

Parent Handbook

For

Successful Custody Proceedings



Court of Common Pleas of McKean County
48th Judicial District
Smethport, Pennsylvania

Hon. Christopher G. Hauser, Judge

McKean County Domestic Relations / Family Law: (814)-887-6018
16975 Route 6, Smethport, PA 16749

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This handbook is based on a handbook written by Cindy Van Schooten, Family Court Services Director, Tehama County Superior Court, California. With the permission of Ms. Van Schooten parts of her handbook have been used in the making of this handbook.



McKean County Court of Common Pleas Statement of Purpose:

The Purpose of the Court is to justly decide the controversies presented.

The Court does that by...

- Treating all people with dignity, courtesy, civility, and respect.
- Listening carefully, considering conscientiously, and deciding wisely.
- Applying the law with impartiality and integrity.
- Providing a forum that is fair, in a setting that is dignified, safe, and clean.
- Recognizing the Court's responsibility to protect the rights of all citizens.
- Acknowledging the Court's duty to encourage where possible, and to compel to where appropriate, every citizen to carry out the responsibilities owed to one's family, community, state, and nation.

Family Services Offices and Contacts:

McKean County Family Law Office

(814) 887 - 6018

16975 Route 6, Smethport, PA 16749

Hours: M-F, 8:30-4:30

McKean County Prothonotary's Office

(814) 887 - 3270

500 W. Main Street, Smethport, PA 16749

Hours: M-F, 8:30-4:30

McKean County Family Centers

(814) 362 - 1834

1 Mechanic Street, Bradford, PA 16701

www.mckeanfc.com

McKean County Court of Common Pleas (forms and links)

http://www.mckeancountypa.org/Departments/Court_Of_Common_Pleas/Index.aspx

Introduction to the Custody Process

The custody process in McKean County is essentially a three-step process. This involves a Preliminary Conference, Mediation, and a variable between a Standard (mini) Custody Trial and an Expanded (full) Custody Trial. **Keep in mind that if parents cannot mutually agree on a custody arrangement, THE JUDGE WILL MAKE THE FINAL DECISION.**

Step One – Preliminary Conference

A judge explains the custody process to the parties after which the parties meet with a Conference Officer/Mediator for a preliminary conference. The Conference Officer/Mediator will help the parties work out an agreement and determine whether they want to go through Mediation, a Standard Custody Trial or an Expanded Custody Trial. The Conference Officer/Mediator may also determine if a custody evaluation is necessary. Each case at this point will either have an agreement or move to the next step. If you do not have a custody order, a temporary order will be made.

Step Two – Mediation

Mediation is a non-adversarial approach to reaching a custody agreement. The Mediator helps the parties reach an agreement, which will then be adopted by the Court as a Custody Order. Each party must pay a mediation fee of \$100.00 per hour. The first hour of mediation is free.

Step Three (A) – Standard Custody Trial

For those parties who because of domestic violence refuse to mediate or those parties who fail to reach an agreement at mediation will be scheduled for a Standard Custody Trial. A standard custody trial is a mini-trial lasting no more than 3 hours. It is less formal than an expanded full custody trial. The rules of evidence are relaxed. The parties are required to complete a questionnaire and may call only 2 witnesses. A Judge will receive evidence presented by the parties as to what the custodial arrangement should be. The cost for the Standard Custody Trial is \$200.00 for each party.

Step Three (B) – Expanded Custody Trial

Parties refusing mediation or having failed to come to an agreement at mediation and whose case is complex may request an Expanded Custody Trial. Parties must present specific evidence based upon Pennsylvania's custody statute. The rules of evidence are strictly applied and should not be attempted by self-represented parties. Each party must pay a \$300.00 trial deposit. Additional fees may be assessed if the trial lasts more than 1 day.

If you feel you cannot afford the fees for these steps, you may qualify for a reduced rate based upon the Federal Poverty Guidelines.

Children in the Middle

Each party in a custody case must attend the Children in the Middle program that is presented by the McKean County Family Centers. The program consists of a one day, four-hour session, highlighting inappropriate and appropriate ways for parents to deal with conflict without involving children in the custody dispute.

Each parent is responsible for scheduling and completing the Program.

