



Custody

101

For

VIP Volunteers

Presenters:

Sarah Katz, Esq., Temple University School of Law

Todd W. Nothstein, Esq., Philadelphia VIP

Virtual Training

Thursday, August 5, 2021

About Philadelphia VIP

Mission Statement: VIP promotes equal justice for the poor by providing civil legal services not otherwise available collaborating with other legal services organizations and promoting a culture of volunteerism by educating and exposing attorneys and law students to issues of poverty.

Philadelphia VIP is the hub of pro bono legal services in Philadelphia. For the past thirty-four years, we have provided legal services for low-income residents and families facing civil legal problems that threaten their basic human needs – shelter, employment, financial stability, education, and health.

VIP, through its volunteers and staff, serves more than 3,500 individuals and families yearly who could not afford attorneys and whose cases could or would not be handled by other public interest organizations. We are the agency of last resort for the majority of our clients.

Our clients are among the poorest in the city and region and their numbers are growing.¹ To be eligible for our services a client's income must be at or below 200% of the federal poverty guidelines.² Thus, our *most financially secure* clients earn \$25,760, annually, while a family of 4 lives on \$53,000 a year.

VIP serves a multi-lingual population, principally Spanish speaking, but increasingly we see clients who speak Russian, Creole (Haitians), Chinese, Vietnamese and Cambodian, a reflection of growing and changing immigration patterns in the Greater Philadelphia area.

VIP handles any civil matter that is non-fee generating and for which there is no right to counsel. Our caseload has four priority areas:

- Maintaining family income (child support, employment/wage claims, tax issues, disability)
- Preventing homelessness (mortgage foreclosure, landlord/tenant appeals, public housing evictions, probate, tangled title, consumer debt, litigation defense)
- Supporting family stability (child custody, adoption/guardianship, name change), and
- Promoting community economic development.

Most of VIP's cases are referred to us from our partner organizations, Community Legal Services and Philadelphia Legal Assistance; an additional number come from specialized legal services organizations throughout Philadelphia.

In stark terms, VIP is the agency of last resort for many low-income individuals and families who face critical legal problems that affect their basic needs.

TRAINERS

Sarah Katz, Esq.

Sarah Katz is Associate Clinical Professor of Law and the Director of the Family Law Litigation Clinic in the Temple Legal Aid Office at Temple University Beasley School of Law. She joined the Temple Law faculty in July 2012. Through the Family Law Litigation Clinic, Katz's students represent low-income residents of Philadelphia in custody, child and spousal support, adoption and other family law matters. Katz teaches and writes about family law practice.

Prior to her arrival at Temple, Katz was a supervising attorney in the Family Advocacy Unit at Community Legal Services in Philadelphia, Pa. There, she was responsible for direct representation of parents in civil child abuse and neglect cases; management and training of new attorneys, paralegals and certified law students; policy and advocacy work at the city and state levels; and community and continuing legal education. She also served as an adjunct professor at Temple Law and a Lecturer in Law at the University of Pennsylvania Law School, teaching "Parent, Child, and the State." Katz began her legal career as a law clerk to the Honorable Norma L. Shapiro, Eastern District of Pennsylvania.

Katz is active in the Nicholas A. Cipriani Family Law Inn of Court. She earned her J.D. at the University of Pennsylvania Law School in 2003 and her B.A. at Columbia University in 1997.

Todd W. Nothstein, Esq.

Todd Nothstein, is the staff attorney at Philadelphia VIP responsible for Family Law. He joined VIP near the end of 2017, and his role entails recruiting, training, and supporting volunteer attorneys taking pro bono custody, support, adoption, divorce, and domestic abuse cases for Philadelphia VIP.

Before joining VIP, Nothstein served as a clerk to the Hon. Frederica Massiah-Jackson in the Major Jury Trial Program of the civil division in the First Judicial District of Pennsylvania, and he was a frequent VIP volunteer. Prior to attending law school, Nothstein served as an adjunct lecturer in the English Department at the University of Pennsylvania. He has taught courses in writing and American Literature at Penn, The University of the Sciences, and the State University of New York at Buffalo.

Nothstein is active in the Nicholas A. Cipriani Inn of Court, and he is a member of the Executive Committee of the Family Law Section of the Philadelphia Bar Association. He earned his J.D. at Drexel University's Thomas R. Kline School of Law, his Ph.D. at the State University of New York at Buffalo, and his bachelor's degree at Syracuse University.

Frequently Asked Volunteer Questions

Q: What happens after I accept a VIP case?

A: After accepting a VIP case you will be sent a VIP referral form, all information included in the VIP file about the case and the VIP representation agreement. At this same time, your client will receive a letter with your name, address and phone number, and the request that they contact you within 7 days. At the first meeting, you and the client should sign the VIP representation agreement. *The scope of representation should be filled in carefully, so that you and the client are clear about any limitations on your services.* (Contact VIP's Managing Attorney if you have any questions about the extent of your representation.) Keep the original in your file, give a copy to your client and send a copy to VIP. Throughout your representation of a VIP client, our staff attorneys will be available to help you find answers to substantive legal questions, connect you to mentors, and find the necessary resources.

Q: What if my client does not contact me?

A: Your client may fail to follow through for several reasons. Your client may not be able to read or understand the letter, may not have received the letter or may have other more pressing problems. If your client does not call you within a few days of your receipt of the VIP letter, try to call the client. If after 10 days your client has not contacted you, and you cannot reach them by telephone, write your client stating that if you do not hear from them within 5 days, VIP will close their file. After 5 days, if your client still has not contacted you, call or write VIP, describing your attempts to contact the client. Under most circumstances, VIP will close the case, and another client can be referred to you.

Q: What if my client doesn't have a telephone?

A: Contacting a client who doesn't have a telephone can be challenging. We recommend that you send your client a letter asking the client to call you at a specific time on a specific date and time. After your client reaches you, ask them for the telephone number of a neighbor, relative, and/or employer where you can leave a message if necessary. Another way that you can keep in touch with a client who doesn't have a telephone is to schedule weekly telephone "appointments." (For example, the client would call you every Friday at 1:00 p.m.) By keeping "appointments," you will have the opportunity to communicate information to the client.

Q: What if my client does not keep our appointments?

A: Terminating representation of a client due to his/her failure to cooperate is left up to the discretion of the volunteer. Some clients are simply uncooperative, while other clients have personal problems or mental impairments that interfere with their ability to keep appointments. Address this problem with your client and make it clear that without his/her cooperation you will be unable to help him/her. If, after the discussion, the situation continues, you should contact VIP's Managing Attorney and discuss closing the case.

Q: What if my client doesn't speak English?

A: If you are not fluent in the primary language of your client, VIP can arrange a volunteer to translate. Our pool of volunteers is limited, however, so if you work in a firm, we request that you first draw on your firm's resources. If you are working independently, or your firm is unable to arrange an interpreter, please contact VIP and we will assist you. If the client speaks Spanish, VIP has Spanish-speaking staff members who have already translated many forms into Spanish. It is a good idea to ask your client for the telephone number of a friend, neighbor or relative of the client who can communicate with both of you. If you plan to relay confidential information through the client's interpreter, you should discuss this with your client.

Additional steps must be taken with the Court if your client does not speak English. If a hearing has been scheduled, you should contact the Court to inform the Court that your client will need an interpreter. In addition to the Court's interpreter who interprets the proceedings, you may want to have an interpreter

with you at counsel table, so that you can communicate confidentially with your client during the proceedings. The Court does not provide this interpreter. If you are submitting any documents that are not in English, the documents must be translated and the translation must be certified. VIP can provide information on how to certify the translation.

Q: What if I am fluent in a foreign language and would like to volunteer to interpret for other volunteers?

A: VIP is always in need of volunteers with proficiency in foreign languages. We generally need interpreters who speak Spanish, Russian, French or Vietnamese. Whatever foreign languages you speak, however, please contact VIP because we may have a client who needs your help.

Q: What if there are costs associated with my representation?

A: VIP will cover certain costs only if approval is obtained from VIP before the cost is incurred. The costs encountered most often are:

- Photocopying medical records - You should first write the doctor and/or hospital and request that the fee be waived. If the doctor refuses, you should ask the client if he/she has the money to pay for the expense. If they do not, VIP may pay to obtain the records if VIP approves the cost before it is incurred.
- Filing costs - The client should qualify for In Forma Pauperis (IFP) status. An IFP petition must be filed with the Court. If the client's IFP petition is denied, the client must pay the filing fees unless VIP determines that the denial was unjustified. VIP has copies of IFP petitions and can explain to you the procedure for filing an IFP.
- VIP determines whether or not to cover litigation expenses on a case-by-case basis. If you would like VIP to cover a cost that is not listed above, please contact VIP's Managing Attorney or Executive Director before incurring any expense.

