

YOUTH RIGHTS IN PENNSYLVANIA: CUSTODY

Types of Custody

Custody falls under two main types: physical and legal custody. **Physical custody** determines who the child lives with. See the box to the right for types of physical custody. **Legal Custody** gives the custodian the legal right to make important decisions such as medical, religious, and educational decisions.

What is a custody order?

A custody order is a written order signed by a judge, determining who will care for a child and who gets to make important decisions about the child. There are two types of custody: physical and legal custody. The person awarded custody is called the custodian or custodial parent.

What are the advantages to having a custody order?

A custody order sets clear terms for when each parent can see and have the child with them. If one of the parents does not stick to the terms of the order, the other parent can file a petition with the court asking to find the other party in contempt and to enforce the order. Parents who are having a hard time getting along and agreeing to things may benefit from getting a custody order so that there is no confusion.

What are the disadvantages to having a custody order?

When you have a custody order the court is involved in the life of your family. To change the terms of the order you may need to go back to court. Also, starting a custody action with the court sometimes gives the other parent an opportunity to get some custody or visitation when that parent has not been doing so on his/her own.

Can a minor file for custody or initiate a custody proceeding?

All parents, including teen parents, have the right to seek and have custody or visitation of their children. In Pennsylvania, however, a minor cannot **file** for custody on his or her own. To file for custody a minor parent must file through an adult who is called a guardian. A guardian is someone over the age of 18 who must accompany the minor party to all court proceedings, and must sign all court documents along with the minor parent. Even though the guardian files the custody petition it is still the minor who is seeking and would be granted custody. The guardian does not have to be a caretaker or have legal rights as a parent or legal guardian to the minor parent filing for custody. The guardian can be a family friend or social worker.

Where do I go to file for custody and what should I bring with me?

You file for custody at the Family Court or Domestic Relations Court building in your county. Bring any important papers and information, such as previous custody orders, protection from abuse orders, the opposing party's address, and social security numbers for all parties. The minor parent should insist that their name be put on the petition as the plaintiff, or they should seek legal assistance. If you do not have the money to pay for the filing fee you can ask for a fee waiver—the court usually refers to this as filing *in forma pauperis*.

What do I do if I want to change the current custody order?

You will need to return to the court building ask to file a modification of the custody order. You can do this at any time. You will just need to show why circumstances have changed and why the custody order should be changed.

Types of Physical Custody

- **Primary**—one person has the child living with them for most of the time.
- **Partial**—gives the non-primary custodian the right to have the child live with them for parts of the week (weekends, for example) or year (vacations)
- **Visitation**—gives the non-custodial parent the right to go see the child, but not the right to take the child overnight. Visitations may be supervised by the custodial parent, a family member, a responsible adult, or by court staff (in some counties)
- **Shared/Joint**—gives shared legal or physical custody (or both) of the child