Do's and Don'ts of the Custody Process

DO:

DON'T:

Attend each custody step with a positive and cooperative attitude.	
Think about a parenting plan that allows your child to have frequent and continuing contact with both parents.	Come unprepared.
Focus on your child's needs.	Focus on your own needs.
Acknowledge that a child needs time with <u>both</u> parents.	"Punish" the other parent by withholding the child.
Listen respectfully to the other parent at the Preliminary Conference and Mediation sessions.	Let your feelings lead you to behave in an abusive or threatening manner toward the other parent.
Think about your child's needs and schedule, as well as both parents' schedules.	Think that there is one standard plan that fits the needs of all children.
Be prepared to compromise about scheduling.	Compromise about your child's health or safety. You do not have to agree to a parenting plan that you feel is dangerous, harmful, or that is not in your child's best interest.
Bring up any valid concerns about the other parent's ability to care for your child.	Needlessly bad-mouth the other parent.
Understand that as your child grows, his/her developmental needs may change, which may require flexibility and changes in your parenting plan.	Assume that the agreement reached will be "carved in stone."

You have a Very Important Decision to Make

Come to the Preliminary Conference or Mediation prepared to negotiate. This means that you may need to compromise about less important issues.

The Conference Officer and Mediator cannot...

- ✓ talk about financial issues (child support, spousal support, property issues)
- ✓ receive confidential information from either parent.
- ✓ give legal advice
- ✓ enforce, modify, or interpret court orders

If the parents reach an agreement...

- ✓ the Court adopts the parents' agreement based upon the terms and conditions they freely negotiated
- ✓ Children do best when parents get along

If the parents do NOT reach an agreement...

- ✓ a judge will make a decision based upon the best interests of the child(ren)



IT'S UP TO YOU!

Are you going to work on an agreement or are you going to let a stranger make the decision for you???

How Parents Experience Separation and Divorce

Emotional Aspects of Separation

Separation involves a transition from being partnered to being single, regardless of whether or not you and the other parent were married. The separation may be a change that you began and you may believe it to be a positive change. But loss of a relationship is the type of change that can bring forth a variety of unexpected and mixed feelings: happiness, anxiety, sadness, anger, and confusion.

For parents, the end of the relationship or the marriage can be a serious loss. The emotions that arise from such a loss can feel just like the grief one feels when someone close to them has died.

It is natural to grieve the loss of a dream, the loss of a partner, the loss of a happy childhood for your children because loss means that something you once held close and precious has gone away forever.

It is very important to learn how to accept loss and the feelings that go with it. This is called the grieving process.

Tips for Parents

- ◆ Accept your feelings, but don't let them control your life.
- ◆ **Take time to make decisions.**
- ◆ Talk to people you trust about your issues, don't use your children as "therapists" or "sounding boards."
- ◆ **Pick wise friends, therapists and lawyers who don't have their "own agenda."**
- ◆ Avoid an adversarial approach.
- ◆ **Give the children time and a safe place so they can talk about their feelings.**
- ◆ Know that "This too, will pass."

The Five Stages of Grief

Elizabeth Kubler-Ross

DENIAL	Denial feels like emotional numbness. YOU MAY THINK, <i>"This can't be happening to me."</i>
ANGER	Emotions of hurt, pain and fear turn to anger and negative feelings about the other parent. YOU MAY THINK, <i>"That loser can't do this to me!"</i>
BARGAINING	Bargaining involves trying to make a deal with yourself or with the other parent, in order to get what you want. YOU MAY THINK, <i>"If only..."</i>
SADNESS & DEPRESSION	Feelings of sadness and depression usually occur once the anger begins to lessen. YOU MAY THINK, <i>"This really is happening to me." "I'll never be happy again."</i>
ACCEPTANCE & RECOVERY	You begin to move on with your life and have a more balanced view of the other parent. YOU MAY THINK, <i>"I can deal with this..."</i> Acceptance and recovery are the goals. It can take 1 to 3 years to arrive at this stage.

How Children Experience Separation, Divorce, and Parental Conflict

Before Separation

- Children feel the tension in the home
- Children worry what will happen to their parents and what will happen to them.
- Children feel anxious. They may have trouble sleeping or have problems in school.
- Children may have problems with their behavior.

During Separation

- Children face shock and denial. They think, “this can’t be happening!”
- Children worry that they may lose their parent’s love.
- Children worry that they may be rejected by a parent.
- Children worry about their future. They think, “Who will take care of me?”

