
Supervised Custody Options

**Inn of Court Materials
October 9, 2024**

CHANGES TO THE CUSTODY STATUTE RESULTING FROM KAYDEN'S LAW

DEFINITIONS

Abuse-now includes stalking.

Household members-now includes anyone living there, without regard to relationship.

Nonprofessional Supervised Custody-court agreed to monitoring of child and adult with custody rights.

Professional Supervised

Custody-supervisor trained and educated in dynamics of domestic violence, sexual assault, child abuse, trauma and the impact of domestic violence on children who is promoting "safety of the child".

Safety of the Child-including but not limited to physical, emotional and psychological well-being of child.

Temporary Housing

Instability-not to exceed 6 months after the last incident of abuse.

Awards of Custody

23 PaCSA §5323 (e)(1)-Safety Conditions-If after considering the factors (§5328), conviction (§5329), abuse (§5329.1) and criminal charge (§5330), the Court finds a history of abuse to child or household member and awards any form of custody to that party, the Court must include in the order: 1)Safety conditions/restrictions/safeguards necessary to keep child safe; 2)Basis for the conditions/restrictions/safeguards and why they are in the child's best interest; and 3)Basis for unsupervised after a finding past abuse.

23 PaCSA §5323 (e)(2)-If supervision is ordered, may be reviewed upon the filing of a Petition. Safety conditions/restrictions/safeguards include but not limited to: 1) Nonprofessional supervised custody; 2) Professional Supervised Custody; 3) Limitations as to timing and length of any period of custody; 4) Appointment of a qualified individual to provide batterer's intervention and harm prevention programming, trained in both areas, to educate about offending behavior, harm prevention or impacts of physical, sexual, or domestic abuse on victim. The Court may also appoint this individual to do an evaluation to determine if additional safety precautions are required; 5) Limitations on legal custody; and 6) Any other safety condition/restriction/safeguard deemed necessary.

23 PaCSA §5323 (e.1)-Burden of Proof for supervised custody is PREPONDERANCE OF THE EVIDENCE of ongoing risk of abuse and creates REBUTTABLE PRESUMPTION of supervised physical custody. Court may rely on an indicated finding by CPS for this finding. ONLY after de novo hearing on the facts of the indicated report. If awarding supervised custody under this subsection, the Court SHALL favor professional supervision. However, COURT MAY AWARD nonprofessional supervision if: 1) Court finds professional supervision is not available within a reasonable distance OR the party requiring supervision is unable to pay; and 2) Supervisor is identified in Court, executes an affidavit of accountability and the Court makes a finding ON THE RECORD that the supervisor is capable of promoting the safety of the child.

Consideration of Criminal Conviction-23 PaCSA §5329(a)

Now includes Simple Assault, Recklessly Endangering Another Person, Interference with Custody of Children, Cruelty to Animals, Aggravated Cruelty to Animals, Animal Fighting and Possession of Animal Fighting Paraphernalia

23 PaCSA §5329(a.1)-Conviction is not determinative in custody award; a totality of the circumstances in the best interests.

Guardian Ad Litem-23 PaCSA §5334

Appointment of GAL is permissible, no longer mandatory, if there is no counsel for child AND it is the only way to get relevant information.

Guardian Ad Litem-23 PaCSA §5334 (f)-Court must make reasonable efforts to appoint a guardian who has received evidence-based education and training related to child abuse, including sexual abuse, domestic abuse education and the effect of sexual and domestic abuse on children.

CHANGES TO THE CUSTODY FACTORS STATUTE RESULTING FROM KAYDEN'S LAW
(CHANGES ARE UNDERLINED AND BOLD)

§ 5328. Factors to consider when awarding custody.

