

Family Law for Teen Parents



Pennsylvania-specific
Current through Summer 2015
<http://philalegal.org/teenparentbook>



Introduction:

The Purpose of this Guide

Having a baby is hard. It's even harder when you're a teen mom or dad, trying to balance parenthood with finishing school, getting a job, and growing up.

Being a parent does *not* have to stand between you and your goals. Of course there is no easy solution to all of your problems. However, a lot of young parents overlook the ways the law can help them out.

- Young parents often abandon school for work, even though the decision will limit their professional options in the future. Getting **child support** can help you avoid this choice.
- Likewise, young parents miss school or work due to concerns about child care. Developing reliable **custody plans** can cut down on these problems, and help build strong relationships with co-parents.
- 20% of teens have experienced **domestic violence**. Sometimes the abuser is a co-parent. The can help keep you safe, and help you gain your independence.

Understanding family law is critical. It can help you create a stable, safe, and healthy environment for your child. And, when things are ok at home, you can focus on your own educational and professional goals.

This guide is intended to introduce you to the main areas of family law—child custody, child support, and protection from abuse—and empower you to take legal action to benefit you and your child. You are young, but you can be your own advocate, and make strong choices to move your life forward.

When you finish reading this guide, test your knowledge by taking a fun (and short) on-line quiz!

<http://philalegal.org/teenparentquiz>

The Family Law Unit
Philadelphia Legal Assistance
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Paternity

WHAT is paternity?

“Paternity” (pah-TURN-it-ee) is the fatherhood of a child. For example, “We’re not sure of Baby Jose’s paternity. Either Steven or Mike is the father.”

A child’s paternity may not always be clear. This could be because the mother had more than one sexual partner, or because the suspected father, for whatever reason, simply does not believe that he is the father.

WHO is a legal parent?

This is an easy question for the girls. Their legal responsibility to their children is automatically clear when they give birth. No woman ever says, “I don’t know if the child is mine!”

It’s a little different for the guys. A man is a child’s father in the eyes of the law only if paternity has been legally established.*

WHEN can paternity be established?

Paternity can be established at any time. It is easiest for a dad to sign a paper establishing paternity in the hospital when the child is born. But, there is no time period when it becomes too late to establish paternity, unless there is some complicating issue, like the involvement of another would-be father who wants to claim the child.

WHERE can paternity be established?

At the Hospital

When a mother gives birth in a hospital, she’s given a paper called an “Acknowledgement of Paternity.” To “acknowledge” something means to admit that it is true. So, to “acknowledge” paternity means to admit that you are the father. If a man signs an Acknowledgement of Paternity, he is admitting that he is the father.

* The rules are a bit different when the mother is married—if you are married, and there is some sort of paternity issue (for example, your husband is not the biological father), you may wish to seek legal help.

In Court

Let's say an Acknowledgement of Paternity is not signed when the child is born. If mom and dad later end up in court, usually because they are arguing about child support or child custody, paternity can be established at that time.

But what if mom and dad end up in court, but *don't* agree about paternity? For example, what if dad insists he isn't the father, when mom believes he is? The court will order DNA testing to resolve the issue. We'll talk about that more coming up.

WHY is it important to establish paternity?

A court can't order a parent to support a child, or permit a parent to care for a child, unless it is sure that the parent is actually a parent. That makes sense, right? Let's look at a few examples.

- A. Shauna believes that Joseph is the father of her child. She wants him to pay child support. The court won't order Joseph to pay support to Shauna unless it is sure that Joseph is the child's father, either by Joseph admitting it, or when paternity is proved by a DNA test.
- B. Ace believes that Crystal's new baby is his. He wants a custody order so the baby can spend weekends with him at his house. But, Crystal says Ace is not the father. Before the court orders Crystal to give Ace the baby, it first has to be sure that she is really Ace's daughter.

HOW do I establish paternity in court?

There are two main ways to establish paternity through the courts.

1. After someone files a "Complaint for Child Support" or "Complaint for Custody," mom and dad can agree that dad is the father, or ask for DNA testing.
2. If a mom or dad isn't seeking custody or support, but still wants to establish paternity, they can file a "Complaint to Establish Paternity."

A man can "revoke" (take back) an Acknowledgement of Paternity for 60 days. After that, he can only revoke if he was the victim of "fraud" (tricked into believing he was the father) or "duress" (forced to acknowledge paternity). However, if a man acts as a father for an extended time, he may end up being responsible for a child even if it is not biologically his.

Child Custody

WHAT is child custody?

Legal custody is the right to make major decisions for your child, including medical, religious, and educational decisions.

Legal custody can be **shared**, meaning 2+ people must agree in making these big decisions.

Legal custody can also be **sole**, meaning only one person can make these choices.

Physical custody is who actually has physical possession of the child.



A person who has the child more than half (“the majority”) of the time has **“primary physical custody.”**



A person who has the child less than half of the time has **“partial physical custody.”** Partial physical custody can be **supervised.**



If two people each have the child about half of the time (“50/50”), that is called **“shared physical custody.”**



If one person has the child all (100% of) the time, that person has **“sole physical custody.”**

Let’s look at some examples.

A. Katrina filed for sole legal custody and primary physical custody of her son. The father, Maurice, did not show up to court, and has not been involved in his son’s life. Katrina won sole legal and physical custody. Katrina can make decisions about how her son is raised without input from Maurice, and does not have to permit Maurice to see their son unless she chooses to.

B. Shawn and Melissa lived together for a year after their daughter was born, but now do not get along at all. Both Shawn and Melissa filed for sole legal and primary physical custody. The court said it was in

the best interests of their daughter for Shawn and Melissa to have shared legal custody. Shawn got primary physical custody. Melissa got partial physical custody, every weekend. Shawn and Melissa must make important decisions about their daughter together. Shawn has her the majority of the time. Melissa has her on weekends.

If there is not yet a custody order for your child:

- both parents can make medical, educational, and religious decisions;
- both parents can have the child in their care.

**It is a common myth that if there is no custody order,
“the state” has custody.
This is not true!**

If you think about it, it doesn’t even make sense. Have you ever asked “the state” for permission to take your baby to the doctor? Or on vacation?

WHO can have child custody?

1. Parents, including minors, automatically have the right to file for custody of their children. The law used to be that minors had to file for custody through an adult. That meant someone over the age of 18 had to sign court papers for you, and go to all your court dates with you, although the parent is the one who should be awarded custody in the end. But, starting September 1, 2015, the law states that a minor can “commence, maintain or defend an action for custody of the minor parent’s child” without a guardian.

Especially for young parents, it’s easy to feel pushed around. It’s important to respect older people, but when it comes down to it, *you* are the parent.

When non-parents fight parents for custody, they win only if there is clear and convincing evidence that it is in the best interests of the child to not be in the care of their natural parent.

2. Anyone “in loco parentis” can file for custody. “In loco parentis” is a legal term that means “a non-parent who acts as a parent.” Just living with a child is not enough to be in loco parentis. You have to act as a parent, with the parents’ consent.

- A. Tanya, 25, lives with her sister Alissa, 16. Alissa has a daughter. Alissa takes care of the baby, feeding and bathing her, but is gone a

lot because she is still in school. So, she puts her baby in day care. Tanya doesn't approve of Alissa going to school instead of staying home with the baby, and files for custody. But, Tanya has never acted as a parent to the baby. She does not have the right to seek custody.

- B. Gina is Alissa's friend; she is also 16 and has a baby. Gina isn't coping with being a new mom. She leaves her baby with a neighbor, Mrs. Brown, all the time so she can party, often for days at a time. Even when she comes back, she does not care for the baby. Mrs. Brown feeds and bathes him, and takes him to the doctor. She enrolled him in preschool, takes him to church, and arranges visits so Gina's relatives can see him. Mrs. Brown worries that if something happens to Gina, she will have no legal right to the baby. She files for custody. Because she is "in loco parentis," the court can give her custody.

3. Grandparents can file for *partial* physical custody whenever the child is not in an intact family with both parents. They can file for *primary* physical custody, however, only if they are "in loco parentis" or meet three requirements:

1. The grandparent has a relationship with the child;
2. Has taken on or is willing to take on responsibility for the child; and
3. The child is "dependent,"* at risk of dependency, or has lived with the grandparent for 12 months in a row or more.

WHEN can I file for custody?

You can file for custody at any time, until your child turns 18. It's never too early, or too late. You can also file to "modify" (change) a custody order when necessary.

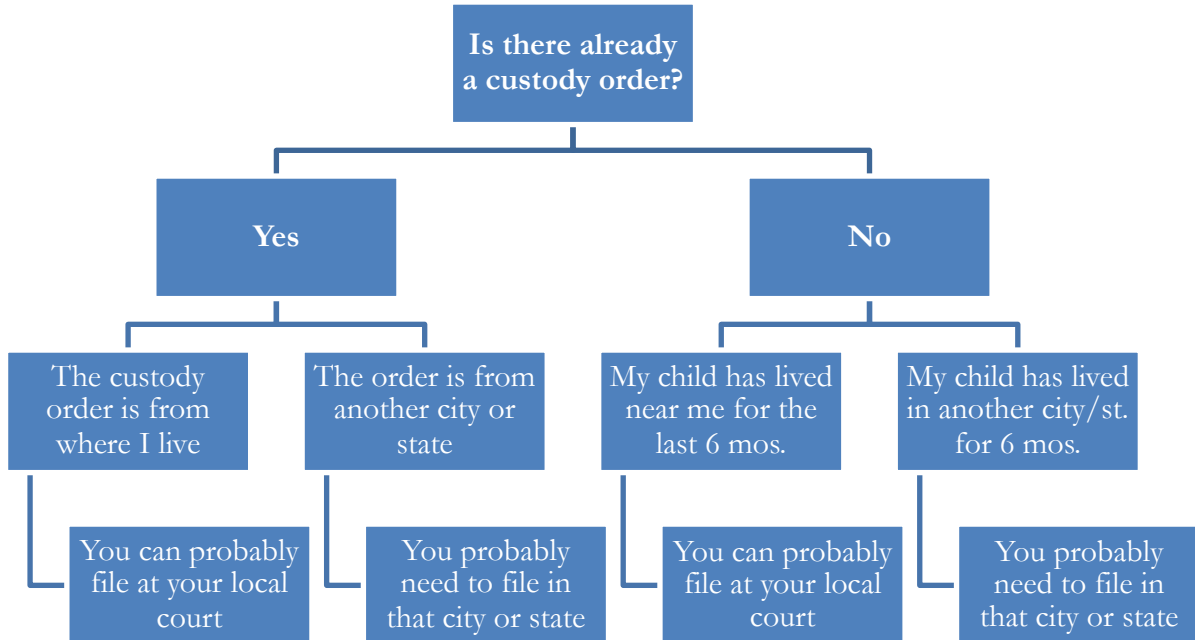
- A. Carlos has a drug problem and no permanent address. The court awards primary physical custody of his son to the mother, Nina. Two years later, Carlos is sober, employed, and has purchased a home, and *Nina* is struggling with drugs and has lost her housing.