After Separation

- Children still worry about who will take care of them.
- If a parent is sad and unable to care for the home or the children, the child may try to do the parent’s job.
- It can be hard for children to go back and forth between the parents’ homes, especially if there is conflict between the parents.
- Children can feel deep sadness.

The experience of separation is different for children than it is for adults. Adults will seek relief from unhappiness, but children don’t have the tools to do this. Children tend to worry about their parents and to blame themselves for the separation and/or divorce.

Risks for Children during Separation:

- Parents are so emotionally empty that they are not available to their children.
- Children become emotional supports for their parents.
- One parent tends to spend less time at home and this may cause a break in the child-parent bond.
- Conflict between parents interferes with the children's development.
- Even under the best circumstances, children feel guilty and have problems with loyalty and trust.
- Children tell parents what they think their parents want to hear.
- Parents put pressure on children to state a preference.
- Fighting between parents reinforces children's wish for their parents to reconcile.

When is it time to consider counseling for the children?

- **It is normal for children to have some behavioral and emotional problems for a while.**
- **Children usually react to parents' stress.**
- **Sometimes it is the parents who need help.**
- **Consider counseling for children if problems are severe and do not go away.**
- **Counseling may help if children are shutting down and not talking.**

Helping your child(ren) through separation or divorce:

DO:

- Tell the child **briefly** what is happening, where everyone will live, and when he/she will see each parent.
- Explain that separation/divorce is an adult decision that is made when parents can't get along with one another. **Do not burden the child with too many details.**
- Reassure the child that he/she didn't cause the separation/divorce and that he/she can't change the decision.
- Reassure the child that separation/divorce doesn't happen between children and parents.
- Encourage the child to talk about how he/she feels and what he/she thinks. Encourage the child to ask questions.
- Keep a clear and reliable schedule for the child.
- Speak respectfully about the other parent.
- Reach out for support for yourself, if necessary.
- Allow the child to adjust to having two homes - one with each parent.
- Allow the child to love both parents.

DON'T:

- Fight - physically or verbally - with the other parent. Witnessing family violence hurts children of all ages.
- Put the child in the middle. Don't ask him/her to carry messages, deal with money matters, or spy on the other parent. Don't make the child choose between parents.
- Talk about legal and financial issues (child support, spousal support, etc.) with the children.
- Criticize the other parent in front of the child. This only creates a loyalty conflict for the child.

Domestic Violence

Children are affected in negative ways when there is violence between their parents.

What is Domestic Violence?

- ⇒ Physical abuse (punching, choking, slapping)
- ⇒ Sexual abuse (rape, non-consensual sex acts)
- ⇒ Verbal, emotional and mental abuse (yelling, cursing)
- ⇒ Stalking
- ⇒ Threats and coercion, intimidation (written or verbal)
- ⇒ Isolation (preventing from leaving home or making phone calls)
- ⇒ Economic abuse (limiting access to funds and accounts)
- ⇒ Power and control (making someone afraid)

Effects of Domestic Violence on Children:

Out-of-control emotions:

- Anxiety and depression
- Helplessness and fear

High Risk Behaviors

- Alcohol and drug abuse
- Aggressive behavior
- May become a “victim” or a “perpetrator”

Domestic Violence Cont...

- ◆ You may be able to get a protective order
- ◆ Make a safety plan
- ◆ Protect your children; talk with them about safety concerns
- ◆ Remember that any type of violence or abuse hurts children even if it is “only” seen or heard
- ◆ Get help - for yourself and the children

If there is a Protection from Abuse Order or other Court Order, that person has the right to request:

He/she be separated from the other parent at the Preliminary Conference.
Separate Mediation (to meet with the Mediator without the other parent present)
Their address & phone number be kept confidential.

If the Court finds that one parent has perpetrated domestic violence against the other parent:

This may affect the ability of that parent to have physical and/or legal custody of the children.

How to Manage Anger When Talking to the Other Parent

Take your time - don't respond impulsively!

Listen, Listen, Listen - especially if you want to be heard by the other parent.

Let the other parent finish what she/he is saying. Who knows? You might just agree!

Talk nicely. Imagine that your interactions are being videotaped and will be played for your children when they are adults.