Q: What do I do when my case is finished?

A: You should write a letter to VIP stating the outcome of the case, estimating the number of hours you spent on the case, and indicating whether you are available to take another case. We encourage volunteers to send a closing letter to the client and copy VIP.

Support from VIP

VIP strives to make pro bono service easier for volunteer attorneys by providing support throughout a VIP case. You can always contact VIP staff members with any questions or concerns. We are always here to provide guidance and advice. **We also strongly encourage our volunteers to make use of our mentors for consultation on substantive or procedural legal issues.** Please do not hesitate to contact VIP for referral to a mentor. The VIP staff can be reached at 1500 Walnut Street, Fourth Floor, Philadelphia, PA, 19102, (215) 523-9550, fax (215) 564-0845. Specifically, Todd W. Nothstein is the VIP staff attorney responsible for supporting our family law volunteers. You may contact him directly at:

Todd W. Nothstein
Staff Attorney, Philadelphia VIP
tnothstein@phillyvip.org
215-523-9554

Thank You for Volunteering!

Table of Contents

PROCEDURAL OVERVIEW FOR CUSTODY CASES IN PHILADELPHIA	7
OTHER IMPORTANT NUMBERS AND INFORMATION FOR FAMILY COURT	18
SELECT SECTIONS FROM 23 PA.C.S. CHAPTER 53 CHILD CUSTODY	19
CUSTODY RELATED FORMS.....	25
FAMILY COURT FILING FEES RELATED TO CUSTODY.....	42
STEPS TO ACCESS FAMILY COURT DOCKET ENTRIES.....	43
STEPS TO ACCESS STATE CRIMINAL RECORDS.....	45
HOT TIPS FOR HANDLING CUSTODY CASES.....	46

PROCEDURAL OVERVIEW FOR CUSTODY CASES IN PHILADELPHIA¹

I. STARTING A CUSTODY ACTION

A. STANDING TO SEEK CUSTODY

The requirements regarding standing for any form of physical custody or legal custody are set forth in 23 Pa.C.S. §5324. The requirements regarding standing for partial physical custody and supervised physical custody are outlined in 23 Pa.C.S. § 5325. Standing provisions are summarized here.

- A parent may sue for custody, and a person in loco parentis may sue for custody. In Pennsylvania in loco parentis requires that a person must 1) assume parental duties, and 2) discharge parental duties. See e.g., D.G. and D.G. v. D.B. and G.V., 91 A.3d 706, 708-09 (Pa. Super. Ct. (2014)). Importantly, “The rights and liabilities arising out of an in loco parentis relationship are, as the words imply, exactly the same as between parent and child.” Morgan v. Weiser, 923 A.2d 1183, 1187 (Pa. Super. Ct.2007). A third party may not place oneself in loco parentis in defiance of parental wishes. T.B. v. L.B.M., 786 A.2d 913 (2001).
- Grandparents may have standing to sue for custody even if they are not in loco parentis if their relationship with the child began with the consent of a parent or under court order, assume or are willing to assume responsibility for the child, and at least one of the following is true:
 1. The child has been determined to be dependent;
 2. The child is substantially at risk due to neglect, abuse, drug or alcohol abuse, or incapacity;
 3. The child lived with the grandparent for 12 consecutive months, and was then removed by the parents. Grandparents must file within 6 months of removal.
- Any individual can seek custody when, by clear and convincing evidence, they show:
 1. The Individual has assumed or is willing to assume responsibility for the child; and
 2. The Individual has a sustained, substantial, and sincere interest in the welfare of the child; and
 3. Neither parent has any form of care and control of the child.

Courts will consider the nature, quality, extent, and length of the involvement in a child’s life in determining whether an individual has a sustained, substantial, and sincere interest in the welfare of the child.

This provision does not apply if a dependency proceeding has been initiated, or if there is a permanent custody order resulting from a dependency proceeding.

¹ These materials rely in part on material reprinted with permission from Philadelphia County Domestic Relations Practice, 20th Edition (PBI publication 10028). Copyright 2017, Pennsylvania Bar Institute. All rights reserved. To order the book, please contact PBI customer service at 1-800-932-4637 or visit pbi.org. Credit is further due to the authors of the custody section of the PBI publication, Joseph P. McGill, Michael L. Viola, and Carolyn Moran Zack. These materials were revised for VIP purposes by Staff Attorney, Todd Nothstein Sarah Katz, Esq. for this program.

- 23 Pa. C.S. §5325 also creates standing for grandparents and great-grandparents to seek partial or supervised custody when:
 1. The parent of a child is deceased.
 2. The relationship with the child began with the consent of a parent or under a court order where the parents:
 - a. have commenced a proceeding for custody; and
 - b. do not agree that the grandparents or great-grandparents should have custody.
 3. When the child has, for at least 12 months, resided with the grandparent or great-grandparent, and has subsequently been removed.
 - a. In this situation the third party must file within six months of the child's removal.

B. PREPARING A COMPLAINT OR PETITION TO MODIFY

All custody actions are started by preparing and filing a complaint (if there is no current custody order in place) or a petition to modify (if there is a custody order in place). If you are preparing a petition to modify, you should include reasons why the change in custody is in the best interest of the child. In the case of relocation, the relocation requirements and procedures are set forth in 23 Pa.C.S. § 5337 et seq. and Pa.R.C.P.1915.17. The definition of "relocation" is "a change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights."

The appropriate pleading should be verified by the party and should comport with the form set forth in Pa.R.C.P. 1915.15(a). Copies of the form custody complaint or petition to modify can also be obtained from Philadelphia VIP's website ([Custody Complaint](#), or the website for the First Judicial District (<http://courts.phila.gov/forms/>)). If legal paternity has not previously been established when a putative father files for custody, he must also file a claim of paternity with the complaint for custody (or may need to file a motion to establish paternity, and resolve it, before filing). The definitions for the types of custody are set forth in 23 Pa.C.S. § 5322. In the complaint or petition to modify you should use these terms, and avoid using other popular, but technically inaccurate, terms such as "joint custody" or "visitation."

Due process requires that a parent be given notice of the precise consequences of the litigation; therefore, the content of the prayer for relief is important. For example, a claim for supervised physical custody or partial physical custody cannot be expanded at the hearing to a claim for primary physical custody.

C. FILING COMPLAINT OR PETITION TO MODIFY

There is no e-filing in Philadelphia Family Court. Pleadings must be filed in person or by mail at the Office of the Clerk of the Family Court, 1501 Arch Street - 11th Floor, Philadelphia, PA 19102. Please be sure to include a self-addressed stamped envelope if you file by mail and want copies returned to you. You cannot file by fax. Please note that there is a filing fee for a custody complaint or a petition to modify. Therefore, please be sure to complete and file the [IFP paperwork](#) that is available from Philadelphia VIP when you file the complaint or petition. VIP clients can file *In Forma Pauperis* to avoid filing fees. You will typically need four copies of your filing:

- One original copy for the court; and
- one redacted copy for the court in which all confidential information such as a child's name and address has been visibly redacted; and

- one time-stamped copy for you to serve on the other party; and
- one time stamped party for your records.

If a claim for custody has been raised in divorce pleadings, two extra copies of the divorce complaint or answer and counterclaim must be filed with the Clerk of Family Court. These extra copies are processed in the same way as a custody complaint or petition to modify.

All court filings, including confidential information such as a minor's name and address, must be accompanied by a redacted copy wherein the confidential information is removed in a manner visible to the reader. Please see [204 Pa. Code §213.81](#) for the entire [Case Records Public Access Policy of the Unified Judicial System of Pennsylvania](#).

Service of process is governed by Pa.R.C.P. 1930.4. Questions related to filing can be directed to The office of the Clerk of Family Court at Telephone: (215) 686-3805, 3806; Fax: (215) 686-9308.

D. CRIMINAL CONVICTIONS AND CRIMINAL CHARGES

The court will consider if a party to the action has been convicted of a crime under 23 Pa.C.S. § 5329(a)) or charged with a crime under 23 Pa.C.S. § 5330. The court also must consider the criminal records of all other household members.

Section 5329(c) provides for an initial evaluation to determine if the person who committed these offenses poses a threat to the child and whether counseling is necessary. Where deemed appropriate by the court, that person will be referred by the court for a more detailed forensic evaluation.

Counsel should perform their own checks for criminal histories and be prepared to address that issue at a hearing. Criminal records for the Commonwealth of Pennsylvania can be checked at <http://ujportal.pacourts.us>.