* If a child is "dependent," it means the state has found the child to be without proper parental care and control, and has put the child with a relative, a foster parent, a group home, or some other placement.

Carlos can file to modify the order so he has primary physical custody, not Nina.

WHERE can I file for custody?

Sometimes it's hard to know where to file for custody. Just because *you* live in Philadelphia (or Pittsburgh, or Altoona) does not mean *your* local family court* is the right one to decide the case. The following chart may help:



- A. Dawn and Tony had a baby when they were high school students in Philadelphia. Right after the baby was born, Dawn took her to live with family in Georgia, which Tony agreed to. When the child is three, Tony decides he would like to be more involved, and tries to file for partial physical custody in Philadelphia. But, only a Georgia court can make decisions about custody. Tony cannot file here.
- B. Let's say that before Dawn and the baby moved to Georgia, Dawn and Tony got a custody order here in Philadelphia. After Dawn has been living in Georgia for three months, *she* decides that she wants to modify the custody order. Dawn cannot file in Georgia. If she

* In Philadelphia, the family court hearing child custody, child support, and domestic violence cases is located at 1501 Arch Street.

wants to change the custody order, she must file back in Philadelphia.

WHY should I file for custody?

1. To Prevent Problems

Having a custody order may be a good idea because problems can pop up when you *don't* have one. **If there is no custody order, parents have equal rights to their child.** This means if one parent has the child and refuses to let the other parent see the child, the other parent has *no legal right* to force them.

The police will *not* help you get your child from the child's other parent if there is no custody order. And, once you file for custody, it can take months to get a court date. You may not want to wait for this problem to pop up.

Let's look at an example.

- A. Magdalena and Robert have a son and daughter. The children stay with Magdalena one week, and Robert the next. However, Magdalena and Robert's relationship has gotten bad since Robert started dating his new girlfriend. One week Magdalena refuses to give the children to Robert. She says the children will be staying with her every week for now, and Robert can visit them at her home if she feels like it.

Robert calls the police to ask for help getting the children back, but the police say there is nothing they can do. If Robert and Magdalena had a court order formalizing their agreement, Robert would be able to get the children back right away. But, since they did not, he has to wait for a court date and hope that the court will agree that the original arrangement is appropriate.

2. To Reduce Conflict

Another reason you might want a custody order is that it can help reduce conflict between you and your child's other parent. If you have to follow an order, you won't have to fight about who gets the child, and when.

3. Stability and Reassurance

Finally, having a custody order can cut down on a major source of stress for teen parents: worrying about childcare arrangements. If you have a custody order,

you can be more confident that you will be able to go to school or work and not have to worry about childcare arrangements every day. You will know in advance who is responsible for the child and can plan ahead. Let's look at an example.

- A. Shanice is still in high school when her daughter is born. The child's father, Derek, has already graduated, and works nights at a pizza restaurant. He also picks up day shifts as a security guard whenever he gets the chance, in order to make extra money. The child lives with Shanice and her mother.

Derek often says he will watch the child during the day so Shanice can go to school, but then takes an extra shift instead, or sleeps late because he is tired from working at the restaurant the night before. Shanice has to skip school to watch the baby. Then, Derek wants to take the child on the weekends, when Shanice actually has time to spend with her.

Both Derek and Shanice are frustrated, and have started fighting a lot. They agree that it would be best for Derek to have the child every day from 7 a.m. until 5 p.m.; for Shanice to have the child overnight; and for Derek and Shanice to take turns having the baby on the weekends. The court puts their agreement into a court order, so Derek and Shanice are held to their agreement. Because they don't fight about the schedule anymore, their relationship improves, and they're both happier.

Plan about custody *before* you have problems.

This is a good idea even for couples who are still together. Romantic relationships can go downhill, and fast. And, once things sour, parents often make decisions out of hurt or anger, rather than concern for the child. This can be avoided if mom and dad plan an ideal custody arrangement when their relationship is strong.

HOW do I file for custody?

Taking the First Step

In order to get custody of your child, you need to “file,” or take to court, a “complaint for custody.”

If there is already a custody order that you would like to “modify,” or change, you will need to file a “petition to modify.”

This may seem scary or complicated. But, it’s really very simple. When you take away all the strange and “legal” words, all you really have to do is go to the family court building and fill out a paper describing what you want—to file for custody or to modify an existing order.

Once you do that, you have filed for custody! There is still a road ahead, but you’ve taken the important first step.



When you file for custody, there is a filing fee you must pay. However, you can fill out a paper swearing you are “in forma pauperis,” or “IFP,” which means you cannot afford to pay the fee. Most young parents who get public benefits (cash, SSI, or medical assistance) or have no income of their own will not have to pay the fee.

It is nothing to be nervous or embarrassed about.

Once You’ve Filed: Seeing the Custody Master

In Philadelphia, your first court date will be with a custody master, not a judge.* To understand what will happen when you see the master, see the chart on the next page.

* Each county has its own procedure. Your local family court or legal aid society should be able to give you more specific information if you live in a different county.

Seeing the Custody Master

If more than one person wants *primary physical* or *legal custody*, the first step will be a *conference*.

This is a chance to work things out. The master tries to find a solution everyone can agree to.

If everyone agrees, you have a final custody order. If not, you have a

If all that is at issue is *partial physical custody*, the first step will be a *hearing*.

Both sides testify and present evidence. At the end, the master writes a proposed order.

A proposed order becomes final unless someone objects. Then, you have a *hearing* with a judge.

At a *hearing in front of a judge*, each side will have the chance to “testify,” or tell their side of the story, and present witnesses and evidence. At the end of the hearing, the judge will write a custody order that he or she believes is in the “best interests of the child.”

Can I have a lawyer?

It may sound confusing or scary, but you can *absolutely* represent yourself and get a good outcome for you and your child. In fact, most people in family court in Philadelphia don't have lawyers.

You can hire a lawyer to help you file for custody, and represent you at hearings and conferences. Your lawyer can explain things to you in a way you can understand, help you make important decisions, and present your case well to a custody master or judge.

However, just because you are *allowed* to have a lawyer does not mean you will be *provided* one. We've all seen it on T.V.: "You have the right to remain silent...You have the right to an attorney. *If you cannot afford one, one will be provided for you.*" Unfortunately, the right to a free lawyer generally applies in criminal cases, not custody cases. If you want a lawyer to represent you, you will have to pay one.*

The "Best Interests of the Child": 16 Factors the Court Considers

When the court decides what custody arrangement is in the best interests of a child, the court considers sixteen (16) factors. Depending on the situation, some factors may be more important than others. Some may not matter at all! Let's take a look. As you read, try to think about how these factors apply to your own case.

- (1) Which side is more likely to make sure the other side has a relationship with the child. The court trusts **parents who cooperate**.
- (2) Any history of **domestic violence or child abuse**. For example:

Dante and Candy have one daughter together. Dante has never been violent with his daughter, but he has many times hit Candy, followed her to work, and threatened her in front of her co-workers and friends from school. Dante wants to have partial physical custody of his daughter, who lives with Candy, but every time he comes to get her from Candy's house, he ends up hitting or scaring Candy. It will hurt Dante's chances of getting custody that he is violent with Candy,

* In Pennsylvania, you *are* entitled to a lawyer in dependency cases (cases between parents and the government, rather than just between the parents). Also, there may be organizations in your community that have some free legal services available.

- and exposes his daughter to violence. The court could give Dante very little custody, or put limitations on it, like requiring that the visits be supervised, or that pick-up and drop-off occur at a police station.
- (3) **Who takes care of the child.** The court will prefer the person who does things like feed the child, give the child baths, and take the child to school.
 - (4) **What the child wants.** This factor counts with older children, who are mature enough to know what is in their best interests. But, the child's judgment will not override the court's—even if a child says he or she wants to live with one parent or caregiver, that is only one factor of many the court will consider.
 - (5) Which side will provide a **stable education, family, and community** for the child. The court will not want a child to constantly be moving, and will want to be sure you have an ok home for the child to live in, that is safe and clean, and has a crib or bed.
 - (6) It is a “plus” if you have an **extended family** the child can be a part of, with cousins, aunts, grandparents, etc.
 - (7) If your child has brothers or sisters (including “half” siblings), the court will want **an arrangement that allows the child to see them.**
 - (8) **If either side has tried to turn the child against the other side,** unless the other side is abusive and you were trying to protect the child from harm.
 - (9) **Who is more likely to have a loving relationship with the child,** and make him or her feel safe, loved, and secure.
 - (10) **Who is more likely to make sure that the child's daily needs are met**—who will do best taking care of the child day-to-day.
 - (11) The court will need to consider **how far apart the parents' homes are.** For example, if they are two hours apart, the court might think it best for the child to live in one place during the week, and the other for the weekend, as it is too far to travel in a single day.

- (12) Who is available to care for the child, or able to arrange proper **childcare**.
- (13) How much **conflict** there is, and who is most willing to cooperate. The court will not count it against you if you are not willing or able to cooperate because you are trying to protect the child from abuse.
- (14) If either side abuses, or has abused, **drugs or alcohol**, or lives with someone who does, the court will count that against them.

If the other side is using drugs, you can ask for a surprise drug test when you go to court. The court will test you too!
Don't ask for the other side to be tested if you won't pass.
And yes, marijuana ("weed") counts, as do pills not prescribed to you.

- (15) If either side has **any mental or physical disability** that could affect the child's well-being, or lives with someone who does. For example, if you have a serious problem and refuse treatment, the court will take that into consideration.
- (16) **Any other relevant factor** you think the court should know about.



"Factor 17": Criminal or Child Abuse Background

If a person seeking custody of a child has been found to have committed child abuse or neglect or has been charged with or convicted of certain crimes, or even just lives with someone who has, the court cannot give that person custody of the child until it has decided whether the person with the criminal or abuse background poses a threat of harm to the child. The court usually makes this decision by having the person professionally evaluated, and sending the person to counseling if needed.

The list of crimes that require the court to take this extra step is very long. It includes serious crimes like sex offenses, making terroristic threats, and aggravated assault. But, it also includes some crimes for which convictions are very common, like DUI and drug crimes.* The concept of abuse is also very expansive, and can include actions such as receiving services from child welfare. Let's look at an example.

A. Nevaeh and Kevin have two sons together. The boys have always lived with Nevaeh, and spent the weekends with Kevin. Kevin now

* For a complete list of these crimes, turn to page 51.

wants the boys to come live with him, because he owns his own house, and lives in a good school district. Kevin lets his brother, Antoine, live in the basement of his house, in exchange for helping with the mortgage. Antoine was convicted of rape five years ago, and got out of prison two years ago; he was also convicted of aggravated assault ten years ago and served time for that too. When Kevin and Nevaeh go to court, they are asked to name everyone they live with, so the court can run criminal background checks. Kevin tells the court about Antoine, and Antoine’s criminal convictions are discovered. Because the court believes it may be risky for the boys to live in a home with Antoine, the court will not give *any* overnight custody to Kevin. Although Kevin went to court hoping to get more custody than he had, he left with less.