Leave the past alone. Focus on resolving the issues at hand. Don't discuss old marital/relationship issues. If your feelings are getting in the way, consider seeing an individual therapist.

Keep it short. Often, the less said, the better.

Drugs and Alcohol

WHAT IS A DRUG? A **drug**, broadly speaking, is any substance that, when absorbed into the body of a living organism, alters normal bodily function.

Two types of drugs:

- ✚ Legal: Prescription medications, alcohol, marijuana with a physicians' recommendation.
- ✚ Illegal: Marijuana, meth, speed, cocaine, heroin, and prescription medication not prescribed to you, etc.

Using drugs or alcohol can negatively affect your ability to parent even if they are prescribed or recommended by a physician. Drug use can also directly affect your child. Parental substance abuse interrupts a child's normal development, which places these youngsters at higher risk for emotional, physical and mental health problems. Therefore, in order to ensure your children's best interest are maintained, the Court will take any allegations of drug and/or alcohol use/abuse very seriously.

Developmental Needs of Children

Infants, Toddlers and Pre-School

- Tend to have a primary bond but can bond to several people
- Need a consistent schedule and lots of nurturing
- Have difficulty tolerating long separations from the primary caregiver
- The schedule should provide more frequent, shorter periods of time with the other parent

School Age Children

- Need an emotional foundation that provides confidence and self-worth
- The schedule should allow them to focus on school

Pre-Adolescents

- Need help with school and peer problems
- The schedule should allow them to spend time doing organized activities and communicating with friends

Adolescents

- Want their plans to be important, too
- May prefer to have a “home base”
- Need consistent rules in both households
- The schedule should be flexible
- Want to spend time with their peers, rather than their parents

Teenagers

- Emotional stability and maturity on the part of both parents
- Adequate, but flexible and age-appropriate parental controls
Home base with one parent, a mixture of scheduled and spontaneous overnights, shorter visits with the other parent

Tips for Easy Custody Exchanges

Traveling between homes may be difficult for your children. Each transition requires your children to make several adjustments. Although they may be anticipating being with the other parent, they may also experience some sadness about leaving you. Each exchange between homes requires your child to say hello and good-bye several times within a brief period of time.

1. Prepare for departure:

- a. Establish and maintain a routine. Before your child leaves from the other home, read a book, play a game or watch a short video together.
- b. Establish and maintain a “goodbye ritual.” For example, give your child three kisses and a hug each departure and say, “See you soon. Love you forever.”
- c. Pack a “comfort bag.” Your child may want to transport favorite items such as a stuffed animal, a blanket, a book or an item that reminds him/her of the other parent. Place a card or note in the bag for your child to discover at a later time.

2. During transition:

- a. Have your child adequately prepared and ready to leave on time. If you are transporting your child, be on time for dropping off and picking up.
- b. Be courteous to the child’s other parent. Avoid arguments and exchanging inappropriate information. Do not send information through your child.
- c. If your child is taking medication, be sure to transfer this medication and provide adequate instructions for how it is to be administered.
- d. Consider a neutral exchange site if you or the other parent have difficulty refraining from arguing or trading insults in front of your children.

3. Prepare for return:

- a. Recognize that your child may need some time to be alone after returning home. Allow them to spend quiet time alone if they choose.
- b. Establish and maintain a “hello ritual.” Once your child has unwound from his arrival, play a game, read a book, watch a favorite video or bake cookies.

Resolving Conflict between Parents

Children need two parents who can work together by putting aside their feelings for the sake of their children.

You and the other parent are parents together. It is not possible or desirable to eliminate the other parent from your child's life. Your child needs both parents to find a way to raise him/her together.

1. Communicate with your child's other parent because you love your child and care about his/her future. Don't try to "win," but do try to solve the problem(s) at hand.
2. Focus on your child's best interest, rather than your own needs.
3. Try to make sure that you understand the purpose of the communication so that your conversation stays on track.
4. Don't argue. Find another time to talk or start over.
5. Avoid provocative remarks.
6. Politely end prolonged arguments.
7. Apologize for your mistakes.
8. Look for something you can agree on.
9. Look for a partial solution.

