

# MODIFY

## **AN EXISTING CUSTODY/VISITATION MATTER**

Please complete the **Petition for Modification of Custody Order, Criminal Record/ Abuse History Verification, and Entry of Appearance of Self-Represented Party** prior to arriving at Orphans' Court. Self-represented parties must meet the same requirements as those represented by Counsel.

1. ***Pro se* filing is permitted on Thursdays between 9:30 a.m. and 11:30 a.m. only.**

### **Petition for Modification of Custody Order**

- Please make sure to provide all applicable information and sign and date the Petition.
- Because the Court does not serve parties in custody matters, you must provide a complete address for each party named in the matter so that you may serve them properly.
- A copy of your existing Luzerne County Custody Order is required to be filed with the Petition for Modification. If you do not have a copy, you must obtain one from the Luzerne County Prothonotary's Office on the second floor of the Main Building prior to reporting to Orphans' Court to present paperwork.
- The hearing expectations and custody terms are briefly explained within the paperwork.

### **Criminal Record/ Abuse History Verification**

- This form is for the Petitioner(s) and his or her household. All other parties will complete this form at the time of the hearing.
- Please make sure to provide all applicable information and sign and date page 4.

### **Entry of Appearance of Self-Represented Party**

- Complete caption and all personal information.
- The bottom portion of the form (Removal or Withdrawal of Counsel of Record) should only be completed if applicable.
- Counsel may represent any party at any time.

2. Take all original documents to the Prothonotary's Office at:

Luzerne County Courthouse  
Second Floor  
200 North River Street  
Wilkes-Barre, PA 18711

3. Using your return address, mail copies of the complete packet, via the postal service, as follows:

- 1 copy by Certified Mail (Return Receipt Requested and Restricted Delivery) unless served by Sheriff or Constable.
- 1 copy by first class mail.

4. Bring the green return receipt card to the hearing as proof of service. If the first class mail is returned to you, bring it to the hearing.

## **GENERAL INFORMATION REGARDING MASTER'S CUSTODY CONFERENCE**

The initial master's conference is not a trial before the Judge. Formal testimony similar to a courtroom trial is not generally taken. A "master" is a lawyer who works for the court and he/she will preside over the settlement conference.

The master's conference is in a more informal setting and provides an opportunity to resolve the custody/visitation matter without the necessity of a lengthy, and often-times costly, trial.

The end result of a master's conference is a custody order, later, signed by the Judge, which outlines the provisions of the parties' custody/visitation agreement. If the parties cannot agree to the terms of an agreement, the master will make a recommendation for a hearing before Court or testimony before the Master depending on the circumstances of the case.

The master's conference will be held on the 3<sup>rd</sup> floor of the Luzerne County Courthouse Annex II, located across the street from the main Courthouse at 113 West North Street, Wilkes-Barre, PA. This is the same building where the Domestic Relations Office (Support) is located.

If you have concerns regarding the fitness of the defendant (respondent), you may request the master to order the other party to undergo appropriate evaluations (i.e., drug and alcohol evaluation, mental health evaluation, home study). You may have to share in the costs of these evaluations. Further, you may also be ordered to undergo evaluations yourself if requested by the other party and if the master believes joint evaluations are needed.

If you believe the other parent's contact should be in a restricted setting (e.g., supervised by a local agency, relative or at a neutral site) you must be prepared to offer current reasons for your request and it would be best if you had supporting evidence, including reports from local agencies, regarding the other parent's mental/physical/social impairments which could limit physical contact.

1. At the conference you must be prepared to discuss the specific terms (times, dates, etc. ) of any custodial arrangement.
2. Failure to properly serve the Petition upon the Respondent will result in no action taken at the conference.
3. If Petitioner fails to appear at the conference, the Petition will be dismissed.

## **CUSTODY TERMS**

### **DECISION MAKING**

#### **LEGAL CUSTODY**

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

#### **SHARED LEGAL CUSTODY**

The right of more than one individual to legal custody of the child.

### **PHYSICAL ASPECT**

#### **PHYSICAL CUSTODY**

Actual physical possession and control of a child.

#### **PRIMARY PHYSICAL CUSTODY**

The right to assume physical custody of the child for the majority of time.

#### **PARTIAL PHYSICAL CUSTODY**

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

#### **SOLE PHYSICAL CUSTODY**

The right of one individual to exclusive physical custody of the child.

#### **SUPERVISED PHYSICAL CUSTODY**

Custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

### **OTHER**

#### **RELOCATION**

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

#### **IN LOCO PARENTIS**

"Person acting as parent" – person other than parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

	Plaintiff	:	IN THE COURT OF COMMON PLEAS
v.		:	OF LUZERNE COUNTY
		:	Civil Action - - Law
	Defendant	:	IN CUSTODY
		:	
		:	
		:	
		:	
		:	No. _____ of _____

**ORDER**

YOU, \_\_\_\_\_,  
 have been sued in court to OBTAIN/MODIFY (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the children: \_\_\_\_\_

YOU are ordered to appear in person at \_\_\_\_\_:\_\_\_\_\_ .m. on  
 \_\_\_\_\_, 20\_\_\_\_\_ for the following :

- \_\_\_\_\_ a conciliation or mediation conference;
- \_\_\_\_\_ a pre-trial conference;
- \_\_\_\_\_ a hearing before the Court; at

\_\_\_\_\_ Luzerne County Courthouse, Bernard C. Brominski Building, Third Floor, 113 West North Street, Wilkes-Barre, PA.

