

## PETITION FOR EMERGENCY RELIEF - CUSTODY

### INSTRUCTION SHEET

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

A Petition for Emergency Relief 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.

1. Complete the Domestic Relations Information Sheet with as much information as you have.
2. Complete, date and sign the Petition for Emergency Relief. (detailed instructions included)
3. The filing fee for a Petition for Emergency Relief is \$38.80. 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)**. If you receive welfare or SSI, bring your welfare photo ID or proof that you receive SSI.
4. File the completed Petition for Emergency Relief and Information Sheet with the filing fee by hand-delivering them in person to:

Clerk of Court  
1133 Chestnut Street  
Philadelphia, PA 19107

Once you file this petition you are immediately sent to 46 S. 11<sup>th</sup> Street, Room 280 to wait to be called for a master's hearing. There may be a significant wait because they are usually very busy.

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. If you do not have one of these petitions pending you must file one of them at the same time that you file the Petition for Emergency Relief. There may be additional fees for these filings.

**5. You may pay the filing fee by money order, cash, or credit card.** Make the money order payable to **“PROTHONOTARY CLERK OF FAMILY COURT.”** **Personal checks will not be accepted.**

6. When you file the petition in person at the office of the Clerk of Family Court, you must file the original **AND** six (6) copies. A copy machine is available at the Clerk’s office at a cost of \$.25 per page.

7. If your petition is granted you will receive an Order and Rule to Show Cause date for the next hearing, which will be in a short time. You must personally serve the Order, Rule and Petition on the other party before the hearing date. If your petition is denied, any open petitions will be heard at a later date. If the open petitions do not address your concerns you may want to file a different petition.

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

##### § 5301 Declaration of policy

The General Assembly declares that it is the public policy of this Commonwealth, when in the best interest of the child, to assure a reasonable and continuing contact of the child with both parents after a separation or dissolution of the marriage and the sharing of the rights and responsibilities of child rearing by both parents and continuing contact of the child or children with grandparents when a parent is deceased, divorced, or separated.

[1985, Oct. 30, P.L. 264, No 66 §1.]

##### § 5302. Definitions

The following words and phrases when used in this subchapter shall have the meaning given to them in this section unless the context clearly indicated otherwise.

Child - any unemancipated person under 18 years of age.

Legal Custody - The legal right to make major decisions affecting the best interest of a minor child, including, but not limited to, medical, religious, and educational decisions.

Partial Custody - The right to take possession and control of a child.

Physical Custody - The actual physical possession and control of a child.

Shared Custody - An order awarding shared legal or shared physical custody, or both, of a child in such a way as to assure the child of frequent and continuing contact with and physical access to both parents.

Visitation - The right to visit a child. The term does not include the right to remove a child from the custodial parent’s control.

## HOW TO FILL IN THE PETITION:

### HEADING (CAPTION).

Fill in the names of the plaintiff and defendant 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 was filed. The plaintiff and defendant keep those titles throughout the case. The Domestic Relations Number (D.R.No.) is the number assigned your case by the Court. You can find this number in the caption of your Complaint for Custody.

### LINE 1.

If you are filing the petition for emergency relief, you are the petitioner. Fill in your name and address as the petitioner. Indicate whether you are the plaintiff or defendant in the custody complaint by circling the appropriate term.

### LINE 2.

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.

### 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.

### LINE 4.

Fill in the other party's relationship to the children.

### 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 then describe the order.

LINE 6.

You must have an underlying petition already pending or file an underlying petition at the same time you file a Petition for Emergency Relief.

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.

LINE 7.

Explain why you are filing a Petition for Emergency Relief.

WHEREFORE SECTION

Tell the court what you want the court to do.

DATE AND SIGN THE PETITION.

DATE AND SIGN THE VERIFICATION THAT THE STATEMENTS ARE TRUE.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

_____	:	
PLAINTIFF	:	FAMILY COURT DIVISION
vs.	:	CIVIL ACTION
_____	:	
DEFENDANT	:	D.R. NO.
	:	

PETITION FOR EMERGENCY RELIEF -- CUSTODY

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

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

3. Petitioner's relationship to the following minor child(ren) is \_\_\_\_\_  
 LIST FULL NAME(S) AND DOB(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. A complaint/petition is being filed with this petition.

B. A complaint/petition was filed on \_\_\_\_\_ (date) and a hearing has been scheduled on \_\_\_\_\_(date).

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

a. \_\_\_\_\_  
\_\_\_\_\_

b. \_\_\_\_\_  
\_\_\_\_\_

c. \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_ Petitioner

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.

Date: \_\_\_\_\_  
\_\_\_\_\_ Petitioner