The “Best Interests of the Child”: What the Court Will NOT Consider

Income.	As long as a parent is able to meet their child’s basic needs, being low-income is not a barrier to getting custody.
Race.	The court will not decide who should have custody based on the race or color of the child or the parents.
Age.	The court should not favor one parent over another (or a third party over a parent) just because one parent is a teen.
Sex / Gender.	Many people think that courts favor moms over dads (and females over males). This is untrue. Courts may not assume a mother or female caregiver is better simply because of her sex.*
Sexual Orientation.	The court may not discriminate against a parent on the basis of the parent’s sexual orientation. Let’s look at an example. Tia and Paul have a son. They are in a relationship, and live together with their child. Tia meets Bernadette at a GED class, and falls in love with her. Tia breaks up with Paul, who moves in with his mother and files for custody. Paul believes it is wrong for Tia to be in a same sex relationship, and

* A small exception to this is that the courts may make custody decisions that will allow an infant child to nurse/breastfeed, which may appear to favor the mother.

	that her sexual orientation makes her an unfit parent. The court <i>cannot</i> consider Tia’s bisexuality its evaluation of Tia as a parent.
“Bad behavior.”	Unless it will hurt the child, the fact that one parent has done something bad or inappropriate, but not criminal, will not be considered. For example, a mother won’t be refused custody because she cheated on the father; etc.

Note: Custody and Support Determinations are SEPARATE

Child custody decisions are separate from child support decisions. If you want both child support and child custody, there will be two separate court dates, and decisions made about one issue will generally not affect decisions about the other.

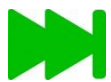
It is usually in a child’s best interests to receive financial support. But, it may not be in a child’s best interests to be in the custody of the parent who pays that support, even just part of the time. On one hand, you can get custody even if you don’t pay support, and, on the other hand, you might not get custody, even partial, just because you pay support. Let’s look at some examples.

<p>A. Matthew and Sasha have one daughter and one son together. Matthew has fallen behind on his child support payments because he lost his job and hasn’t gotten another one yet. Sasha has primary custody, and Matthew has partial custody. He takes the children every weekend, and one day during the week. Sasha stopped letting Matthew take the children once he stopped paying support. Sasha <i>must</i> permit Matthew to take the children when he is entitled to. Matthew’s failure to pay his support does not affect his right to have access to his children.</p>	<p>B. Jamal pays child support to Lisa to help her care for their twins. Lisa has sole physical and legal custody. Jamal filed for partial physical custody and lost, because the court believed he posed a risk of harm to the twins due to his past abusive behavior. Jamal says if he isn’t allowed to see the children, he will stop paying support. If Jamal stops paying support, he will be in violation of the support order—not seeing the children is not an excuse for non-payment. And, Jamal is not entitled to any custody just because he pays support.</p>
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This is taking forever!: Two ways to speed up the process.

A common complaint is that, because the courts are so busy, there is often a LONG time that passes between filing for custody and actually getting a court date. What can you do about this? Generally, not a lot. This is why you should plan ahead, if you can. Don't wait until there is a problem to get a custody order in place.

But, of course, people don't always plan ahead, and even if you do, problems can pop up without warning. That is why the Philadelphia court has two "fast track" paths for people with special need.*



Emergency:

If there's a true emergency, and you believe that your child is at risk of harm if the court does not act right away, you can file an emergency petition. The same day you file, a custody master will review your case. If the master agrees that there is an emergency, s/he can put a temporary custody order in place. The temporary order will last for up to 10 days, until there is a hearing, or the parties make an agreement.

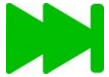
If the custody master does *not* agree that there is an emergency, s/he will deny the petition, and the case will be scheduled like any other.

Let's take a look at some examples to see what counts as an emergency.

- A. Tina and Devon share physical custody of their infant son. Devon knows that Tina has a serious medical problem, and if she doesn't take her medication, it is likely that she will become very sick, passing out and having seizures. Tina sometimes stops taking her medication because it gives her headaches. However, one time when she stopped taking her medication, she passed out while driving with her son in the backseat. He was seriously injured. Another time she stopped taking her medication, she had a seizure while cooking. The pot boiled over and her son was seriously injured by the hot water that spilled off the stove. And, a third time she stopped taking her medication, Tina passed out while her son was in the bathtub. The boy would have drowned if Tina's mother hadn't come home early. Devon has learned that Tina has stopped taking her medication again. Devon's situation counts as an emergency. If the court does not act, the child could be seriously injured or die.

* If not Philadelphia, your home county may have a similar option available.

B. Edward and Grace do not have a custody order. Grace learns that Edward plans to enroll their daughter in a Catholic school, which she does not agree with. She and Edward had agreed that their daughter would be raised Baptist. The school year begins in three days, so if the court does not act now, the child will be enrolled in Catholic school. Grace's situation does *not* count as an emergency. She definitely feels pressed for a court decision right away, but there is no risk to the child if the court does not act immediately.



Expedited:

If there is a problem that is not an emergency, but needs a fast solution, you can file for an “expedited” court date with your complaint for custody (or petition to modify). To “expedite” means to speed something up. So, a motion for expedited review is a request for the court to decide your case more quickly than usual at a special, early hearing. At that hearing, the court will decide *only* the issue that is in need of an expedited (“quick”) result; everything else has to wait for the regular court date.

What sort of situations require an expedited hearing? Generally, if one person is not allowed to see the child at all, or if a disagreement has popped up that needs to be solved quickly. The example with Edward and Grace, above, is a good example.

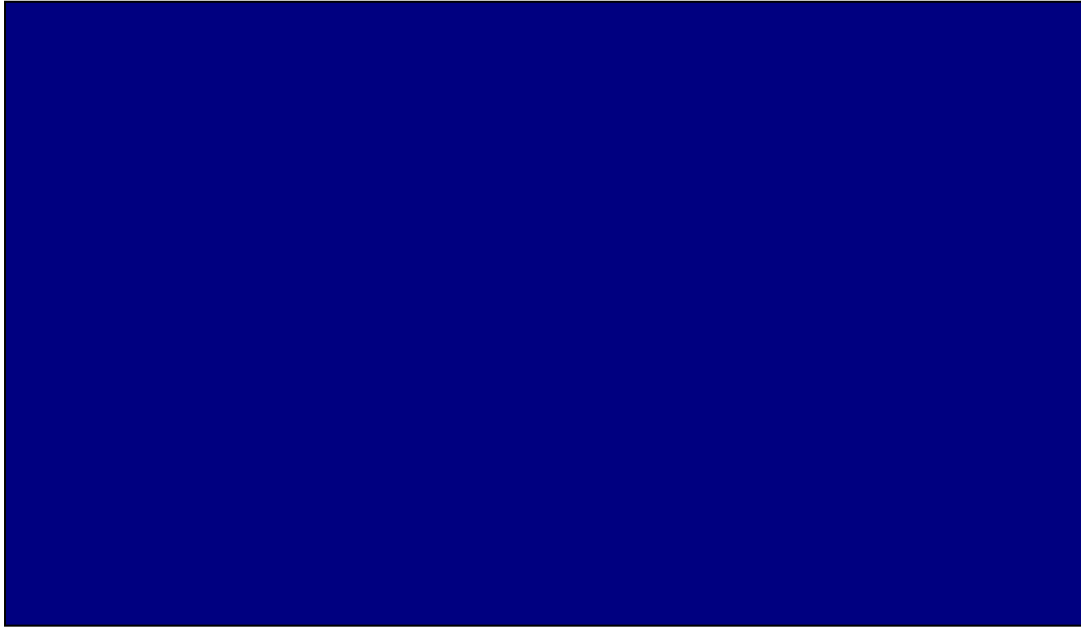
In Philadelphia, the court only accepts motions for expedited review on Monday

Contempt: Refusing to follow the custody order.

You can't just ignore a custody order. If you do, you can be held in contempt of court. It is taken very seriously. If you are in contempt of a custody order, you can be punished with fines, and can even be put in jail. Plus, it will work against you in future custody proceedings, because the court will not believe you can be trusted to carry out its orders responsibly.

Let's say you and your ex share custody of your child, and your ex keeps refusing to bring the child back to your house when he or she is supposed to, according to the custody order. Your ex is in contempt of the custody order.

What can you do in such a case? You can go to the courthouse and file a contempt “petition.” A hearing will be scheduled, and if the judge believes your ex is in contempt of the custody order, the judge will do something to fix the situation.



Is filing for child custody really something I can do myself?

A lot is at stake, and going through a custody dispute can seem scary and complicated. But, about 90% of people who go to family court here in Philadelphia do not have lawyers. Here are some tips that might help you along the way.

What to bring to court: any evidence that will help you prove that the sixteen factors the court considers* show that the custody order you want is in your child's best interests. For example:

- Pictures of your home, showing that it is clean and safe
- Pictures of the child's living area (room, bed, etc)
- Evidence of child abuse or domestic violence, such as photos of injuries, or hospital records
- School or medical records showing the child has done well in your care, or poorly in the care of the other side
- Anything else you think is convincing.

There is some evidence the court cannot consider because it is not "admissible" under the rules of evidence. It does not mean that your evidence is not good, or that the court thinks you are lying. The court will tell you if you have brought something that cannot be considered. Do not fight with the judge, or assume that things aren't going well if the court does not consider something you have brought with you.

* Review the sixteen factors the court on pages 15 and 16.

How to dress for court: Wear the nicest, most professional clothes you have. For example, men can wear a button down shirt, and women can wear a skirt or pants and a nice top, or a dress. If you don't have those things, don't worry. What's most important is just that you be clean and neat. If you look like you just rolled out of bed, it makes it look like you don't care! Do not wear shirts with curse words or rude, violent, sexual, or drug and alcohol-related images or slogans on them. Women should be careful to wear clothes that aren't too revealing.

How to act in court: In court, emotions often run high. However, judges do not like it when people don't wait for their turn to speak. If the other side says something you think is wrong, or a lie, do not interrupt—wait for your turn to respond. Also try to control the expressions on your face. Making a face that the judge can see is the same as speaking—you're trying to communicate when it isn't your turn!

Never, ever try to talk when the judge is talking. If you feel yourself starting to get angry, fight it. You want to seem mature and responsible. Flying into a rage or bursting into angry tears will not help you to create that image. Even if you are scared or shy, try to speak clearly, slowly, and loudly. Speak slower and louder than feels natural. People tend to speed up when they are nervous, and you don't want the judge to miss what you're saying. Also, the courtrooms are very busy and loud sometimes, and the judge may be quite far away from you. Make sure he or she can hear you, and that you're not mumbling.

How to prepare for court: People are often surprised by how fast things go in family court. You may only be in front of the judge for a few minutes. You may also be nervous or intimidated. When people are nervous and rushed, they sometimes forget what they want to say. Try to think about the main points you want to get across. What does the judge HAVE to know before he or she can make a decision?

Write those few main points down, and practice saying them. You know how sometimes you do something so often you can do it without thinking? Like, if you make a left on Cherry Street when you're walking to school, you *always* automatically make a left on Cherry Street, even when you're going somewhere else? You want your arguments to flow from you like that.

Getting the protection of a custody order without going to court.