Pursuant to Pa.R.C.P. 1915.3-2 (Criminal or Abuse History), each party is required to complete and file a Criminal Record/Abuse History Verification form when a custody complaint or petition to modify is filed. That form is available on VIP's website. A blank form should be attached to the copy served on the other party. Although the other party need not file a responsive pleading, the responding party is supposed to complete and file the Criminal Record/Abuse History Verification form. This form must be signed by the parties. An attorney cannot sign on a party's behalf.

E. CHILD ABUSE AND INVOLVEMENT WITH CHILDREN AND YOUTH

Pursuant to 23 Pa. C.S.A. §5329.1, the court will also consider whether a party or member of a party's household has a child abuse finding against them pursuant to the Child Protective Services Law 23 Pa. C.S.A. §6301 et seq., or any history of receiving services from Children and Youth Services (known as the Department of Human Service (DHS) in Philadelphia) The court may request to review the DHS file before making any final custody determination.

Counsel should ask their client about any history with DHS, and consider requesting or subpoenaing relevant records if necessary.

II. PROCEEDINGS BEFORE A CUSTODY HEARING OFFICER

All custody cases are assigned to a custody hearing officer for the first listing on any custody matter. Depending on the type of relief sought, the custody hearing officer will hold either a record hearing (see Adm. Reg. 97-2, 4(A)) or conference (see Adm. Reg. 97-2, 4(B)). Generally, record hearings are held on complaints for partial physical custody, complaints for supervised physical custody, and petitions to modify when the ultimate relief is less than a complete change in the custodian of the child. Record hearings are conducted in accordance with the rules of evidence and parties and witnesses are sworn. Conferences are held when an initial complaint seeks primary physical custody, sole physical custody, sole legal custody, or when a petition to modify would result in a complete change in the custodian. If an agreement is not reached at a conference, the matter will be listed for a judge. Counsel should consider conferring with opposing counsel before the hearing begins to see if an agreement can be reached.

If you need the court to enforce the subpoena of a hostile witness, you must serve the witness a red subpoena in advance. Red subpoenas are available from the clerk's office on the 11th floor

HEARINGS:

When there is a dispute over a partial physical custody or supervised physical custody schedule, the matter is initially heard by a custody hearing officer in a record proceeding. The Rules of Evidence and Rules of Civil Procedure will apply. All parties and witnesses are sworn and are subject to direct and cross-examination as well as questioning by the custody hearing officer. Custody hearing officers' events are scheduled in forty-five-minute time slots. If counsel believes that the matter will take more than the time allotted, they are urged to bring this to the assigned hearing officer's attention in writing at the time notice of the listing is received so that an alternate listing may be given, if appropriate.

The decision of the custody hearing officer is issued as a proposed order, along with a report containing findings of fact and conclusions of law. The parties may file exceptions to the hearing officer's proposed order within 20 days after the date of the report. If no exceptions are filed after the expiration of the 20-day period, the proposed order is submitted to the Administrative Judge to be entered as a final order. Please note that exceptions must specifically enumerate the reasons why one is claiming the hearing officer erred in the issuance of the proposed order. Each exception must be set forth in a separate objection and any matters not raised are considered waived. Pa.R.C.P. 1915.4-2(b)(4). Exceptions will be reviewed for whether the hearing officer has made an error of fact or law, or abused their discretion.

If exceptions are filed, the hearing officer's proposed order in a custody action does not become a temporary order pending a hearing on the exceptions. If exceptions are timely filed, the case will be scheduled before the court for a hearing on the exceptions. At that hearing, the Court will entertain argument only, no testimony, as to reasons why the hearing officer allegedly erred or did not err in the issuance of the proposed order.

To prepare for the exceptions hearing, counsel should request a transcript of the hearing. This request, along with IFP documentation is submitted to the custody unit, on the 13th floor of Family Court.

A. CONFERENCES:

Conferences before the custody hearing officer are non-record proceedings with the purpose of trying to settle the case, or if that is not possible, putting the case in order for trial. The custody hearing officer will determine what factors are at issue, i.e., living arrangements, schooling, medical conditions, mental health concerns, drug

or alcohol abuse, physical abuse/endorsement, etc. The custody hearing officer will attempt to assure that there is contact between the child(ren) and both parents/parties pending further hearing, as appropriate to the facts and circumstances of the case. The custody hearing officer may submit for the court's consideration, a recommendation for the entry of an interim order if compelling circumstances exist. In many circumstances, the custody hearing officer may find that the nonexistence of a custody order constitutes a compelling circumstance. After review of the record and the hearing officer's recommendation, the court may issue an interim order in appropriate cases.

The custody hearing officer may also submit proposals to the court for orders that require drug and alcohol testing, home investigations, and counseling, along with an assessment of costs. Requests for paternity tests, even if sought by agreement, must be addressed by motion consistent with Pa.R.C.P. 1930.6.

If counsel believes that a case will be protracted (requiring a full-day trial) or semi-protracted (requiring a half-day trial), then the custody hearing officer will direct counsel to file the appropriate motion within 20 days. At the conclusion of the conference, the custody hearing officer will schedule the case before the next available date before a judge.

III. HEARINGS BEFORE A JUDGE

Hearings before a judge may occur because an agreement was not reached at a hearing officer's conference, because a party has filed exceptions after a hearing officer's hearing, a party has filed a motion, or because a party has filed a petition for contempt. The hearing will be on the record, parties and witnesses will be sworn, and the rules of evidence will apply. If a transcript was made at the hearing officer's level, it is always good practice to obtain a copy. This is essential where the hearing addresses exceptions to a hearing officer's decisions. Counsel should consider conferring with opposing counsel before the hearing to see if an agreement can be reached that may be entered on the record and incorporated into the judge's order.

A. REGULAR AND TRIAL LISTINGS:

All non-protracted matters will be assigned to either a hearing list or a trial list. Hearing list cases are allocated no more than 30 minutes; trial list cases are allocated approximately 1.5 hours. Due to the high volume of custody cases in Philadelphia, it is essential that attorneys be prepared to focus on the most relevant issues (factors set forth in 23 Pa.C.S. § 5328 and 5337(h) if appropriate) and to narrow the disputed issues to the greatest extent possible. Narrowing the disputed issues before a judge usually means focusing on the one or two significant issues that are motivating the moving party to request, for example, that primary physical custody be changed to him or her or confirmed in him or her.

B. PROTRACTED AND SEMI-PROTRACTED MATTERS:

A custody case that will take one day or more to litigate is considered "protracted"; those requiring half a day's time are "semi-protracted." To get a protracted or semi-protracted case listing, one of the parties must file a motion. The motion must set forth in detail the grounds for the request, e.g., number of witnesses, estimated length of time for testimony, complexity of the issues, etc. The motion for protracted listing will be listed for a judicial hearing that counsel must attend. The parties must also appear for the hearing unless the assigned judge specifically excuses their appearance. Although the court may consider an agreement between counsel as to the necessity of an extended hearing, it is not necessarily dispositive.

C. EXCEPTIONS HEARINGS:

If there was a hearing before a hearing officer which resulted in the issuance of a proposed order to which either party filed exceptions, argument will be scheduled before a Judge. At that time, each side will be expected to present oral argument, in support of his or her claim that the hearing officer either erred in the issuance of the proposed order or did not err. Usually, no new testimony is presented at the Exceptions argument. A party may file exceptions to the hearing officer's report, rulings on objections to evidence, findings of facts, or conclusions of law. Pa.R.C.P. 1915.4-2(b)(4). Exceptions will be reviewed to determine whether the hearing officer committed an error of fact or law.

Attorneys should always obtain a copy of the transcript from the hearing officer's hearing before the Exceptions argument. It is always better to request the transcript at the same time that the Exceptions are filed. For low- income parties the costs for the transcripts can be reduced or waived. The form to order a transcript from the Custody Hearing Officer's Unit can be found at this link: https://www.phillyvip.org/wp-content/uploads/2021/08/Notes-of-Testimony-Order-Form_Rev-06_2021.pdf You will want to attach the [IFP paperwork](#) certifying that you are charging no legal fee and the client is proceeding *In Forma Pauperis* (IFP). Following argument, the Judge can grant or deny the exceptions, all or in part, enter a new custody order, or remand the matter back to the custody hearing officer.

D. CONSOLIDATED CASE MANAGEMENT PROGRAM:

Through the Consolidated Case Management Program (CCM), more complicated cases can be consolidated to be heard by the same judge. The Consolidated Case Management (CCM) Program requires the custody action be protracted, complex, and involving multiple motions. Upon motion for CCM, one judge may be appointed to hear all pending petitions, including divorce, custody, and support. In addition, in certain custody cases where there is not a pending divorce action but the custody litigation is determined to be protracted and complex, those custody cases may also be assigned to one specific judge to adjudicate all custody petitions upon motion for CCM. Cases granted CCM status are still listed before the hearing officers in support, custody, and divorce for hearings and conferences.