Children Benefit When Parents

- Initiate the child's contact with the other parent on a regular basis by phone, letter, audio and video tapes, e-mail and other forms of communication.
- Maintain predictable schedules
- Are prompt and have children ready at exchange time
- Avoid any communication that may lead to a conflict at exchange time
- Ensure smooth transitions by assuring the children that they support their relationship with the other parent and trust the other's parenting skills
- Allow the children to carry "important" items such as clothing, toys, and security blankets with them between the parents' homes
- Follow similar routines for mealtime, bedtime, and homework time
- Handle rules and discipline in similar ways
- Support contact with grandparents and other extended family so the children do not experience a sense of loss
- Are flexible so the child can take advantage of opportunities to participate in special family celebrations or events
- Give as much advance notice as possible to the other parent about special occasions
- Provide an itinerary of travel dates, destination, and places where the child or parent can be reached when on vacation
- Establish a workable, respectful method of communication
- Plan their vacations around the child's regularly scheduled activities.

If you are unable to reach an agreement at the Preliminary Conference you will be required to make a Parenting Plan

**Factors to Consider
When Making a Parenting Plan**

- The child's age, developmental stage and needs
- The child's temperament and how the child deals with change
- The child's attachment to each parent and to his/her siblings
- Safety concerns: domestic violence, child abuse, substance abuse
- Previous parenting arrangements
- The child's school, extracurricular, and social activities
- Both parents' strengths and weaknesses
- Providing a consistent, simple, and predictable schedule with smooth transitions between the parents' homes

- Ensuring that the child has “frequent and continuing contact” with both parents
- Where both parents reside and their work schedules
- The level of conflict between the parents. (Higher levels of conflict require more detailed parenting plans.
-

Remember: This is about your child(ren), not you.

If needed, the Conference Officer will give you a parenting plan form to complete. Bring the completed form with you to mediation. Before the Conference Officer adjourns the Preliminary Conference you will be given an opportunity to ask any questions that you have about the form.

It will often be helpful for the parents to actually create a parenting time calendar. This may include a calendar in which the parties have charted an entire year of parenting time. Forecasting a year ahead helps the parents anticipate and plan for holidays, birthdays, and school vacations. Parenting Time Calendars may be helpful in arranging holidays, extended summer, and/or when the parents live at a distance and frequent travel arrangements are needed. Helpful resources for developing a parenting time calendar include:

Arizona’s Guide for Parents Living Apart found at <http://www.azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf>

Ohio’s Guide for Parents Living apart found at <http://www.supremecourt.ohio.gov/Publications/JCS/parentingGuide.pdf>

Minnesota’s publication “We Agree: Creating a Parenting Plan” found at <http://www.extension.umn.edu/family/parents-forever/we-agree/we-agree-creating-a-parenting-plan-publication/docs/we-agree-creating-a-parenting-plan.pdf>

IMPORTANT TERMS TO UNDERSTAND

1. **Legal Custody** is the right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions. Legal Custody can be shared or can be solely with one person.
2. **Physical Custody** is when a person has actual physical possession and control of a child.
 - a. **Partial Physical Custody**: The right to assume physical custody of the child for less than the majority of the time.
 - b. **Primary Physical Custody**: The right to assume physical custody of the child for the majority of the time.
 - c. **Shared Physical Custody**: The right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.
 - d. **Sole Physical Custody**: The right of one individual to exclusive physical custody of the child. This type of custody is rarely awarded by the Court.
 - e. **Supervised Physical Custody**: Custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

The Judge's Point of View

- ◆ Every child has a right to have frequent, meaningful and continuing contact with both parents.
- ◆ Sole physical custody will **rarely** be awarded to one parent.
- ◆ There simply is no substitute for good parenting – and, if possible, good cooperative co-parenting.
- ◆ Judges can merely pick from the bad alternatives available in the midst of parent conflict.
- ◆ Judges don't solve problems or help families heal. They merely make decisions for parents who fail to.
- ◆ The Judge's decision will likely not be what you want nor will it necessarily be what your child(ren) want.
- ◆ Even one parent focused on children's best interests can do much more good than a Judge trying to force outcomes on parents.
- ◆ Judges can't possibly know enough about a family to replace good parenting.
- ◆ Parenting time and custody time are not the same. You are not parenting your child(ren) when you are at work, they are in school, with a babysitter or sleeping.
- ◆ This is a decision you, not the Judge should make.



YOUR NOTES - THINGS TO REMEMBER