Parents who are able to agree on a custody arrangement can put their agreement in writing and file it with the court. If all goes well, the agreement you wrote down together will become a custody order, without you ever having to see a custody master or judge.* Let's walk through the steps of how to make this happen.†

* Unless the agreement gives custody to someone who has or lives with someone who has criminal convictions, the court generally approves what the parents agree to.

† What follows is a basic picture of the steps you must take. If you need help with an agreement, your local legal aid society may be able to assist. Also, in Philadelphia County, the Custody Masters Unit may at some times permit “walk in” agreements, which would allow you to bypass the process described here. Please call ahead for more information.

*** Preparing a Custody Agreement:**

(1) Put your agreement in writing. You don't have to use "legal" language, but be as clear as possible about what you want. Try to use terms from this handbook. Do you want to share legal custody, or will one of you have sole legal custody? Do you want one parent to have primary physical custody, and the other parent partial? Be specific!

(2) Take the agreement to a notary, a person authorized to "notarize" documents to show that signatures on them are genuine. The notary will check the I.D. of the people signing the document to make sure they are who they say they are; watch them sign the document; and sign or stamp the document to prove that the signatures are real.

(3) Then, the signed and notarized agreement must be filed with the court, along with a complaint for custody (or petition to modify, if there is already an order you have agreed to change). It doesn't matter who files the complaint/petition. Assuming the judge finds the agreement is in the child's best interests, she will enter it as an enforceable custody order.

When child abuse or neglect is an issue in your child custody case:

In Philadelphia, the Department of Human Services (“DHS”) is responsible for investigating and providing services relating to child abuse and child neglect.* If someone calls DHS to report abuse or neglect, DHS *must* investigate to ensure the child is safe.



Most reports are “unfounded,” meaning that once DHS checks everything out, they find there has been no abuse or neglect. This includes cases in which a call to DHS is made in order to harass or intimidate, not due to actual concern.

DHS can offer services, like parenting classes or substance abuse treatment. In cases of abuse or neglect, or if the caregiver refuses services offered, DHS can try to remove the child from the home. DHS will take the caregiver to “dependency” court,[†] where a judge can find that the caregiver is incapable of providing care to the child. Importantly, *the caregiver is entitled to a lawyer*, free of charge.



If DHS thinks someone other than you (like the child’s other parent) has abused your child, and you (a) don’t have a custody order or (b) want to change one you do have, it could be enough for you to file an emergency petition.[‡]



If you fear that someone is abusing or neglecting your child, but DHS isn’t involved, you can call DHS yourself. If you later end up in court, the judge or master might think, “If she was so worried, why didn’t she report it?”



If DHS is worried that *you* have abused or neglected your child:

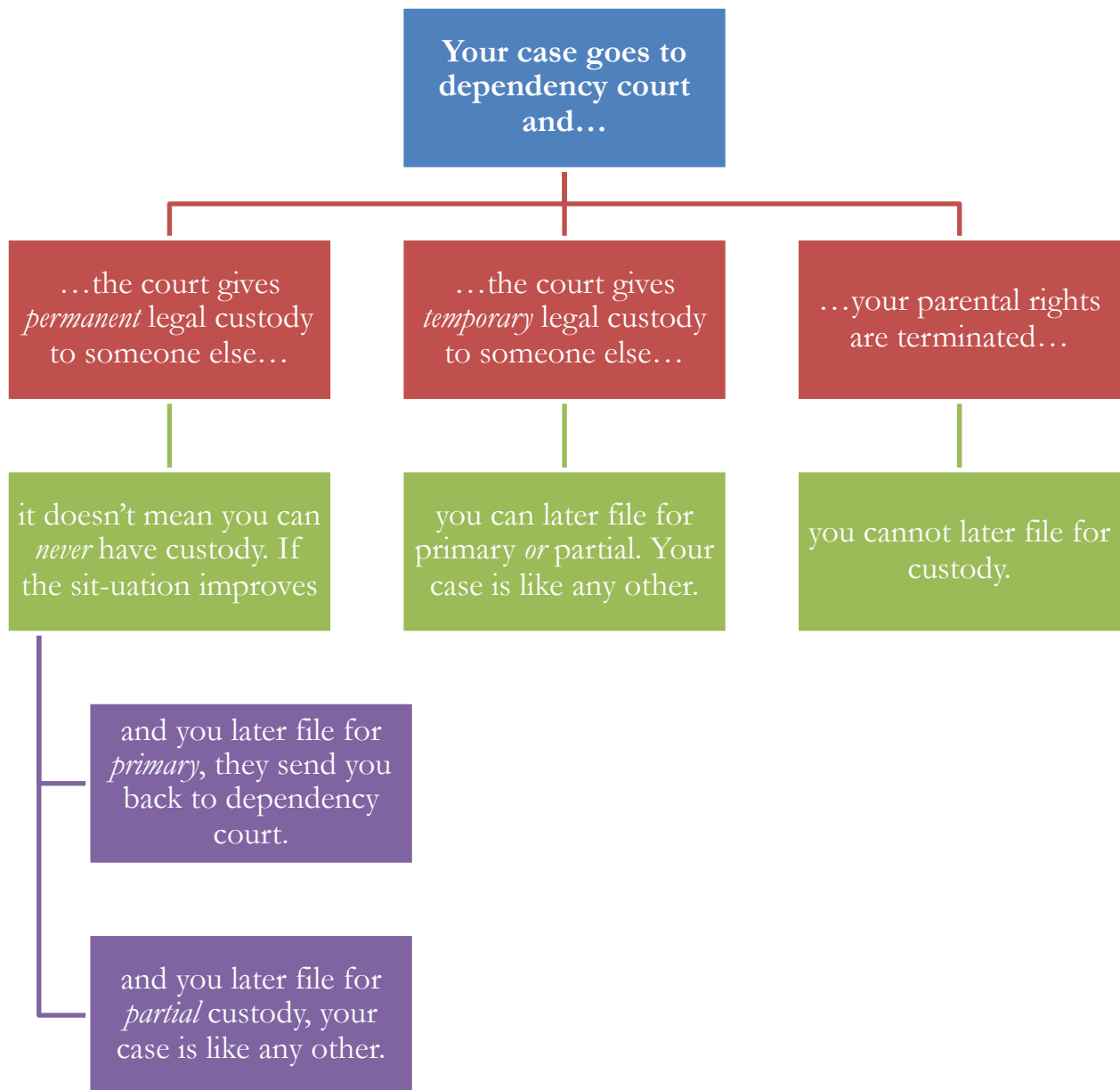
- Seek legal help.[§]
- Keep a record of everyone you talk to (names and numbers), when you talked, and what you talked about. Also write down the date of everything DHS-related you do, like going to parenting class, or appearing in court. Keep it all in one place.
- Try to remember that everyone is on the child’s side. It’s easy to feel attacked, but it will not help to be rude or disrespectful.

* In other parts of PA, Children and Youth Services (“CYS”) is responsible for this.

[†] Dependency court is for cases in which the child(ren) are allegedly without parental care and control; it is different than regular custody cases between private individuals in domestic relations court.

[‡] For more information about emergency petitions for custody, turn back to page 19.

[§] See the resources guide on page 52 for a number you can call.



Parents who are “in the system” themselves:

<i>What happens if I’m in care and have a baby of my own?</i>	<i>What happens if I have a baby and am adjudicated delinquent?</i>
<ul style="list-style-type: none"> • If you are “dependent” and in placement (foster home, kinship care, etc), and have a baby, the baby is <i>not</i> automatically a dependent child. • As long as you provide care to your child, and do not abuse or neglect your child, your child will not be found dependent just because you are* • Many teen parents give their children to relatives, neighbors, or friends, because they are afraid the state will take their babies away just because they are in care. • But, your placement <i>must</i> be one that allows you to keep your baby with you, like a foster family that can take both you and your child; a mother-baby home; or Supervised Independent Living (“SIL”). • You may be eligible for an extension to stay in care until you are 21.† • <i>There can be consequences if you let your child leave your care.</i> As discussed on page 9, once someone has cared for your child as if they were the parent, they have “standing” to fight for custody if you later want your child back. 	<ul style="list-style-type: none"> • Your baby will <i>not</i> automatically become a dependent child just because you have been adjudicated delinquent. • As long as you are able to provide appropriate care and control of your child, your child will not be found dependent. • The law is intended to make it rare for children and youth to be confined to secure facilities. But, what if, as a result of your adjudication, you have to be confined (“locked up”)? • If you are going to be confined for an extended period of time, you may want to consider entering into a custody agreement with an adult you trust to cooperate with you and respect your rights as a parent, and who you trust to provide appropriate care for your child.‡

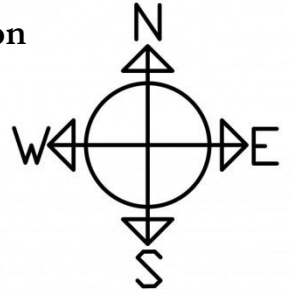
* Any extra costs caused by you having to care for your baby are considered part of the costs of caring for *you*, and do not entitle the state to have a right to your child.

† Extensions are generally available if you’re in a “course of treatment or instruction.”

‡ For more information about custody agreements, turn back to page 23. For information about how having an adult criminal conviction (*not* a juvenile adjudication) can affect your custody rights, turn back to page 17.

“I just want to get out of here”: What you need to know about relocation

A lot of the time, parents want to take their children and move away. For example, you might have family in another state that has promised a home for you and your baby. However, you can't just pick up and go, even if you think it would be best for the child.



Even if there is no custody order in place, if you are planning a move that will “significantly impair” the rights of the child’s other parent to have, share, or get custody, you *must* give notice of the move to the other parent before you can leave.





What does it mean to “significantly impair” the custody rights of the child’s other parent? Let’s look at some examples.

