County Local Rule to be attached on top of any custody complaint filed. When signed by a judge, it requires all parties to participate in the mandatory Custody Education Program and schedules the date and time for the Custody Intake Conference.

CUSTODY AGREEMENT – A document prepared by the parties, with or without the help of an attorney, that presents an agreement as to the custody of the children. An order of court is attached to the agreement for a judge's signature and then forwarded for recording as a legal document. A custody agreement can be filed in place of a custody complaint or at any time during the custody process.

FILING FEES – The cost for filing an initial custody complaint(currently \$139.00) or custody agreement (currently \$132.00) that is paid to the Blair County Prothonotary Office. There are no filing fees for additional petitions filed to the same caption and docket number with the exception of a Petition for Modification(current fee \$44.00).

PETITION TO PROCEED IN FORMA PAUPERIS (IFP) – A petition filed with the court asking permission to file the custody complaint without paying the filing fees due to the financial situation of the Plaintiff. A judge will either grant or deny the petition based on the information given on the IFP form. If your request is denied, you must pay all filing fees or the case will be dismissed without scheduling.

PETITION FOR MODIFICATION – A petition which requests a change in the existing court order because circumstances have changed and without a change in the order, the best interest of the children will not be met. A custody order can be changed at any time by agreement of the parties. If an agreement is reached it is strongly suggested that a new custody agreement be written that include the changes.

SERVICE – The act and responsibility of the Plaintiff to give each defendant named in a complaint or petition a copy of all documents filed with the court including what you are requesting the court to do and the date, time and location of any court proceedings scheduled in the case.

PETITION FOR CONTEMPT – A petition which requests the court to enforce the custody order by finding that the other party has willfully and directly violated the order and to issue penalties against the other party to insure compliance to the order.

RULE TO SHOW CAUSE – A document signed by the court setting a date in which the named party must appear to respond to show why they should not be held in contempt or why the requested relief should not be granted.

CUSTODY CONTINUANCE REQUEST – A form filed with the Custody Office requesting the court to change the date and time of a conference or hearing based on a serious and valid reason. The form requires that the other party be contacted as to whether they agree or object to the request. The court will either grant or deny the request based on the information provided.

PETITION FOR SPECIAL RELIEF – A petition requesting the court to intervene in a custody case due to a threat of serious and immediate harm to the child. A petition for special relief can only be filed to an existing custody case or after the filing of a custody complaint.

PRO SE – A person who proceeds on their own behalf in petitioning and appearing in court.

DEFINITIONS OF TERMS USED IN A CUSTODY CASE

Please take the time to read the following terms and definitions that may assist you in completing and understanding custody filings and orders.

ACTION- All proceedings for legal and physical custody and proceedings for modification of prior orders of court.

PARTY – person named in a custody complaint. Both parents (unless their rights have been terminated) and any other person who has physical custody of a child should be named as a party in a custody case.

STANDING – The legal right to be part of a custody case.

JURISDICTION - The proper court in which to file the custody action, generally the county in which the child has lived for the past six (6) months.

CUSTODY- The legal right to keep, control, guard, care for and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody.”

LEGAL CUSTODY – The right to make major decisions on behalf of a child, including but not limited to medical, religious and educational decisions.

SHARED LEGAL CUSTODY – the right of more than one individual to legal custody of the child.

SOLE LEGAL CUSTODY- The right of one individual to exclusive legal custody of the child.

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.

PARTIAL PHYSICAL CUSTODY- The right to assume physical custody of the child for less than a majority of the time.

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 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.

VISITATION -- The right to visit with a child, but does not include the right to remove the child from the primary residence. (No longer in the statute)

PRIMARY RESIDENCE -- The home of the party that represents where the child spends most of the time.

RELOCATION- A change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights.

BEST INTEREST OF THE CHILD -- The standard used to decide a custody case. The court considers all of the factors related to the child's physical, intellectual, moral, and spiritual well-being.

PARENTAL DUTIES -- Includes meeting the physical, emotional and social needs of the child.

AGENCY - Any organization, society, institution, court facility or other entity which provides for the care of a child.