IV. EXPEDITED CUSTODY RELIEF

A motion for expedited relief may be filed in those cases that do not qualify as custody emergencies, but require judicial intervention on a specific issue prior to a regular listing before a Judge or hearing officer. Expedited relief is not a means to get a faster hearing date. This is not a substitute for the existing custody procedures, but rather it is an additional component of the comprehensive custody program.

These cases are very dependent upon the facts, and may include, but are not limited to, no-access cases, time-sensitive cases, and those cases where there has been a sudden unilateral change in the existing custody arrangement. However, counsel must be mindful that there may be cases in which these same issues present sufficiently exigent circumstances and negative impact upon the best interests of the child in a particular case that emergency relief in that case is warranted instead of expedited relief.

In order to file a motion for expedited relief, there must be an open underlying complaint for custody, petition to modify, or petition for contempt. If one is not open, it **MUST** be filed simultaneously with the filing of a petition for expedited relief on a Monday. There is a form [Motion for Expedited Relief](#) on VIP's website. There is a filing fee for such a motion; therefore, be sure to include a copy of any documents indicating that IFP status has been granted to ensure the filing fee for this petition is waived.

Traditionally, motions for expedited relief must be filed with the Clerk of Family Court. The Clerk of Family Court will ONLY accept these motions for filing on Mondays before 3 pm. If Monday is a court holiday, the Clerk will accept these motions on the Tuesday following the holiday.

At the time of filing, the clerk will issue a rule to show cause for the next available date, consistent with the court's calendar. Such motions are listed before the specially assigned motions judge, usually on a Friday. **Personal service of the rule, motion, and underlying complaint/petition, if not previously served, must be made on the opposing party and/or counsel. An affidavit or acceptance of service must be submitted at the hearing.**

The hearing before the motions judge will be limited in nature and will only address the issues needing expedited judicial intervention. At the conclusion of the hearing, unless all matters are resolved, the date scheduled for the underlying petition will remain.

V. EMERGENCY CUSTODY PETITIONS

The emergency petition is essentially a separate legal pleading that is seeking the relief of having an associated petition classified as an emergency, such that an *ex parte* order and/or expedited hearing of the underlying matter is warranted. Therefore, if there is no outstanding complaint for custody, or modification or contempt petition, counsel must file the associated pleading simultaneously with the emergency petition.

Attorney petitions must be filed with the clerk of Family Court and must include a proposed order and rule to show cause. A custody hearing officer hears an emergency petition for custody, *ex parte*, on the same day that it is filed. The petitioner and his or her attorney should be prepared to take the filed petition to the custody hearing officer assigned to hear emergencies and to present the *ex parte* petition as soon as the custody hearing officer is ready to call the matter for hearing. The petitioner is entitled to emergency relief only if he or she can show that the child is in immediate danger or there is some other exigent circumstance that warrants issuance of emergency *ex parte* relief in order to serve the best interests of the child, pending further proceedings on the underlying petition.

If opposing counsel is known, and circumstances permit, counsel for the petitioner should notify them of an emergency petition before bringing it before the court. If the petition is granted, the court will issue rule to show cause for a hearing within approximately 10 days so that the opposing party may be heard and, in the appropriate case, a temporary *ex parte* order may be entered immediately.

At the conclusion of the hearing on the emergency petition, the emergency custody master submits recommendations that will be reviewed by the designated liaison judge. If the petition is granted, the emergency custody master will recommend that a rule to show cause be signed for a hearing within approximately 10 days so that the opposing party may be heard and, in the appropriate case, will recommend that a temporary *ex parte* order be entered immediately.

VI. PETITIONS FOR CONTEMPT

Failure to follow a custody order may result in a petition for contempt from the non-breaching party. The petition is filed with the clerk of Family Court and should include a copy or the substance of the existing order and the manner in which it has allegedly been breached.

The standard for contempt requires a showing that a party willfully failed to comply with the order. See 23 Pa.C.S. §5323(g). Contempt petitions are scheduled for trial before a judge unless there is another petition pending before a custody hearing officer, in which case the petition for contempt will be listed along with that petition to avoid multiple listings. If a contempt petition is linked with a petition listed before a custody hearing officer, and the case is not settled at the custody hearing officer's level, the custody hearing officer will relist that petition before a judge.

In many instances, where there has been a violation of a custody order, the Court will try to remedy the situation by awarding make-up time to the person who was denied custody. The sanctions that are available to the Court are set forth in 23 Pa.C.S. 5323(g). Please note that these sanctions include the nonrenewal, suspension or denial of a driver's license, although this remedy is used more frequently in support matters. **Please note that modification of the custody schedule is not one of the enumerated remedies.** It is not uncommon, therefore, for a party to file a Petition to Modify at the same time as a Petition for Contempt so that the Court has the authority to modify a custody schedule at the same time as it makes an adjudication regarding contempt.

VII. PETITIONS FOR SPECIAL RELIEF

Pursuant to Pa. R.C.P. 1915.13 or Pa. R.C.P. 1915.4(e), a petition for special relief can be filed. These should be reserved for when there is a specific issue that needs to be resolved, for example a determination of school choice. The motion is similar in format to the Motion for Expedited Relief described above, but can be filed on any day with the Clerk of Court. A hearing on a Petition for Special Relief is an evidentiary hearing before a Judge.

VIII. PRESENCE OF CHILDREN AT COURT PROCEEDINGS

A. BEFORE A CUSTODY HEARING OFFICER:

Children are **not permitted** to appear before the custody hearing officer unless one party specifically wishes them to testify. In that event, counsel must request permission from the custody hearing officer in writing prior to the hearing date and should advise the other side of their request to have the child(ren) testify at the hearing before the custody hearing officer. Custody hearing officer interviews with children are on the record, in the presence of counsel, and are usually handled without parties being present. Typically, the hearing officer does the questioning, but will accept questions from counsel in advance; the custody hearing officer may also permit counsel to ask questions directly.

B. BEFORE A JUDGE:

Children are **required** to attend judicial custody hearings unless specifically excused by the judge. A party appearing with a young child must first check in with the clerk outside the courtroom, before proceeding to the children's waiting area to wait with the child until called back to the courtroom when the case is ready to be called for the hearing.

The testimony of children is recorded and presented before the judge and counsel. The judge has the discretion to permit the parties to either be present or excluded when the children testify. Each judge conducts examination of children in a slightly different manner. For the most part,

Counsel will be allowed to ask questions of the children only after the judge has finished. Often, a judge will require that counsels' questions be submitted to the judge in writing and be asked by the judge.

IX. ENTERING AGREED ORDERS

When parties reach an agreement outside of a scheduled court proceeding, it must be embodied in a written form, titled "Stipulation for Agreed Order of Custody." The stipulation must include identifying information about the litigants and children involved, including names, residences, and dates of birth of the children.

Partial physical custody and supervised physical custody schedules should be spelled out in as much detail as is necessary. Both parties must sign and date the stipulation. The stipulation must be attached to a form order "approving and adopting the attached stipulation as the Order of the Court, including the date of signing of the stipulation." The stipulation must include the following notification language regarding the relocation statute and rule:

NOTICE OF INTENT TO RELOCATE: NO PARTY MAY MAKE A CHANGE IN THE RESIDENCE OF ANY CHILD THAT SIGNIFICANTLY IMPAIRS THE ABILITY OF ANY PARTY TO EXERCISE CUSTODIAL RIGHTS WITHOUT FIRST COMPLYING WITH ALL THE APPLICABLE PROVISIONS OF 23 PA.C.S. § 5337 AND PA.R.C.P. NO. 1915.17 REGARDING RELOCATION.

See [Amended Family Court Adm. Reg. 93-5](#), Requirements for Custody Stipulations, for the exact requirements that are strictly enforced. If an agreement is reached after a hearing officer's event, the agreement should be filed with the [Praecepto to Transmit Custody Stipulation](#), which is available on VIP's website.

Traditionally, the original and five copies of the signed stipulation and proposed order have been filed with the clerk of Family Court. Once signed by a judge, copies will be sent to the parties and counsel.

If an agreement is reached before a custody complaint is even filed, the agreement should be attached to the complaint. In addition, a [Domestic Relations information sheet](#) must be completed and submitted to the clerk of Family Court with the complaint.