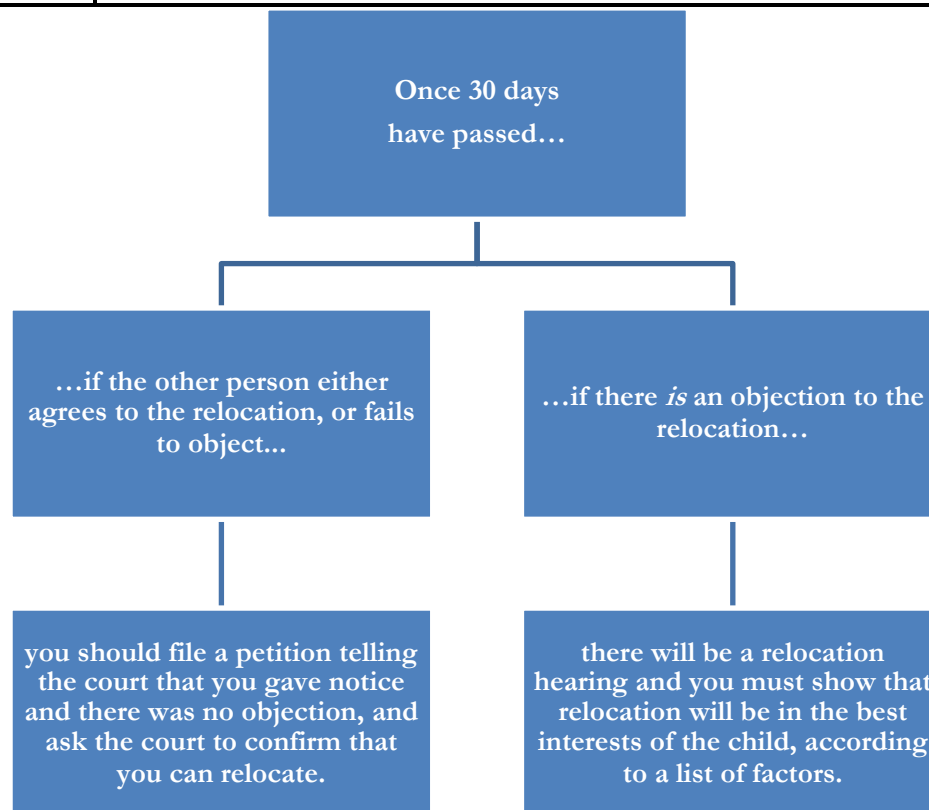
Madison and Jake have a two month old son, who Jake hasn’t seen since birth. Madison’s mom kicked her out when she got pregnant, and Madison is living with a friend, who wants her to move out. Madison’s aunt in California has said she can come live with there. She will even pay for Madison’s plane ticket, and the aunt runs a daycare that Madison can put the baby in for free, so Madison can finish high school. If Madison decides to go to California, she *has* to give notice to Jake. Even though Jake hasn’t been much of a dad so far, if Madison moved across the country, Jake’s ability to see the child would be significantly impaired.


Max and Angie have a three year old daughter. There is a custody order in place saying that Max has the child one week, and Angie has the child the next week, and back and forth. Max wants to move to West Philly. He and Angie live in South Philly. If Max moves, it will take Angie an extra 20 minutes on the bus to get to his house to pick up and drop off their daughter. Since their daughter goes to a Catholic kindergarten in Center City, where she will also start first grade next year, their daughter’s routine will not have to change at all. If Max moves, it will not significantly impair Angie’s custody. He does not have to give notice.

Relocation Cont...

What does it mean to “give notice”? Before you can relocate, you must tell every other person with a legal right to the child (usually, the child’s parent(s)) that you plan to relocate.

	<p>The notice must be <i>in writing</i>, and follow certain guidelines.</p>
	<p>You must mail the notice by certified mail, return receipt requested.</p>
	<p>You must send the notice 60 days before you plan to relocate, or within 10 days of finding out about the relocation, if you must move quickly.</p>
	<p>The other person then has 30 days to consent or object.</p>

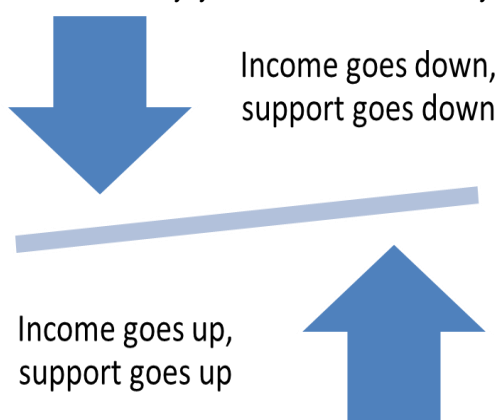


 **Relocation is complicated.** If you are planning to relocate, or someone else is relocating with your child, seek help. The resources guide on page 52 may help.

Child Support

WHAT is child support?

Parents are legally required to support their children until they turn 18 or graduate from high school, whichever is later. A parent who is not the primary caregiver generally must provide financial support to the person who *is* the primary caregiver, in order to help with the child’s expenses. How much you pay depends on how much money you make. Generally:





If you make a little, you pay a little.

You will never pay so much that you lose more than 50% of your income, or have less than \$931/month left to live on.

If you make a lot, you pay a lot.

There is a formula the courts use to decide how much you have to pay, based on the income of the person who is expected to pay support, and the person who is paid.

With the exception of cash assistance (“welfare”) and SSI, pretty much any money that comes into your pocket is income the court considers when calculating support.

 Income	 Not Income
<ul style="list-style-type: none"> • Money earned from employment <ul style="list-style-type: none"> ○ Paychecks / Salary ○ Includes bonuses, fees, and commissions ○ Includes illegal income and income earned “under the table” • SSD • Worker’s Compensation • Unemployment Compensation • Insurance payments • Money from court cases 	<ul style="list-style-type: none"> • Cash assistance (“welfare”) • SSI

Let's look at some examples:

- A. Alexis and Marvin have one child in common. Alexis works at Target, earning about \$2,000 per month. She also gets about \$200 worth of food stamps each month. Marvin gets SSI in the amount of \$720 per month because he has a disability. Alexis' income is \$2,000 per month, not \$2,200 per month—the food stamps are *not* income. Marvin's income is \$0 per month, not \$720 per month—the SSI is *not* income.
- B. Nour and Mahmoud have two children. Nour gets \$200 in food stamps each month. She does hair and nails at a salon in her neighborhood, earning about \$300 each week in cash tips, but does not get a paycheck, and is not considered an employee. Mahmoud unloads trucks at a local grocery store. He earns about \$500 per week in cash, but like Nour does not get a paycheck, and is not considered an employee.
- Nour's income is \$1200 per month, not \$1400—the food stamps are not income, but the work at the salon *is* income, even though she doesn't get a paystub. Mahmoud's income is \$2000 per month—like Nour, the work at the grocery store *is* income, even though he doesn't get a paystub.

WHO can get child support?

Any person caring for a child—including a minor—can get child support from the child's parent(s) to help pay that child's expenses. You do not need to have a custody order to get child support for a child in your care.

Minors can also be expected to *pay* child support—being underage or still in high school does not mean that your obligation to support your child is excused. However, most teen parents have very little income and very little capacity to earn income (more on this later), so most teen parents do not end up paying support.

The minor's parents (the child's grandparents) are not financially responsible for the child.

If you get cash assistance, Welfare will file for support for you, reasoning “Why should we pay cash to the caregiver when the parent could pay?”

If Welfare files for support, the caregiver won't receive the payments: Welfare will. The caregiver only gets small “pass through” payments added to their cash.

Welfare will *not* file for support if it will put a survivor of domestic violence at risk. You otherwise have no right to ask Welfare to not file for support.

A. Logan and Keisha were in a relationship for two years, and have one son together. They were living together in an apartment Logan paid for, but Keisha has moved out. Even when she was pregnant, Logan was very abusive, and would hit her and choke her whenever he got angry. It got worse after the baby was born. Keisha doesn't have any money, and hasn't been able to get a job, particularly as she hasn't finished high school, and is still breastfeeding her infant son. However, she does *not* want to have contact with Logan, even to ask for money, and instead receives cash assistance.

Keisha learns that Welfare could file for child support against Logan. Keisha is terrified—she is convinced that if this happens, Logan will get so angry he will come looking for her and the baby to hurt them. If Keisha tells Welfare that she believes filing for child support against Logan will put her or the child at risk, she has shown “good cause” for Welfare to not file against Logan. She can continue to get her benefits, and Welfare will not try to get child support for Keisha's son.

WHEN can you file for child support?

You can file for child support at any time. Once there is a child support order in place, you can file to modify, or change, that order whenever there has been a “material change in circumstances.” Usually this means that someone's income or child-related expenses have changed. Both the person who *gets* the child support payments, and the person who *pays* them are required to inform the court of any change in circumstances that would affect the child support order.

The court will NOT stop or lower support payments because the person who pays support quits, takes a lower paying job, or is fired “for cause” (because they did something wrong).

If a person isn't working, but could be, the court can order the person to pay child support anyway. The payments will be calculated based on that person's “earning capacity”—how much they *could* be earning if they would get a job. Earning capacity is calculated after considering the person's age, education, health, experience, past earnings, whether he or she has responsibilities that make it hard to work (like caring for a child), and other factors. If the person is underage and in school, that will be taken into account—a minor student's earning capacity is lower than a grown-up's.

Let's look at some examples.

- A. Ruby cannot work because she is disabled. She is home during the day, and provides full time care for her four month old son. Her son's father, Omar, has a good job working for the electric company. He has held that job for four years, and is being considered for promotion. Omar has not provided any financial support to Ruby to help care for their son. Ruby files for child support, and Omar is ordered to pay \$150 every two weeks.

Omar has gotten tired of working for the electric company, and he is annoyed that child support payments keep being taken out of his paychecks. He quits his job, then asks the court to stop the payments because he has no income. The court should refuse. Omar should not have quit his job, and will not be rewarded by having his payment stopped.

- B. Dana has little contact with her daughter, who lives with Rob, the father. She has never provided financial support to Rob to help care for their daughter. Dana stopped working when she was pregnant, because she was high risk and on bed rest, but she has not gone back to work since the birth. She is not even looking for a job. Dana has a high school diploma, is in good health, and used to work as a home health aide, making \$14 per hour.

If Rob files for child support, even though Dana has no income, the court could require her to pay support *as if* she was employed at \$14 per hour, because that is Dana's earning capacity—if she was actually trying to find work, that is what she could earn.

WHERE can I file for child support?

All petitions for child support in Philadelphia should be filed at the family court building. But, how do you know if it is right to file for child support in Philadelphia, instead of some other city, or even in another state? You can file for child support:

- where the child lives,
- where the person you want to pay child support lives or works, or
- where you live, if the person you want to pay support at one time lived there too.

WHY should I file for child support?

1. It could help your child. Even though child support is usually paid from one parent to the other, it is not supposed to benefit the parent who gets the payments. It is supposed to benefit the child. If you are not receiving child support when you could, your child is not receiving all of the resources he or she is entitled to.

2. It can help you achieve stability. A lot of people have informal support arrangements, with one parent paying the other support because they have agreed to, not because the court has ordered them to. It's great to cooperate that way.



However, without a support order, they are not required to give you that money. You may come to count on it, and if they fall through, you could be in a pretty bad place—unable to make your rent, or pay for a school trip, or a bill from the doctor. Having a support order requiring the other parent to pay can make sure you get your money each month.

3. It holds the parent who pays accountable. If a parent *ordered* to pay support fails to do so, they are “in contempt,” and the court can do a number of things to make sure your child gets the money to which he or she is entitled.

- The court can “attach” the person’s wages, and take the child support payments directly out of their paycheck.
- If back payments, called “arrear,” have built up, the court can have the person’s tax refund paid to you.
- The court could freeze their assets until they pay, or suspend their driver’s license, or even put them in jail.

Without a support order, none of these resources are available for missed payments.



Remember: custody and support determinations are SEPARATE.* Even so, it is common for parents to ask for increased custody after being taken to court for support. This may be because the parent feels they deserve something in exchange for paying support, or because they hope to become the primary caregiver and stop paying support altogether.† But, they still have to convince the court it is in the child’s best interests for them to have custody. The courts are good at telling which parents really want to care for their children, and which just don’t want to pay support!

* For more on this point, including examples, turn back to page 18.

† Even if the parent does not become primary caregiver, if s/he has 30%+ overnights per year with the child, the amount that parent pays in support is lowered.

HOW do I file for child support?

