

# “Emergency” Custody

If you are here because someone has advised you to go to Domestic Relations to file for “Emergency” Custody – please take note of the information below:

The filing office for Custody cases is the Office of the Prothonotary – located on the first floor of the Courthouse. You **cannot** file for “Emergency” Custody or present a petition for Special Relief at Domestic Relations.

1. If you **do not have an existing custody case**, you must first file a Complaint for Custody. Once that Complaint for Custody is filed at the Prothonotary’s Office, it will be docketed and your case will be given a Family Court (FC) Number. County specific custody forms can be found at <http://www.pacourts.us/learn/representing-yourself/custody-proceedings>

- The Complaint will be forwarded to the Custody Conciliator’s office for the scheduling of a custody conference, which will be held as soon as the Court’s schedule permits. Please note that the scheduling of a conference may be delayed if you also file a Petition for In Forma Pauperis, asking the Court to waive your filing fees.
- If you believe that you need an interim Order of Court regarding custody prior to the custody conference, you have the option of asking the Court for interim relief by following the steps listed below in part 2 regarding a Petition for Special Relief.

2. If you have an **existing custody case**, you have the option of filing a Petition for Special Relief and in that Petition, you may ask the Court for whatever relief you are seeking.

- Neither this office nor the Prothonotary has pre-printed petitions.
- You must create this petition yourself or with the assistance of an attorney. (Please refer to the **General Instructions for filing custody cases**, which are included in this packet).
- Once your petition is created, you will present it to the Judge assigned to your case. You must follow the **Family Court Motion Court Practice** rules, which is included in this packet. You may also reference the County’s website at [www.co.butler.pa.us/drs](http://www.co.butler.pa.us/drs) to locate Local Court Rules regarding Motion Court.
  - **Please note:** It is recommended that you read the Motion Court rules in their entirety. There are specific steps you must take and specific rules you must follow when presenting your petition.

**BE AWARE THAT:** If you do not properly serve the opposing party no later than **five (5) days before** presentation at Motion Court the Judge may choose to not allow you to proceed for failure to provide proper service.

**\*\*** The intent of this instruction sheet is to provide general information concerning the filing of petitions for special relief. As with any Court office, the Custody Conciliator’s Office is unable to provide legal advice to anyone. **\*\***

**BUTLER COUNTY CUSTODY CONCILIATOR'S OFFICE**  
**General Instructions for filing custody actions**

**The intent of this instruction sheet is to provide general information concerning the filing of custody actions. As with any Court Office, the Custody Conciliator's Office is unable to provide legal advice to anyone.**

To have a case heard by the Custody Conciliator, a **Complaint for Custody** or a **Petition for Custody Modification** must be filed at the Prothonotary's Office, with payment of the appropriate filing fees (unless said fees are waived by the Court\*\*). You may contact the Prothonotary's Office directly concerning these fees.

For already existing cases, a **Petition for Contempt** or a **Petition for Special Relief** are to be presented through Motion Court to the Judge assigned to your case. Generally, these Petitions will be addressed by the Judge and are NOT scheduled for a Custody Conciliation Conference. There may be fees assessed for these petitions at the discretion of the Judge.

Custody Complaints or Petitions are created, by the filing party, one of two ways:

1. By contacting an attorney. One of the agencies below may be able to refer you to an attorney:

a) Neighborhood Legal Services	724-282-3888
b) Butler County Bar Association	724-841-0130

The Prothonotary's Office also has a referral list of attorneys available to the public.

2. By proceeding on your own (*Pro se*). You may do research at either a Pennsylvania law library or at a legal website (i.e. <http://www.pacourts.us/learn/representing-yourself>, [www.palawhelp.org](http://www.palawhelp.org)) to create your own pleadings or you may obtain pre-printed forms at the Butler County Prothonotary's Office.

If you choose to proceed on your own, you will need to follow the Pennsylvania Rules of Civil Procedure and the Butler County Local Rules. Custody information may be found beginning with Rule 1915.1 of the PA Rules of Civil Procedure.