X. CONTINUANCES

The continuance policy for the Domestic Relations Division is set forth in Administrative Regulation 02-02. The court generally wants to discourage continuances due to the huge number of cases in the system that are scheduled on any given day. The Domestic Relations Division's policy is as follows:

FAMILY COURT DIVISION ADMINISTRATIVE REGULATION #02-02 CONTINUANCE POLICY - DOMESTIC RELATIONS DIVISION

EFFECTIVE IMMEDIATELY, the Domestic Relations Division institutes the following policy relating to continuance requests:

(1) Continuances shall be granted only for good cause shown, and agreements to continue the matter by the parties or counsel are not sufficient to stay the provisions of this Administrative Regulation.

(2) A continuance request by an attorney for a case will only be considered if the attorney has already filed a formal entry of appearance in the case.

(3) Except as otherwise provided by this Administrative Regulation, all requests for continuance must be submitted in writing and within ten (10) calendar days from the date that the notices for the proceeding were served. If the scheduled event is a courtroom proceeding the request must be submitted to the presiding judge; if the scheduled event is not a courtroom proceeding, the request must be submitted to the supervisor of the presiding quasi-judicial officer. The addresses and fax numbers for all judges and operational units within the Domestic Relations Division are available on its internet website at: <http://courts.phila.gov/cpfd.html>.

(4) If a continuance request is based on an emergency and/or other unanticipated situation, the request must be submitted in writing to the presiding judge or the supervisor of the presiding quasi-judicial officer within twenty-four (24) hours from the time that the party or attorney becomes aware of, or should have become aware of the situation, and at least twenty-four (24) hours prior to the proceeding, if possible. of a party to retain counsel in a timely fashion shall not constitute an emergency and/or unanticipated situation.

(5) All continuance requests must specify the reason therefor and include documentation, to the extent possible, and all opposing parties and/or counsel must be copied with said request.

(6) In order for the court or supervisor to accurately and easily identify the specific event for which the continuance is being requested, the request must include the caption of the case, the names of the parties and presiding officer, the Matter pending, the date, time and place of the scheduled event, the position of the opposing parties or counsel with regard to the continuance request, and a copy scheduling notice if a time conflict is alleged.

(7) Unless the party or attorney requesting the continuance receives approval of the continuance by the court or appropriate supervisor, the event shall proceed as scheduled. If either party fails to appear for the scheduled event, and a continuance request has not been approved, the underlying petition, complaint, motion, or other pleading may be disposed by the court or presiding officer under applicable law.

(8) Filing advance notices of unavailability with the Clerk of Family Court will only prevent an attorney from being scheduled on unavailable dates in custody, divorce, and protection from abuse cases in which the attorney has entered an appearance. The Pennsylvania Child Support Enforcement System (PACSES) on which support cases are administered does not have the ability to prevent scheduling an attorney for a support proceeding, notwithstanding that the attorney has previously filed a notice of unavailability with the Clerk of Family Court. Therefore, any attorney of record in a support case who receives a notice for a proceeding on a date that the attorney had previously filed as unavailable, must submit a request for continuance in accordance with this Administrative Regulation within ten (10) calendar days from the date that the notice for the proceeding was served, and include a copy of the letter of unavailability that had been filed with the Clerk of Family Court.

(9) This Administrative Regulation specifically supersedes Family Court Administrative Regulation #00-04, which is hereby RESCINDED. Date: Honorable Myrna P. Field Administrative Judge Family Court Division

XI. OTHER MOTIONS AND PETITIONS

At any time, either side can file a Petition or Motion seeking some legal remedy ancillary to the underlying custody action. Such petitions and motions are usually scheduled for a hearing before the appropriate Motion Judge, who may or may not be the judge assigned to hear the custody case.

A. DISCOVERY

Discovery in a custody action will not be permitted without prior authorization from the court. See Pa.R.C.P. 1930.5. Although discovery requests in a custody case are not common, petitions for discovery or other interim matters may be filed with the clerk of Family Court and will be listed before the appropriate judge

for argument.

B. MENTAL HEALTH ASSESSMENTS, HOME STUDIES, AND COUNSELING

In cases being listed for trial, mental health assessments (MHAs), home studies, and counseling of individuals involved in the cases may be ordered *sua sponte* by the court, or upon oral or written motion of a party. The motion should explain precisely why the MHAs, home studies, and/or counseling are necessary. Any reports that are generated by MHAs or home studies will be in the Court's record only. Counsel for the parties can make arrangements to review these reports in the Court record. Generally, counsel will contact chambers to view such reports.

1. Mental Health Assessments:

Pa.R.C.P. 1915.8 provides for "physical and mental examinations of persons." In Philadelphia, the court only provides MHAs. The court psychologist conducts them in the Custody Masters Unit of the Domestic Relations Branch. The assessments last approximately one hour, and result in written reports. The reports usually consist of a detailed social background about the interviewee, his or her views about the pending custody litigation and the opponent, and an assessment by the court psychologist. Permission must be obtained from the presiding judge to view an MHA report. The MHA reports may be reviewed in advance of the hearing in the courthouse, but may not be reproduced or disseminated.

2. Home Studies:

Home studies are conducted by probation officers who work for the Custody Masters Unit. There are basically three types of home studies: (1) a site inspection only, (2) an in-depth study, and (3) a modified study. The officers go to the parties' homes and inspect them for cleanliness, safety, and overall appropriateness, given the age of the children involved. The officer will also interview the parties at length for in-depth studies. A report of the visit is forwarded to the custody file.

3. Counseling

Counseling for the parties involved in custody proceedings may be ordered by the court on its own motion, when requested by either party, or upon recommendation by the custody hearing officer. The purpose of the counseling is not reconciliation of the parties, but to facilitate communication between the parties in handling their disputes regarding the issues in their custody case in the manner that is least detrimental to the children.

XII. INTERRELATED ISSUES

A. DEPENDENCY ISSUES

If the Domestic Relations court in a custody case becomes aware that there is also an active dependency case involving the same child(ren), the court will enter an administrative order either consolidating the custody case with the dependency petition(s) and transferring the custody case to the Juvenile Branch of Family Court, or stay further proceedings on the custody petition until the dependency case has been resolved. No further action can be taken in Domestic Relations until the dependency case is closed. Upon closure of the dependency case, the judge in dependency court may enter a custody order and, if necessary, refer the case to Domestic Relations to schedule a hearing.

If the dependency case resolves with an entry of an order for permanent legal custody (PLC), the dependency case is closed, the case is transferred to Domestic Relations, and all future filings involving partial or

supervised physical custody will be adjudicated in the Domestic Relations Branch. These cases are given a case identification number beginning with the letters "SG." For SG cases where a parent files a petition to modify seeking primary physical custody, the court interprets this petition as a Motion to Vacate the Permanent Legal Custody order, and the case is referred to Dependency Court for a hearing before a judge at 1501 Arch Street.

B. SUPPORT ISSUES

In appropriate cases, a request for a temporary support order might be entertained by a judge hearing a custody claim. This is particularly true where the petitioner in the custody litigation has repeatedly failed to appear for support conferences or hearings. If no support action has been filed, however, the court may well refuse to entertain a request for a temporary support order. By contrast, the Pennsylvania Rules of Civil Procedure specifically authorize the court to enter a custody order if the issue is raised during the course of a support action.

If a custody agreement is reached at a custody hearing officer's hearing or conference and the custody hearing officer determines that there is a pending support complaint or petition that does not involve welfare, the custody hearing officer asks the parties whether they have also reached a support agreement. If there is a support agreement, the parties are walked over to a conference officer, who will generate the agreement on PACSES, have the parties execute the agreement, and submit the support agreement for judicial approval. The custody conference officer cannot negotiate a support agreement.

XIII. SUPERVISED PHYSICAL CUSTODY

When no suitable alternatives are available, the court may order (or the parties may agree) that one party will have only supervised physical custody with the child for a designated period on Sundays in the court nursery at 1501 Arch Street. During Sunday visitations, the nursery is staffed by regular court employees and armed security officers. Custodial parents are not allowed to remain in the nursery during the visitation period after the visiting parent arrives. **The court nursery has been closed since March 2020 due to the COVID-19 pandemic. We await new information on the re-opening of the nursery as of the date of this manual.**

OTHER IMPORTANT NUMBERS AND INFORMATION FOR FAMILY COURT

Intake Unit: This unit provides intake services on behalf of *pro se* clients in the following areas: Support, Custody, and Interstate Support filings.

Irene Yocum, Supervisor 1501
Arch Street - 8th Floor
Philadelphia, PA 19102
Telephone: (215) 686-9106

All attorney prepared complaints and petitions **MUST** be filed with the Clerk of the Family Court.