The first step, as with custody, is to go down to the family court and file a petition. As with custody, there is a filing fee, but if you are “IFP,” and unable to afford the fee, it will be waived.*

First: Seeing the Conference Officer

In Philadelphia, after you file, a conference will be scheduled with a conference officer, not a judge. A conference is an opportunity for the two sides to meet and try to agree to a support order.† The conference officer will use the formula described on page 31 to calculate what the support payments should be. If both sides agree that is a fair amount, or agree to some other amount, a *final order* can be entered at the conference.

If you are *not* able to agree at the conference, a hearing with a support master will be scheduled. The conference officer might enter a temporary order requiring support to be paid until the hearing.

After the Conference: The Support Master’s Hearing

At the support master’s hearing, each side has the chance to testify and present evidence. (We’ll talk about the kind of evidence that’s relevant later on). Like a custody master, a support master is not a judge, but serves in a similar role to a judge. After the hearing, the support master will send out a proposed order.

If either side believes the support master has made an *error*, they can file “exceptions” within 20 days. “It’s just too much / little” are *not* reasonable exceptions.

- If neither party files exceptions, the support master’s order becomes a final order.
- If either party *does* file exceptions, a hearing with a judge will be scheduled.‡

* For more information about filing IFP, turn to “Paying the Filing Fee” on page 13.

† You can also use the conference as an opportunity to ask for a paternity test if paternity hasn’t been established yet. For more information on establishing paternity this way, turn to “HOW do I establish paternity?” on page 6.

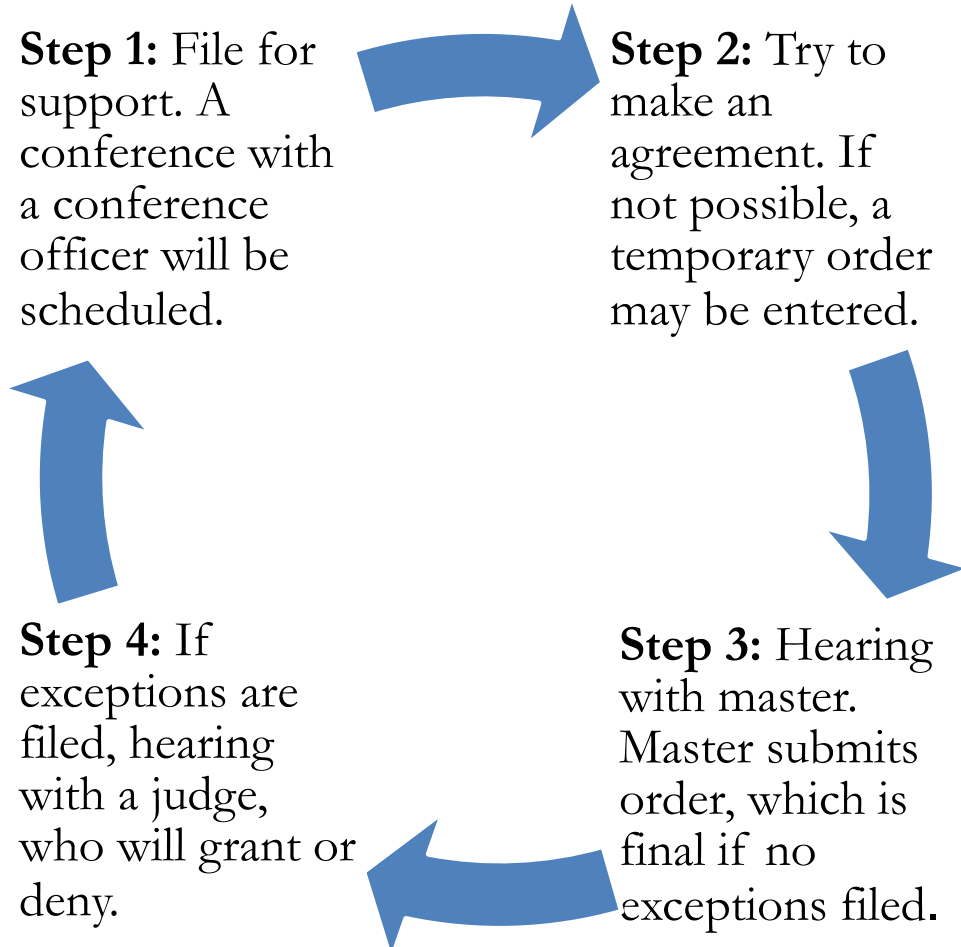
‡ You have to follow the master’s order until that hearing.

The Last Step: A Hearing With a Judge

This second hearing is *not* an opportunity to present new evidence. It is just an opportunity to argue that the support master did or did not make some kind of mistake. For example, you could argue that the support master stopped the support payments even though the person paying support quit their job, and that was wrong because the law says support will *not* be suspended if you leave a job voluntarily.

- If the judge denies the exceptions, the master's order becomes a final order. It can only be changed if one side later files to modify because circumstances have changed.
- If the exceptions are granted, the judge could write a new, final order. Or, the judge could send the case back to the support master for another hearing.

The following chart explains the different steps in a support case.



Is filing for child support really something I can do myself?

Just like custody, it seems a lot more scary and complicated than it really is. About 90% of people who go to family court here in Philadelphia do not have lawyers! For some tips on how to dress for, act in, and prepare for court, turn back to pages 22 and 23. Let's talk a bit now about what to *bring* to court.

When it comes to child support, the court only wants to know about two things: income (how much you make) and expenses (how much you spend). That's it! Child support court is not the place for emotional arguments or fights about personal relationships and parenting. It is just about money.

You will need to have the following information and documents available to you at all steps during the process:

- If you file taxes, bring your most recent tax return and any documents you used to complete it (like a W-2 form).
- Proof of your income (for example, paystubs), if any, for at least the last six (6) months.
 - If you are unsure whether money you receive is income, assume it does. It is better to have too much information than not enough!
- Proof of your expenses for at least the last six (6) months, like:
 - Child care expenses
 - School expenses
 - Extracurricular expenses
 - The court does not generally consider expenses like rent, food, etc
- A completed "income and expenses report."
 - This is a form that will be sent to you.
 - It is really long, but try to think of it as helpful—it has spaces to write in all your income and expenses, broken into very specific categories.
 - This may help you think of things you otherwise wouldn't have.
- Anything else you think is convincing.



Special Note: Trying to get out of paying child support

It is common for people to lie about how much they make in order to try and lower their support payments. This is extremely frustrating! However, there are things you can do, and evidence you can bring, to show they are not being truthful:

<i>If the other side says...</i>	<i>At the hearing, you can...</i>
<p><i>They make less money than they actually do, or</i></p> <p><i>They are not working, when you know they are (for example, “under the table”)</i></p>	<ul style="list-style-type: none"> • Ask questions about their expenses. Ask if they have a cell phone, a car, an apartment they have to pay rent on, etc., and how much they have to pay for those things. • Often these expenses will be more than they say they make in a month! It will be obvious that they are lying about their income. • You can also present evidence if you have any, such as photos of him or her in a work uniform when they have said they don’t have a job.
<p><i>They are looking for a job, but can’t find work</i></p>	<ul style="list-style-type: none"> • Remember, if a person isn’t working, but could be, the court can order them to pay child support based on what they <i>could</i> earn—their “earning capacity.”* • To show the court that the person has a higher earning capacity, ask questions about when they were last employed; how much they earned then; whether they have graduated from high school or college; if they are in good health and able to work, and so on. • You want to show that the person has the qualities of a good worker, but isn’t putting out the effort. • You can also bring in job postings for positions in the person’s area to show that jobs are available. Ask if the person applied for them and, if not, how many jobs they have applied for.

* To review this topic, turn back to page 33.

Protection from Abuse

WHAT is domestic violence?

Domestic violence (also known as domestic abuse, dating violence, family violence, or intimate partner violence) is when a person uses *physical, sexual, psychological, and/or economic* abuse in order to hurt and control a person they have a relationship with.

<i>Physical Abuse</i>	<i>Sexual Abuse</i>	<i>Psychological Abuse</i>	<i>Economic Abuse</i>
Hitting, kicking, slapping, pinching, shaking, biting, pushing, restraining, punching, throwing objects, strangling, using a weapon	unwanted touching, forced sex / rape, birth control sabotage (poking holes in condoms, flushing pills down the toilet), forcing you to have sex with someone else, filming you during sex acts without consent	criticism, threats, spreading rumors about you, isolating you from friends and family, humiliating, intimidating, manipulating, extreme jealousy, possessiveness, suicide threats (“I’ll kill myself if you break up with me”)	withholding resources, stealing money and/or resources from you, preventing you from working, preventing you from saving, running up bills on your credit cards or other debts in your name, anything else to put you in a bad place financially so you can’t be independent

Domestic violence can occur between family members. It can also occur between romantic partners. It affects people of all ages, races, classes, and religions; married or single; gay or straight. Domestic violence can happen to women and it can happen to men. Although you might feel very alone, teen dating violence is common. One out of every five girls (20%) will experience domestic violence as a teen. The number of boys who experience domestic violence is harder to calculate, because fewer come forward, but their experiences are real.

There is a lot of silence around domestic violence. Often people don’t speak out because they are ashamed. They might also feel like they can’t get away from the situation, especially if they’re caring for children and have few resources. In particular, they may be afraid that the children will be taken away, or that they will lose financial support and housing.

WHAT is a PFA?

In order to help address these fears, Pennsylvania passed the Protection From Abuse Act. This law makes it possible for people—including minors—to get Protection From Abuse orders (“PFAs”). In a PFA, a judge can do any or all of the following:

- Order the abuser to stop abusing you.
- Order the abuser to not contact you.
 - S/he cannot approach or communicate with you, in person or electronically, or through other people.
 - This means s/he cannot call you or send texts or emails.
 - S/he cannot get other people to approach or communicate with you for them (for example, they cannot have a friend call you for them).
- Order the abuser to pay child support.
 - Many parents are afraid that if they leave, they will not have enough money to take care of themselves or their children—this can help.
 - The child support order will only be in effect for two weeks, but if you file for child support within those two weeks, the order will continue for as long as it takes the child support court to enter a child support order.*
- Enter a temporary custody order.
 - This helps if there is no custody order in place, or you need to change a current custody arrangement in order to protect yourself / your children.
 - This can include restricting the abuser to supervised visits, or providing for a safe pick up / drop off location (for example, a police station).
- Evict the abuser from the home you share, under some circumstances.
- Order the abuser to give any weapons s/he owns to the police.