\_\_\_\_\_ 615 East Broad Street, Hazleton, PA (Magistrate Zola's Office).

**DO NOT BRING YOUR CHILDREN TO THE HEARING WITH YOU.**

If you fail to appear as provided by this Order, an Order for custody, partial custody or visitation may be entered against you or the court may issue a warrant for your arrest.

You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation) but not later than 30 days after service of the complaint or petition.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

If you are incarcerated, you may participate in the Conference before the Master by telephone. You must provide in writing the telephone number at which you may be reached at the time scheduled for the hearing, and the name of the counselor prior to the hearing date. Please mail to Orphans Court, Judge Brominski Building, Third Floor, 113 West North Street, Wilkes-Barre, Pennsylvania, 18711, Attention: Clerk.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER REDUCED FEE OR NO FEE LEGAL SERVICES TO ELIGIBLE PERSONS.**

NORTH PENN LEGAL SERVICES  
33 North Main Street  
Suite 200, Pittston, PA 18640  
(570) 299-4100

LAWYER REFERRAL SERVICE  
Luzerne County Court House  
Wilkes-Barre, PA 18711  
(570) 822-6029

**Americans With Disabilities Act of 1980**

Luzerne County Court House Annex II is a facility accessible to persons with disabilities. Please notify the ADA Compliance Officer if special accommodations are required, who may be contacted by telephone at (570) 830-5135. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

**FOR THE COURT:**

Date of Order: \_\_\_\_\_

Plaintiff	:	IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY
v.	:	Civil Action - - Law IN CUSTODY
Defendant	:	No. _____ of _____

**PETITION FOR MODIFICATION  
OF CUSTODY ORDER**

1. The Petitioner is \_\_\_\_\_, the (Plaintiff/Defendant), an adult individual who resides at \_\_\_\_\_ Luzerne County, PA., whose telephone number is \_\_\_\_\_.
2. The Respondent is \_\_\_\_\_, the (Plaintiff/Defendant), an adult individual residing at \_\_\_\_\_ Luzerne County, PA., whose telephone number is \_\_\_\_\_.
3. On \_\_\_\_\_, 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.
4. Petitioner now seeks to modify the Order as follows:

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WHEREFORE, Petitioner requests that this Honorable Court enter an Order scheduling a conference before the Master in Custody and Visitation on this request to modify existing Order because it will be in the best interest of the child/ren.

I verify that the statements in this petition 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: \_\_\_\_\_

By: \_\_\_\_\_  
Petitioner

Plaintiff	:	IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY
v.	:	Civil Action - - Law IN CUSTODY
Defendant	:	No. _____ of _____

**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 member 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:

\_\_\_\_\_ NONE                      \_\_\_\_\_ YES (SEE FOLLOWING)

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<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<br>(relating to false imprisonment)                               | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 2910<br>(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<br>(relating to rape)   | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3122.1<br>(relating to statutory sexual assault)                       | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3123<br>(relating to involuntary deviate sexual intercourse)           | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3124.1<br>(relating to sexual assault)                                 | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3125<br>(relating to aggravated indecent assault)                      | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3126<br>(relating to indecent assault)                                 | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3127<br>(relating to indecent exposure)                                | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3129<br>(relating to sexual intercourse with animal)                   | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3130<br>(relating to conduct relating to sex offenders)                | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 3301<br>(relating to arson and related offenses)                       | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 4302<br>(relating to incest)   | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 4303<br>(relating to concealing death of child)                        | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 4304<br>(relating to endangering welfare of children)                  | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 4305<br>(relating to dealing in infant children)                       | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> 18 Pa.C.S. § 5902(b)<br>(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. § 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 or 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, or involvement with a Children & Youth agency, including the following:

**Check all that apply**

- |   | <b>Self</b>              | <b>Other household member</b> | <b>Date</b> |
|---|--------------------------|-------------------------------|-------------|
| <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"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction. Where?: _____          | <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:

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4. Please list the name(s) of all adult household members other than you. 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:

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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:

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I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Printed Name

	:	IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY
Plaintiff	:	
vs.	:	CIVIL
	:	
	:	No _____ of _____
Defendant	:	

**ENTRY OF APPEARANCE OF SELF-REPRESENTED PARTY  
PURSUANT TO Pa. R.C.P. No. 1930.8**

I, \_\_\_\_\_,  Plaintiff or  Defendant  
represent myself in the within action.

All pleadings and legal papers can be served on me at the address listed below:

PRINT Name	(    ) _____ Telephone Number
Signature	(    ) _____ Fax Number
Street Address	City
State	Date
Zip Code	

**I UNDERSTAND THAT I AM UNDER A CONTINUING OBLIGATION TO PROVIDE  
CURRENT CONTACT INFORMATION TO THE COURT, TO OTHER SELF-  
REPRESENTED PARTIES, AND TO ATTORNEYS OF RECORD.**

REMOVAL OR WITHDRAWAL OF COUNSEL OF RECORD (if applicable)

Remove \_\_\_\_\_ as my attorney of record.

Withdraw my appearance for the filing party.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
PRINT Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney Identification Number

**THE PARTY FILING THIS ENTRY OF APPEARANCE MUST PROVIDE NOTICE BY SENDING A COPY TO ALL PARTIES AND ATTORNEYS, INCLUDING ATTORNEY REMOVED FROM THE CASE.**