Clerk of the Family Court: This is the location where ALL family court documents are to be filed for any Domestic Relations matter. The Office of the Clerk of the Family is opened from 8 am to 4 pm, Mondays through Fridays. There are no weekend hours, and there is currently no electronic filing in Family Court. **But as noted throughout this manual, filing email is available during COVID-19 restrictions.**

1501 Arch Street - 11th Floor
Philadelphia, PA 19102
Telephone: (215) 686-3805, 3806
Fax: (215) 686-9308

Custody Hearing Officer's Unit: The address, phone number, and fax number for the custody hearing officers are the same for all of the hearing officers:

Custody Hearing Officer's Unit
1501 Arch Street - 13th Floor
Philadelphia, Pa 19102
Telephone: (215) 686-9208
Fax: (215) 686-9286

Home Investigations: Custody Probation Officers conduct home investigations (ordered by the Court) upon the Court's own motion or motion of parties or counsel. There is a \$200.00 fee for each home investigation, unless waived by the Court through the *In Forma Pauperis* process. Home Investigations are not conducted until the fee is paid or waived.

Home Investigations
Joseph White, Probation Officer
1501 Arch Street - 13th Floor
Philadelphia, PA 19102
Telephone: (215) 686-9287 or 9288
Fax: (215) 686-9286

Mental Health Assessments: The Court may order mental Health Assessments (MHA's) in custody cases for one or both parties and for the children upon the Court's own motion or upon motion of the parties or counsel. Mental health assessments are conducted by Family Court psychologists at 1501 Arch Street, 13th Floor. For scheduling or further information, contact (215) 686-9208. There is a \$200.00 per person fee for all Mental Health Assessments, unless waived by the Court via the *In Forma Pauperis* process. Mental health assessments will not be conducted unless the fee is paid or waived by the Court.

NOTE: All fees for home investigations and mental health assessments are to be paid by certified check or money order, drawn to the order of the "Prothonotary," and are to be paid with the Cashier, located on the 11th Floor at 1501 Arch Street. Personal checks are NOT accepted; attorney checks are accepted.

SELECT SECTIONS FROM 23 PA.C.S. CHAPTER 53 CHILD CUSTODY

The statutory law with regard to custody can be found in Title 23 Domestic Relations, Chapter 53, starting at §5321.

Set forth below are some sections that may come into play when trying a custody case. Volunteers are encouraged to review the other sections of Chapter 53 as well as the relevant Rules of Civil Procedure (Pa.R.C.P. 1915.1 through 1915.25).

§ 5328 Factors to consider when awarding custody

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the

child, including the following:

- (1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.
 - (2) The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.
 - (2.1) The information set forth in section 5329.1(a)(1) and (2) (relating to consideration of child abuse and involvement with protective services).
 - (3) The parental duties performed by each party on behalf of 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 sibling relationships.
 - (7) The well-reasoned preference of the child, based on the child's maturity and judgment.
 - (8) The 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) The proximity of the residences of the parties.
 - (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
 - (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.
- (b) Gender neutral.--In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter.

(c) Grandparents and great-grandparents.--

(1) In ordering partial physical custody or supervised physical custody to a party who has standing under section 5325(1) or (2) (relating to standing for partial physical custody and supervised physical custody), the court shall consider the following:

- (i) the amount of personal contact between the child and the party prior to the filing of the action;
- (ii) whether the award interferes with any parent-child relationship; and
- (iii) whether the award is in the best interest of the child.

(2) In ordering partial physical custody or supervised physical custody to a parent's parent or grandparent who has standing under section 5325(3), the court shall consider whether the award:

- (i) interferes with any parent-child relationship; and
- (ii) is in the best interest of the child.

§ 5329 Consideration of criminal conviction

(a) Offenses.--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that parent when considering the following offenses:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2706 (relating to terroristic threats).

18 Pa.C.S. § 2709.1 (relating to stalking).

18 Pa.C.S. § 2901 (relating to kidnapping).

18 Pa.C.S. § 2902 (relating to unlawful restraint).

18 Pa.C.S. § 2903 (relating to false imprisonment).

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).
18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
18 Pa.C.S. § 3126 (relating to indecent assault).
18 Pa.C.S. § 3127 (relating to indecent exposure).
18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).
18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).
18 Pa.C.S. § 3301 (relating to arson and related offenses).
18 Pa.C.S. § 4302 (relating to incest).
18 Pa.C.S. § 4303 (relating to concealing death of child).
18 Pa.C.S. § 4304 (relating to endangering welfare of children).
18 Pa.C.S. § 4305 (relating to dealing in infant children).
18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses).
18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances).
18 Pa.C.S. § 6301 (relating to corruption of minors).
18 Pa.C.S. § 6312 (relating to sexual abuse of children).
18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
Section 6114 (relating to contempt for violation of order or agreement).

The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).

75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

Section 13(a)(1) of the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

(b) Parent convicted of murder.--No court shall award custody, partial custody or supervised physical custody to a parent who has been convicted of murder under 18 Pa.C.S. § 2502(a) (relating to murder) of the other parent of the child who is the subject of the order unless the child is of suitable age and consents to the order.

(c) Initial evaluation.--At the initial in-person contact with the court, the judge, conference officer or other appointed individual shall perform an initial evaluation to determine whether the party or household member who committed an offense under subsection (a) poses a threat to the child and whether counseling is necessary. The initial evaluation shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary.

(d) Counseling.--

(1) Where the court determines under subsection (c) that counseling is necessary, it shall appoint a qualified professional specializing in treatment relating to the particular offense to provide counseling to the offending individual.

(2) Counseling may include a program of treatment or individual therapy designed to rehabilitate the offending individual which addresses, but is not limited to, issues regarding physical and sexual abuse, the psychology of the offender and the effects of the offense on the victim.

(e) Subsequent evaluation.--

(1) At any time during or subsequent to the counseling under subsection (d), the court may require another evaluation to determine whether further counseling is necessary.

(2) If the court awards custody to a party who committed an offense under subsection (a) or who shares a household with an individual who committed an offense under subsection (a), the court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation, the court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.

(f) Costs.--The court may order a party to pay all or part of the costs of the counseling and evaluations under this section.

§ 5329.1. Consideration of child abuse and involvement with protective services.

(a) Information sharing.--In accordance with section 6340(a)(5.1) (relating to release of information in confidential reports), where a party seeks any form of custody, subject to the examination of the parties, the court shall determine:

(1) With respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63:

(i) Whether the child is the subject of an indicated or founded report of child abuse.
(ii) Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse.

(iii) The date and circumstances of the child abuse.

(iv) The jurisdiction where the child abuse investigation took place.

(2) With respect to child protective services or general protective services under Chapter 63:

- (i) Whether a party or a member of a party's household has been provided services.
- (ii) The type of services provided.
- (iii) The circumstances surrounding the provision of services.
- (iv) The status of services.
- (v) The date the services were provided.
- (vi) The jurisdiction where the services were provided.

(b) Cooperation.--The following apply:

- (1) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the court and assist the court in fulfilling its duties under this section.
- (2) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the governing authority in order to implement the provisions of this section.
- (3) The governing authority shall develop procedures to implement the provisions of this section.
- (4) As used in this subsection, the term "governing authority" shall have the meaning given to it in 42 Pa.C.S. §102 (relating to definitions).

§ 5337 Relocation

(h) Relocation factors.--In determining whether to grant a proposed relocation, the court shall consider the following factors, giving weighted consideration to those factors which affect the safety of the child:

- (1) The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the nonrelocating party, siblings and other significant persons in the child's life.
- (2) The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.
- (3) The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.
- (4) The child's preference, taking into consideration the age and maturity of the child.
- (5) Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party.

(6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity.

(7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity.

(8) The reasons and motivation of each party for seeking or opposing the relocation.

(9) The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.

(10) Any other factor affecting the best interest of the child.

CUSTODY RELATED FORMS

I. Available from [Court's website](#):

The Court's forms are all in PDF format. They have been prepared for pro se litigants to prepare and file with the Court. Therefore, they usually contain instructions.

- Complaint for Custody
- Petition to Modify Custody
- Exceptions to recommendation of Custody Master
- Petition for emergency relief - Custody
- Petition for expedited relief - Custody
- Motion for a Home Investigation
- Motion for a Mental Health Assessment (MHA)
- Petition for Contempt of Custody
- Motion for a Protracted Custody Hearing
- Certificate of Service
- Petition to proceed in Forma Pauperis (IFP)
- Motion Cover Sheet
- Petition for Reconsideration of Custody Order
- Domestic Relations Information Sheet

II. Forms Mentioned in this Manual

The forms that appear here can be downloaded from [VIP's website](#). If you have any questions about forms, please contact VIP.