TEMPORARY PROTECTION FROM ABUSE ORDER <input type="checkbox"/> Amended Order <input type="checkbox"/> Continued Order	IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA NO. _____														
PLAINTIFF															
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First	Middle	Last	Plaintiff's DOB												
Name(s) of all protected persons, including minor child/ren and DOB: _____ _____															
V.															
DEFENDANT															
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Defendant's Address: _____ _____	DEFENDANT IDENTIFIERS														
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DOB	HEIGHT														
SEX	WEIGHT														
RACE	EYES														
HAIR															
SSN															
DRIVER'S LICENSE #															
EXP DATE	STATE														
CAUTION: <input type="checkbox"/> Weapon Involved <input type="checkbox"/> Weapon Present on the Property <input type="checkbox"/> Weapon Ordered Relinquished															
The Court Hereby Finds: That it has jurisdiction over the parties and subject matter, and the Defendant will be provided with reasonable notice and opportunity to be heard.															
The Court Hereby Orders: <input type="checkbox"/> Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found. <input type="checkbox"/> Except for such contact with the minor child/ren as may be permitted under paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons. <input type="checkbox"/> Additional findings of this order are set forth below.															
Order Effective Date _____	Order Expiration Date _____														

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. §6114. Consent of Plaintiff to Defendant's return to the residence shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. §6108 (g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after the service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§2261-2262.

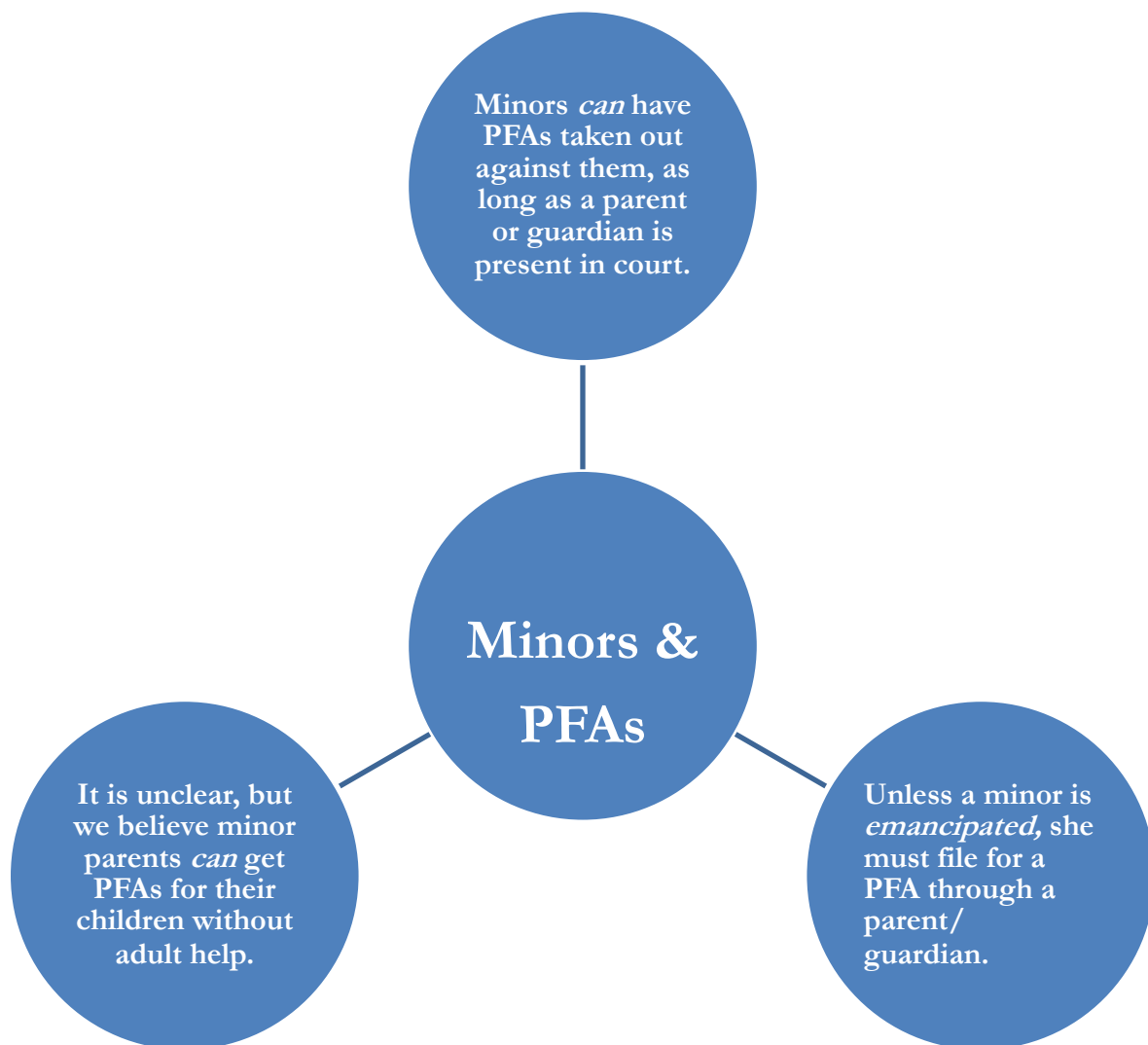
* For information on how to file for child support, turn back to page 36.

WHO can get a PFA?

PFAs are not appropriate for every act of violence (for example, a fight between two kids at school). You can only file for a PFA against:

- Romantic partners
 - Includes same sex partners
 - Includes dating relationships, not just marriage
 - Includes former partners / people you've broken up with
- Your parent(s), your sibling(s) (brothers and sisters), or any other relative (by blood or marriage)

These people can also all get PFAs against you.



WHEN and WHERE can I file to get a PFA?

In Philadelphia, during regular business hours, you can file for a PFA at the family court building. After hours, and on holidays and weekends, you can file at the Criminal Justice Center, which is located at 1301 Filbert Street. This is for emergency situations in which abuse has just occurred and you cannot wait until the next business day for Family Court to be open in order to seek protection. Between the two locations, you can file at any time, on any day—the door is literally always open.

WHY should I file to get a PFA?

Some people fear that getting a PFA will make things worse. You know better than anyone if, in your particular case, a PFA would help or hurt.

However, there are many reasons why having a PFA can be a good thing. For example, if you have a PFA against the abuser and s/he violates the PFA, you can have them arrested, and/or found in contempt of the PFA order. And, as discussed, a PFA can put in place arrangements that can make it easier for you to get away from an abusive relationship, such as evicting the abuser from a home you share.

HOW do I file for a PFA?

Taking the First Step

In order to get a PFA, the first step is to fill out a “petition” describing the abuse. There’s no time limit on what can be considered, so it’s ok to describe abuse that happened in the past. However, it’s better to focus on the most recent events, and to file right away, if you can. If you wait a long time, a judge might think (however wrongly): “How bad could it have been if they waited to come forward?”

At the time you fill out your petition, you’ll be asked to specify what you want in the PFA: just an order telling the abuser that he or she can’t abuse you any more? A “stay away” order? Do you need some of the other provisions talked about earlier, like a temporary child custody or child support order, or the eviction of the abuser?

What Happens After You File

A judge will review the petition and schedule a hearing. The hearing will be within 10 days of when you file, so it will happen fast.

The judge may also enter a temporary PFA to remain in effect until the hearing. The judge will decide whether to enter a temporary order after speaking with you.

You are responsible for “serving” him or her a copy of:

<i>the petition</i>	because they have the right to know what you say they did
<i>any temporary order</i>	because they can't follow the temporary order if they don't know about it
<i>the hearing notice</i>	because that paper tells them when and where the hearing will be

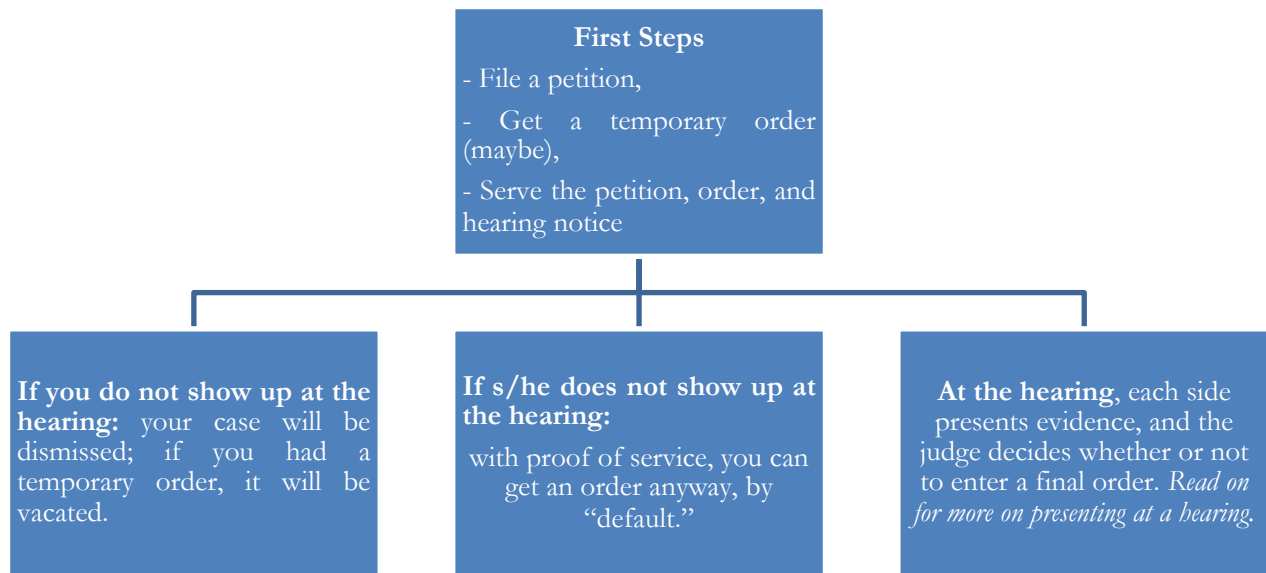
Personal Service does *not* mean you have to physically approach the abuser and hand over the papers yourself. You can have another adult do it for you. Most people ask the police in the district where the abuser lives or works to “serve” the papers for them. It is a part of their job, and they do it all the time.

Make sure whoever serves the PFA gives you back the signed “affidavit of service,” a form on which they affirm that service has been completed.

Showing Up For the Hearing

A lot of people back out at the last minute before a PFA hearing. It's not hard to think of reasons why: maybe the abuser threatens to hurt you if you go to court, or you still love them and don't want to get them in trouble. Whatever your reason, you know what is best for you. But, it is important to be aware that if you just don't show up for your PFA hearing, the judge will dismiss your petition. Your temporary order will no longer be in effect, and if you decide you want a PFA after all, you have to start the process all over again.

On the other hand, if *you* go to court for the PFA hearing, but the abuser doesn't show up, the court can give you a final PFA anyway. *If you are not able to serve the papers before the hearing date, and you still want a PFA, you should go to the hearing anyway.* The judge can extend the temporary order, giving you another chance to serve the papers.



What Happens At the Hearing

At the hearing, each side has an opportunity to testify and present witnesses and evidence. If the judge finds by a “preponderance of the evidence” that there has been abuse, he or she will enter a final PFA, which can remain in effect for up to 3 years.* This means that the judge has to believe that it is *more likely than not* that you were abused by the person against whom you seek a PFA.

You should bring every bit of evidence of the abuse you have to the hearing. The court can listen to and credit your testimony, so don’t worry if you don’t have any ‘hard evidence.’† But, such evidence helps if you have it, such as:

- Pictures of injuries you sustained
- Medical records of doctor / hospital visits caused by the abuse
- Copies of threatening emails or text messages
- *Not* police reports, unless the officer who prepared the report appears as a witness‡

* Under some circumstances, you can file for an extension before (but not after) the expiration date.