Please note that you will also need to be aware of how and when to provide notice/service to the other party, and you must have proof of service. **It is the responsibility of the filing party to provide notice to the opposing party of when a conference is scheduled to be heard by the Custody Conciliator or when a Motion is to be heard by the Court. It is NOT the responsibility of the Court to provide notice for these custody actions.**

\*\*If you cannot afford to pay the filing fees, you may apply for In Forma Pauperis (IFP) status by filing the appropriate pleading with your custody filing. You may create your own IFP Petition by doing research at the law library or online, or you may obtain a pre-printed form at the Butler County Prothonotary's Office or on the County's official website ([www.co.butler.pa.us](http://www.co.butler.pa.us)). **Please note: Filing the In Forma Pauperis Petition does not automatically guarantee that the filing fee will be waived. The Petition must first be reviewed, scheduled for a hearing and granted by the Judge before the fees can be waived.**

## Family Court Motion Court Practice (2015)

1. **MOTIONS COURT.** There shall usually be a session of Court for presentation of pleadings one day per week for each Family Court Judge. The days and times of Motion Court for each respective Judge are posted on the Court's calendar, which is found on the County's website ([www.co.butler.pa.us](http://www.co.butler.pa.us))
  
2. **PLEADINGS.**
  - a. All pleadings must have the correct caption. All Divorce, Protection Order or Custody pleadings shall have the correct Family Court (FC) number included in the caption. All Child Support pleadings shall have the correct PACSES number included in the caption.
  - b. All pleadings shall be presented to the Judge assigned to the case. If no Judicial assignment has been made, the moving party or counsel shall obtain a Judge assignment for all Family Court and PACSES cases from the Domestic Relations Section.
  - c. The docketing office for all Family Court (FC) pleadings related to Divorce, Protection Orders and Custody shall be the Prothonotary's Office. The docketing office for all PACSES Child Support pleadings shall be the Domestic Relations Office.
  - d. All Motions and/or Petitions shall be originals and shall have an original verification and signature(s).
  - e. All Motions and/or Petitions shall be accompanied by a cover sheet approved by the Court of Common Pleas and shall include all required information. A copy of the coversheet is available at [www.co.butler.pa.us/drs](http://www.co.butler.pa.us/drs)
  
3. **PRESENTATION OF MOTIONS AND PETITIONS**
  - a. **Uncontested Motions.** Uncontested Motions may have the signature and/or written consent of the opposing party or opposing party's counsel. In the alternative, the moving party must aver the opposing party's or opposing party's counsel's consent. All proposed Consent Orders shall be attached to a Motion/Petition. Uncontested Motions may be filed one of three ways:

- (i) In person or by mail to the appropriate docketing office. The docketing office will then forward the pleading to the assigned Judge for signature;
- (ii) Motion Court of the assigned Judge for the case;
- (iii) Motions regarding scheduling of a Divorce Master proceeding shall be directly forwarded to the Divorce Master. The Divorce Master shall ensure that the Motion and accompanying Order is thereafter filed in the appropriate docketing office.

**b. Contested Motions.**

- (i) **Presentation.** Contested Motions and/or Petitions MUST be presented in the Motions Court of the Judge assigned to the case except motions regarding scheduling of a Divorce Master proceeding which shall be directly forwarded to the Divorce Master. The Divorce Master shall ensure that the Motion and accompanying Order is thereafter filed in the appropriate docketing office.
- (ii) **Notice.** The moving party must give the opposing party and/or opposing party's counsel five (5) business day notice prior to presentment.

**c. Emergency Motions.**

- (i) Definition: An "Emergency Motion" is a Motion which avers that irreparable harm will occur before the assigned judge's next scheduled Motions Court date, in the absence of immediate judicial intervention.
- (ii) Pleading: The following must be averred in the emergency pleading:
  - (A) The nature of the emergency;
  - (B) The irreparable harm alleged;
  - (C) If the Motion is being presented *ex parte* (A court action taken by one party without notice to the other party).
  - (D) If notice of the Motion has been provided or attempted, the manner in which notice was provided or attempted.

- (iii) Notice: Unless the Motion is being presented *ex parte*, a copy of the Motion shall be served using all available means for expedited service including email and facsimile transmission, not later than the time of transmission to the Court, as provided in subsection (iv), below.
- (iv) Presentation. The moving party shall contact the assigned Judge's Chambers for instructions as to presenting the pleading to the Judge. If the assigned Judge is unavailable, the moving party shall contact Court Administration for instructions as to presenting the pleading.
- (v) Sanctions. Emergency relief is not lightly granted. The Court may impose sanctions on the moving party and/or their attorney, if it later appears that emergency relief was improperly sought and/or improvidently granted.