A. COMPLAINT FOR CUSTODY

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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

COMPLAINT FOR CUSTODY

1. The plaintiff (name) _____
resides at (street, city, state, zip) _____
2. The defendant (name) _____
resides at (street, city, state, zip) _____
3. Plaintiff seeks custody of the following child(ren):
Name: _____ DOB: _____
Address: _____
Name: _____ DOB: _____
Address: _____
Name: _____ DOB: _____
Address: _____
Name: _____ DOB: _____
Address: _____
4. During the past five years, the child(ren) has/have resided with the following persons and at the following addresses: _____

5. The parents of the child(ren) are:
Name: _____

Address currently residing at _____

Name: _____

Address currently residing at _____

6. The relationship of plaintiff to the child(ren) is that of _____

7. The plaintiff currently resides with the following person/s: _____

8. The relationship of defendant to the child(ren) is that of _____

9. The defendant currently resides with the following person/s: _____

10. The plaintiff (circle one) **has or has not** participated as a party or witness or in another capacity in other litigation concerning the custody of the child(ren) or knows information of a custody proceeding concerning the child(ren) in this or another court. The court, term and number, and its relationship to this action is:

11. Plaintiff (circle one) **knows or does not know** of a person not a party to the proceedings who has physical custody of the child(ren) or claims to have custody rights with respect to the child(ren). The name and address of such person(s) is: _____

12. The best interest of the child(ren) will be served by granting the relief requested because _____

13. Plaintiff requests the court to grant plaintiff (circle all types of custody requested)

physical custody:

- sole
- primary
- shared
- partial
- supervised

legal custody:

- sole
- shared

of the child(ren).

WHEREFORE, plaintiff requests the court to grant this petition.

Date _____

Plaintiff

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date _____

B. PETITION TO MODIFY CUSTODY

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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

PETITION FOR MODIFICATION OF A CUSTODY ORDER

- The petition of (name) _____ respectfully represents that on _____, 20__ , an Order of Court was entered for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody), a true and correct copy of which is attached.
- This Order should be modified because: _____

- Petitioner has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

WHEREFORE, Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child(ren).

Date _____ (Attorney for Petitioner) (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 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date _____
Petitioner

C. DOMESTIC RELATIONS INFORMATION SHEET

DOMESTIC RELATIONS INFORMATION SHEET			Date:	Case ID No.
INFORMATION ON FATHER OF CHILDREN OR HUSBAND				
First Name	Middle Initial	Last Name	Alias (If any)	

Mailing Address: City, State & Zip Code				Residential Address (If different from mailing)			
Home Phone No.		Cell No.		Work Phone No.		E-Mail Address	
Date of Birth:			Social Security No.			DPW No.	
Height:	Weight:	Race:	Hair:	Eyes:		Distinguishing Features:	
Primary Language:				Interpreter Needed: YES / NO			
Place of Employment:			Occupation:		Medical Insurance Carrier Name, Address		
Policy No.		Children Covered? Yes / No		Attorney's Name and Address			
Salary \$ _____ per _____				Attorney ID No.		Attorney Phone No.	
INFORMATION ON MOTHER OF CHILDREN OR WIFE							
First Name			Middle Initial	Last Name		Alias (If any)	
Mailing Address: City, State & Zip Code				Residential Address (If different from mailing)			
Home Phone No.		Cell No.		Work Phone No.		E-Mail Address	
Date of Birth:			Social Security No.			DPW No.	
Height:	Weight:	Race:	Hair:	Eyes:		Distinguishing Features:	
Primary Language:				Interpreter Needed: YES / NO			
Place of Employment:			Occupation:		Medical Insurance Carrier Name, Address		
Policy No.		Children Covered? Yes / No		Attorney's Name and Address			
Salary \$ _____ per _____				Attorney ID No.		Attorney Phone No.	
INFORMATION IF THERE IS A CLAIM FOR SUPPORT							
Receiving Assistance? Yes / No		DPW No.		District Address		Semi-Monthly Grant Amount \$	No. of People in House Hold
Parties Ever Married? Yes / No		Marriage Date	Place		Separation Date	Divorce Date	Place
Maternal Grandmother's Maiden Name				Maternal Grandfather's Name			

INFORMATION ON CARETAKER OF CHILD(REN) OTHER THAN PARENTS (IF ANY)							
First Name			Middle Initial		Last Name	Alias (If any)	
Mailing Address: City, State & Zip Code				Residential Address (If different from mailing)			
Home Phone No.		Cell No.	Work Phone No.		E-Mail Address		
Date of Birth:		Social Security No.			DPW No.		
Height:	Weight:	Race:	Hair:	Eyes:	Distinguishing Features:		
Primary Language:			Interpreter Needed: YES / NO				
Place of Employment:		Occupation:		Medical Insurance Carrier Name, Address			
Policy No.		Children Covered? Yes / No		Attorney's Name and Address			
Salary \$ _____ per _____			Attorney ID No.		Attorney Phone No.		
INFORMATION ON CHILD(REN)							
First Name			Middle Initial		Last Name	Sex	Date of Birth
Social Security No.			Place of Birth City/State		Active on Cash Assistance? Yes / No		
Father Listed on Birth Certificate Yes / No		Born Out of Wed Lock Yes / No		Was Paternity Established Yes / No		Date of Paternity Establishment	
First Name			Middle Initial		Last Name	Sex	Date of Birth
Social Security No.			Place of Birth City/State		Active on Cash Assistance? Yes / No		
Father Listed on Birth Certificate Yes / No		Born Out of Wed Lock Yes / No		Was Paternity Established Yes / No		Date of Paternity Establishment	
First Name			Middle Initial		Last Name	Sex	Date of Birth
Social Security No.			Place of Birth City/State		Active on Cash Assistance? Yes / No		
Father Listed on Birth Certificate Yes / No		Born Out of Wed Lock Yes / No		Was Paternity Established Yes / No		Date of Paternity Establishment	
First Name			Middle Initial		Last Name	Sex	Date of Birth
Social Security No.			Place of Birth City/State		Active on Cash Assistance? Yes / No		
Father Listed on Birth Certificate Yes / No		Born Out of Wed Lock Yes / No		Was Paternity Established Yes / No		Date of Paternity Establishment	

D. CRIMINAL RECORD/ ABUSE HISTORY VERIFICATION

[LAW FIRM]

BY: [ATTORNEY NAME]

Attorney I.D. # ?

[ATTORNEY ADDRESS]

Suite 1845

Philadelphia, PA [ZIP]

[ATTORNEY PHONE]

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY, PENNSYLVANIA
CIVIL ACTION _____

v.

NO. _____

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

I, _____, hereby swear or affirm, subject to penalties
of law including 18 Pa.C.S. §4904 relating to unsworn falsification to
authorities that: _____

1. Unless indicated by my checking the box next to a crime
below, neither I nor any other of my household have been convicted or
pled guilty or pled no contest or was adjudicated delinquent where the
record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S.
§6307 to any of the following crimes in Pennsylvania or a

substantially equivalent crime in any other jurisdiction, including pending charges:

<u>Check all that apply</u>	<u>Crime</u>	<u>Self</u>	<u>Other household member</u>	<u>Date of Conviction, guilty plea, no contest plea or pending charges</u>	<u>Sentence</u>
<input type="checkbox"/>	18 Pa.C.S. Ch 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2901 (relating to kidnapping)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2902 (relating to unlawful restraint)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2903 (relating to false imprisonment)	<input type="checkbox"/>	<input type="checkbox"/>	-	-
<input type="checkbox"/>	18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure)	<input type="checkbox"/>	<input type="checkbox"/>	-	-

<input type="checkbox"/>	18 Pa.C.S. §3121 (relating to rape)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3122.1 (relating to statutory sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3124.1 (relating to sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3125 (relating to aggravated indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3126 (relating to indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3127 (relating to indecent exposure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3129 (relating to sexual intercourse with animal)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3130 (relating to conduct relating to sex offenders)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3301 (relating to arson and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §4302 (relating to incest)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<input type="checkbox"/>	18 Pa.C.S. §4303 (relating to concealing death of child)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §4304 (relating to endangering welfare of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §4305 (relating to dealing in infant children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §6301 (relating to corruption of minors)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §6312 (relating to sexual abuse of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-
<input type="checkbox"/>	18 Pa.C.S. §6320 (relating to sexual exploitation of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
				-	-

<input type="checkbox"/>	23 Pa.C.S. §6114 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug device	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct including the following:

Check all that apply		Self	Other household member	Date
<input type="checkbox"/>	A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____

<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
--------------------------	--------------	--------------------------	--------------------------	-------

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child:

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to t best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §49904 relating to unsworn falsification to authorities.