† If you are struggling with domestic violence, and aren’t sure what steps you want to take next, consider starting to collect evidence—going to the doctor when injured, printing out emails, etc. If you decide you want a PFA, you will have evidence ready.

‡ You can bring witnesses to a PFA (or custody!) hearing. However, the witnesses have to be given, in advance, a paper called a “subpoena.” For witnesses who will

After the PFA Hearing: PFA Violations and Contempt

If you get a temporary or final PFA and your abuser violates it, he or she is “in contempt” of the PFA. They do not have to physically harm you to be in violation of the PFA: simply contacting you can be a violation, for example, if your PFA prohibits contact. You can go to court and, without paying a fee, file a contempt petition, informing the court of the violation. A hearing will be scheduled, and the abuser will be required to appear and try to show that they did not violate the PFA. The judge can punish the violation with fines and even jail time. You can also call the police and report the PFA violation. Ask to speak to a “domestic violence detective.” The police can arrest the abuser, and they could be criminally charged. The police do *not* need to witness the violation of the PFA themselves.

If you move out of state after receiving a final PFA, you can “register” the PFA in your new home state. Every state has a different procedure, but court employees will be able to tell you what to do. Once you register the order, the courts and police in your new home state will know that you have a PFA, and will be able to protect you against violations of the PFA.

“Gaming” the PFA system

It is not uncommon for people to report that someone has manipulated, misused, or “gamed” the PFA process. A very common complaint of survivors of domestic violence is that their abusers have also filed for PFAs against *them*. The abuser might do this in order to:

- get back at the victim
- create the image that *they* are the victim, and the real victim is crazy, or a liar
- create the image that there isn’t real *abuse*, just that the relationship is explosive

The hope is that the judge will not know who to believe in a “he said / she said” case and will either grant or deny *both* petitions. Unfortunately, these tricks sometimes do work, and you should be emotionally prepared for them. However,

testify without being ordered by the court, a subpoena (suh-PEE-nuh) is basically like an admission ticket that gets them in. For other witnesses, a subpoena is like a mini court order forcing them to appear. The clerk of court, located at the family court building, has subpoenas available, and will show you how to fill them out.

these tricks should *not* discourage you from seeking legal intervention if you have been a victim of domestic violence. If you are prepared for this sort of manipulation, you won't be thrown off by it, and will be confident and prepared.



Emancipation

Many teens are interested in becoming emancipated from their parents. Living apart from your parents is *not* enough to make you legally emancipated. Let's look a little bit more closely at what it means to be emancipated.

WHAT does it mean for a teen to be emancipated?

If a teen becomes emancipated, it means that a court has decided that the teen is totally, completely legally free of his or her parents' authority and control. In order to be emancipated, the teen must be able to live independently and support him or herself.

Being emancipated does not make you a legal adult—you cannot drink, or vote, or drive a rental car, for example—but it does mean that your parents no longer have legal responsibility for you. That is why it is so important that a teen be able to support him or herself before emancipation is possible: if you become emancipated, you can no longer rely on your parents to take care of you.

If you simply move out of your parents' home, and are living either alone or with other adults, relatives, or friends, you are *not* legally emancipated. Your parents are still legally responsible for you, and must make sure you are cared for appropriately.

WHO can become emancipated?

As noted, minors who are able to live independently and support themselves can become emancipated from their parents. Teen parents are *not* automatically emancipated just because they have had children, although they do have some rights other teens do not have.*

WHEN can I become emancipated?

There is no minimum age. But, courts are less likely to believe that younger teens are capable of caring for themselves without parental control.

* For example, teens girls who are or have been pregnant are able to make decisions about their own health care, with the exception that they cannot consent to abortions without parental consent or a “judicial bypass,” which is when the court says you can have an abortion.

WHY would I want to become emancipated?

Emancipation is a very serious matter! Most teens simply are not ready to take care of themselves, even if they think they are. However, there are some common reasons why teenagers want to legally separate from their parents. For example, if there is a history of abuse within the family, or if a teen parent wants to start their own household so they have more control over the environment in which their child is raised. Emancipation is not common, and it is a BIG DEAL.

WHERE and HOW can I become emancipated?

It is legal for a minor to move out and live with someone other than their parents. But, if the parents object, or the minor's living conditions are unsafe or inappropriate, there could be consequences: the teen could be considered a runaway or a truant (if not attending school), or there could be grounds for the state to begin the process to have you declared a dependent child and put you in placement (foster care, a group home, etc).

If you want to become emancipated, you first have to leave your parents' home. Then, once you leave, you have to file a petition asking to be emancipated. A judge will decide whether or not it is appropriate for you to be emancipated. Every county has its own procedure for how this is done. Because emancipation is such a serious matter, it is strongly suggested that you seek help from a lawyer or social worker before moving forward.

Additional Notes

Undocumented Teens and Those Who Don't Speak English

- When it comes to filing for child custody, child support, or protection from abuse, your immigration status does not matter, unless you are at risk of removal.
 - The court should not ask what your status is.
- If you do not speak English, the court *has* to get an interpreter who speaks your native language before it hears your case.
 - If you are able, let the court know in advance that you need an interpreter.

About Finishing School:

In Pennsylvania, you are allowed to go to high school until you graduate, or until you turn 21. If you turn 21 during the school year, you will be allowed to finish that school year before you must stop attending public school.

If you have dropped out and are within the appropriate age range, you can re-enroll! It is important to point this out, because a lot of people think once they leave, they can't go back, and will have to get a GED instead. A GED may be a good choice for some people, but it just isn't true that once you leave school, you can't go back.

List of Criminal Offenses

As noted on page 17, if a person seeking custody of a child has been convicted of certain crimes, or lives with someone who has been convicted of certain crimes, before the court can make a decision about custody, it must first decide whether the person with a criminal background poses a threat of harm to the child.

The list of crimes is long, and is included here so you can check and see if you or anyone else involved in your case has a conviction on the list.

18 Pa.C.S. Ch. 25 (criminal homicide);
18 Pa.C.S. § 2702 (aggravated assault);
18 Pa.C.S. § 2706 (terroristic threats);
18 Pa.C.S. § 2709.1 (stalking);
18 Pa.C.S. § 2901 (kidnapping);
18 Pa.C.S. § 2902 (unlawful restraint);
18 Pa.C.S. § 2903 (false imprisonment);
18 Pa.C.S. § 2910 (luring a child into a motor vehicle or structure);
18 Pa.C.S. § 3121 (rape);
18 Pa.C.S. § 3122.1 (statutory sexual assault);
18 Pa.C.S. § 3123 (involuntary deviate sexual intercourse);
18 Pa.C.S. § 3124.1 (sexual assault);
18 Pa.C.S. § 3125 (aggravated indecent assault);
18 Pa.C.S. § 3126 (indecent assault);
18 Pa.C.S. § 3127 (indecent exposure);
18 Pa.C.S. § 3129 (sexual intercourse with animal);
18 Pa.C.S. § 3130 (conduct relating to sex offenders);
18 Pa.C.S. § 3301 (arson and related offenses);
18 Pa.C.S. § 4302 (incest);
18 Pa.C.S. § 4303 (concealing death of child);
18 Pa.C.S. § 4304 (endangering welfare of children);
18 Pa.C.S. § 4305 (dealing in infant children);
18 Pa.C.S. § 5902(b) (prostitution and related offenses);
18 Pa.C.S. § 5903(c) or (d) (relating to obscene / other sexual materials and performances);
18 Pa.C.S. § 6301 (corruption of minors);
18 Pa.C.S. § 6312 (sexual abuse of children);
18 Pa.C.S. § 6318 (unlawful contact with minor);
18 Pa.C.S. § 6320 (sexual exploitation of children);
Section 6114 (contempt for violation of order or agreement);
The former 75 Pa.C.S. § 3731 (driving under influence of alcohol or controlled substance);
75 Pa.C.S. Ch. 38 (driving after imbibing alcohol or utilizing drugs).

Resources in Philadelphia

<i>If you need help with...</i>	<i>Call...</i>
Welfare, Food Stamps	<p>Philadelphia Legal Assistance (“PLA”) 718 Arch Street, Suite 3N (215) 981-3800 Walk-in: M & W, 9—11:30 am Telephone: T & Th, 9:30 am—noon</p> <p>CLS North Central Legal Center 1410 W. Erie Avenue (215) 227-2400 Walk-in: M, W, F, 9 am—noon</p>
If you have been denied SSI	<p>CLS North Central Legal Center 1410 W. Erie Avenue (215) 227-2400 Walk-in: Tu, Th 9 am—noon</p> <p>CLS Center City Office 1424 Chestnut Street (215) 981-3700 Walk-in: M-F 9am—noon</p>
Other SSI issues	<p>CLS North Central Legal Center 1410 W. Erie Avenue (215) 227-2400 Walk-in: M, W 9 am—noon</p>
Medical Assistance	<p>CLS North Central Legal Center 1410 W. Erie Avenue (215) 227-2400 Walk-in: M, W, F, 9 am—noon</p>

	<p>Philadelphia Legal Assistance (“PLA”) 718 Arch Street, Suite 3N (215) 981-3800 Walk-in: M & W, 9—11:30 am Telephone: T & Th, 9:30 am—noon Pennsylvania Health Law Project 123 Chestnut Street, Suite 400 <i>Call the helpline:</i> (800) 274-3258</p>
<p>Child Custody, Child Support</p>	<p>PLA Family Law Hotline (215) 981-3838 Telephone ONLY: M, W 10 am—noon</p> <p>For parents involved with DHS: CLS Family Advocacy Line (215)-981-3765 M-F, 9 am—noon</p>
<p>Domestic Violence</p> <p><i>For 24-hour support:</i> Philadelphia Domestic Violence Hotline (1-866) 723-3014</p>	<p><i>Legal Help</i></p> <p>Women Against Abuse Legal Center (215) 686-7082 Telephone ONLY: Daily, 9 am—5 pm</p> <p>PLA Family Law Hotline (215) 981-3838 Telephone ONLY: M, W 10 am—noon</p> <p><i>Counseling & Resources</i></p> <p>Youth Health Empowerment Project (215) 564-6388</p> <p>Anti-Violence Partnership (for youth) (215) 567-6776</p> <p>National Teen Dating Abuse Helpline (1-866) 331-9474</p>

	<p>Mazzoni Center (LGBTQ) (215) 563-0652</p> <p>The Attic Youth Center (LGBTQ) (215) 545-4331</p> <p>Women In Transition (Substance Abuse) (215) 751-1111</p> <p>Menergy (for abusive partners) (215) 242-2235</p>
Reproductive Rights	<p>CHOICE Hotline (215) 985-3300 For information about where you can get an abortion</p> <p>Women’s Medical Fund Helpline (215) 564-6622 For help paying for an abortion</p>
Education Rights	<p>Education Law Center (215) 238-6970 Leave a message—response in 2-4 days</p>
Juvenile Rights	<p>Juvenile Law Center (215) 625-0551</p>