 [NAME OF PARTY]
 Plaintiff/Defendant

 Date

E. PRAECIPE TO PROCEED IN FORMA PAUPERIS (IFP)

BY: [ATTORNEY], Esquire
Attorney for Petitioner
Attorney I.D. No. [NUMBER]
[ATTORNEY'S ADDRESS]
[ATTORNEY'S CITY, STATE ZIP]
[ATTORNEY'S PHONE NUMBER]

**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY, PENNSYLVANIA
FAMILY COURT DIVISION**

	_____ Term, 2010 No. _____
--	-----------------------------------

PRAECIPE TO PROCEED IN FORMA PAUPERIS

TO THE PROTHONOTARY:

Kindly allow [PETITIONER], Petitioner, to proceed *in forma pauperis*. I, [ATTORNEY'S NAME], Attorney for the Petitioner, hereby certify that I believe the Petitioner is unable to pay the costs and that I am providing free legal services to the Petitioner through Philadelphia VIP.

Pursuant to the amendment to Pennsylvania Rule of Civil Procedure 240, an Affidavit from the Petitioner is no longer required.

Respectfully submitted,

Dated: [DATE]

[ATTORNEY'S NAME]
[ATTORNEY'S FIRM]
Attorney for Petitioner

BY: [ATTORNEY], Esquire

Attorney for Petitioner

Attorney I.D. No. [NUMBER]

[ATTORNEY'S ADDRESS]

[ATTORNEY'S CITY, STATE ZIP]

[ATTORNEY'S PHONE NUMBER]

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

FAMILY COURT DIVISION

	<p>_____ Term, 2010</p> <p>No. _____</p>
--	--

ORDER

AND NOW, this _____ day of _____, 2010, upon consideration of Petitioner's Petition to Proceed In Forma Pauperis, it is hereby ORDERED that the Petitioner be excused from payment of the filing fee in this matter in consideration of [ATTORNEY]'s representation to the Court that Petitioner meets the income eligibility requirement and counsel is serving pro bono.

J.

F. EXCEPTIONS TO REPORT OF CUSTODY MASTER

THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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

CUSTODY EXCEPTIONS

I, _____, Esquire, am counsel for _____, the
Plaintiff/Defendant in this case. There was a hearing before Master _____ on
_____, 20__ which resulted in a Proposed Order of Custody that was entered on
_____, 20__. My client disagrees with the Proposed Order that was entered.
The last day to file Exceptions is _____, _____, 20__.

My client disagrees with the Proposed Order for the following reasons:

Respectfully submitted:

Attorney for Plaintiff/Defendant
Firm Name
Address
Phone number

Date: _____

G. MOTION FOR EXPEDITED RELIEF

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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

MOTION FOR EXPEDITED RELIEF—CUSTODY

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

2. Respondent (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 DATES OF BIRTH(S) OF CHILD(REN).

4. Respondent's relationship to the child(ren) is _____
5. CIRCLE ONE:
A. No custody order exists concerning these children.
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 expedited 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 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Petitioner

FAMILY COURT FILING FEES RELATED TO CUSTODY

(effective January, 2021)

1.	First Filing: Custody, Partial Custody, or Visitation	\$107.13
2.	Respondent's First Responsive Filing	\$ 36.74
3.	Subsequent Custody Petitions or Motions (This includes all petitions and motions, including petitions to modify, emergency petitions, petition for expedited relief, motions for protracted listing, etc.)	\$ 42.68
4.	Custody Certifications	\$ 41.58
5.	Home Investigation	\$200.00
6.	Psychological Evaluation (MHA)	\$200.00

Many of these fees can be waived through the filing of the appropriate IFP paperwork or at the direction of the Court.

STEPS TO ACCESS FAMILY COURT DOCKET ENTRIES

1. Go to <http://courts.phila.gov/>
2. Pull down the <Search Court Records > list and click on <Divorce, Custody, and Protection from Abuse Dockets>
3. If you already have a Username for electronic filing, enter your Username, Password, and Pin and proceed to Step 4; if you do not have a Username for electronic filing, go to Step 10.
4. Click on <Civil/Orphan's E-filing>
5. Review the Disclaimer and then click <Accept>.
6. Click on <My Family Court cases> to see all of the cases in Family Court where you are the attorney of record; if you are not the attorney of record, the case will not appear on the list.
7. Enter the name of a party in the box marked "Caption" and click <Submit> or enter the Case ID and click <submit>
(N.B. for custody and domestic violence cases, you would enter the numbers and letters as indicated in the caption. However, for divorce cases you need to convert the Court Term and Number. The format for most divorce cases is D[last 2 digits for the year the case was filed][the number of the month that it was filed][the last 4 digits of the number assigned to the case. For example if the case is assigned November Term 2014 No. 009999, you would enter D14119999)
8. Click the link for the docket entries which you want to review.
9. Click <Log off> when you are done.
10. If you do not have a Username, click on <To Apply for a User Name, Click here>
11. The first "Create Username" screen will ask if you are an attorney licensed to practice in Pennsylvania.
12. Enter your "PA Attorney Number" (Do not include leading zeros), and your "Date of Birth".
13. If you receive the message "The attorney number and date of birth did not match our records!" click the link to update your Attorney information.
14. Your email application will open and an email will be pre-addressed to efsupport@courts.phila.gov. Provide the requested information: Name, Attorney ID, Date of Birth, Address, Email Address, Telephone Number and Fax Number. Click <Send>.

15. Upon receipt of the email, the Prothonotary will update the database and you will be sent an email advising you to return to the Apply for User Name screen and continue the User Name application process.

16. The main “Create New User Name” screen requires you to complete all pertinent information and then click the “Submit” button. You will receive electronic confirmation that your request was received and your User Name, Password and PIN will be sent to the email address you provided.

17. If you do not received your User Name, Password and PIN within 30 minutes of your submission request, the most likely culprit is a Spam filter, most likely installed by your Internet Service Provider or your network administrator, which intercepts this email. The email may be sent to your “Trash” or similar email folder.

18. Once you are able to successfully log in, you will get to a disclaimer screen. Click <I accept>.

19. Click on <My Family Court cases> to see all of the cases in Family Court where you are the attorney of record.

STEPS TO ACCESS STATE CRIMINAL RECORDS

1. Go to the First Judicial District's website (<http://courts.phila.gov/>).
2. Under Search Court Records, click on "Search Criminal Dockets".
3. Select "Participant Name" as the Search Type.
4. Enter OP's last name and first name on the lines indicated.
5. Select "Criminal" for the Docket type.
6. After you hit "search", you will get a listing of all of the active and closed cases involving people with this name.
7. Locate the listing for the person for whom you are checking for criminal records - having a valid birth date helps narrow things down.
8. Move your cursor over the icon of the magnifying glass and select Court Summary.
9. This will take you to a summary of all of this person's criminal cases in Pennsylvania.
10. If you want to see the full dockets for any given case, move your cursor over the icon of the magnifying glass and select "Docket Sheet".
11. This will take you to the docket entries for a particular criminal case.
12. Please note that, while you can get the docket entries for any criminal case in Pennsylvania using this search, it is limited to criminal matters in state court. It does not include federal cases.

HOT TIPS FOR HANDLING CUSTODY CASES

FROM MEMBERS OF THE PHILADELPHIA BAR ASSOCIATION FAMILY LAW SECTION

- If the children will be present to speak with the judge, carefully create suggested questions for the judge to use when interviewing them to touch on the significant custody issues.

- Use the custody factors set forth in the statute as a guideline to set up your case; use them in your opening, closing, pre- and post- trial memos, and in how you organize your questions.

- Create a custody factors list that can be sent to client to review and fill in. It is a great way to focus your client on the relevant topics.

- Focus less on attacking the other side and more on what your client can offer – you catch more flies with honey than vinegar and it works in custody cases too

- When the case is completed, i.e. there are no more custody hearing scheduled and all pending petitions and motions are resolved, file the paperwork to be removed as the attorney of record on the case. See Pa.R.C.P. 1930.8 for ways in which a party can indicate self-representation .

- Bring a proposed Order with you to Court.

- There is nothing that precludes an attorney from speaking with the children as part of the preparation for trial; however, some attorneys avoid this so that it does not appear that they have influenced a child's testimony.

- Remember that, if a change of custody has been requested that will result in a change of the parent with primary custody, the custody hearing officers will not have the ability to order that change and that a future hearing will simply be scheduled before a judge. Be sure your client understands this.

- If you intend to present testimony from a teacher, some judges are more than willing to permit telephonic testimony so the teacher does not need to lose a full teaching day – it is always better to raise this issue before the hearing and not at the last minute.

- Make an exhibit list ahead of time with columns to note the exhibit number as it may differ from your plans and one to check after admission into evidence. Don't forget to move your exhibits into evidence before you rest your case.

- If the case is complex, make a trial notebook so you have your exhibits, prepared testimony and any statutes or case law at your fingertips.