(a) **Factors.**-In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1) and (2.2) which affect the safety of the child, including the following:

- (1) Which party is more likely to ensure the safety of the child.
 - (2) The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.
 - (2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).
 - (2.2) Violent or assaultive behavior committed by a party.
 - (2.3) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.
 - (3) The parental duties performed by each party on behalf of the child.
 - (4) The need for stability and continuity in the child's education, family life and community life, except if changes are necessary to protect the safety of the child or a party.
 - (5) The availability of extended family.
 - (6) The child's sibling relationships.
 - (7) The well-reasoned preference of the child, based on the child's **developmental stage**, maturity and judgment.
 - (8) The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's reasonable efforts for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.
 - (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
 - (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
 - (11) The proximity of the residences of the parties.
 - (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
 - (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
 - (14) The history of drug or alcohol abuse of a party or member of a party's household.
 - (15) The mental and physical condition of a party or member of a party's household.
 - (16) Any other relevant factor.
- (a.1) **Exception.**--A factor under subsection (a) shall not be adversely weighed against a party if the circumstances related to the factor were in response to abuse or necessary to protect the child or the abused party from harm and the party alleging abuse does not pose a risk to the safety of the child at the time of the custody hearing. Temporary housing instability as a result of abuse shall not be considered against the party alleging abuse.
- (a.2) **Determination.**--No single factor under subsection (a) shall by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances, giving weighted consideration to the factors that affect the safety of the child, when issuing a custody order that is in the best interest of the child.

Award of Counsel Fees, costs and expenses-23 PaCSA §5339

Obdurate, vexatious, repetitive and bad faith not a basis if party engaged in judicial process in good faith to protect the child from harm.

42 PaCSA §1908-Education and training. The AOPC may develop education and training for judges, et al.

- I will not permit the person to be supervised to drive a motor vehicle after having consumed alcoholic beverages or controlled substances, or while under the influence of alcohol or controlled substances, with the child(ren) present in the motor vehicle. At all times, I shall insure that the child(ren) are securely fastened in an appropriate passenger restraint.
- I will not permit the person to be supervised to operate dangerous machinery in the presence of the child(ren) after having consumed alcoholic beverages or controlled substances, or while under the influence of alcohol or controlled substances.
- I understand that I cannot delegate my responsibility as a supervisor to anyone else without the prior approval of the Court.
- Additional provisions:
 - _____
 - _____
 - _____
 - _____
 - _____
- I agree to be fully accountable to the Court as a supervisor in this matter.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE

Print Name of Supervisor

Signature of Supervisor

Address

Home Phone Work Phone

Email Address

§ 5323. Award of custody.

(a) **Types of award.**--After considering the factors set forth in section 5328 (relating to factors to consider when awarding custody), the court may award any of the following types of custody if it is in the best interest of the child:

- (1) Shared physical custody.
- (2) Primary physical custody.
- (3) Partial physical custody.
- (4) Sole physical custody.
- (5) Supervised physical custody.
- (6) Shared legal custody.
- (7) Sole legal custody.

(b) **Interim award.**--The court may issue an interim award of custody to a party who has standing under section 5324 (relating to standing for any form of physical custody or legal custody) or 5325 (relating to standing for partial physical custody and supervised physical custody) in the manner prescribed by the Pennsylvania Rules of Civil Procedure governing special relief in custody matters.

(c) **Notice.**--Any custody order shall include notice of a party's obligations under section 5337 (relating to relocation).

(d) **Reasons for award.**--The court shall delineate the reasons for its decision on the record in open court or in a written opinion or order.

(e) **Safety conditions.**--

(1) After considering the factors under sections 5328, 5329 (relating to consideration of criminal conviction), 5329.1 (relating to consideration of child abuse and involvement with protective services) and 5330 (relating to consideration of criminal charge), if the court finds a history of abuse of the child or a household member by a party or a present risk of harm to the child or an abused party and awards any form of custody to a party who committed the abuse or who has a household member who committed the abuse, the court shall include in the custody order:

(i) The safety conditions, restrictions or safeguards as reasonably necessary to protect the child or the abused party.

(ii) The reason for imposing the safety conditions, restrictions or safeguards, including an explanation why the safety conditions, restrictions or safeguards are in the best interest of the child or the abused party.

(iii) The reasons why unsupervised physical custody is in the best interest of the child if the court finds that past abuse was committed by a party.

(2) If supervised contact is ordered, there shall be a review of the risk of harm and need for continued supervision upon petition of the party. The safety conditions, restrictions or safeguards may include any of the following:

(i) Nonprofessional supervised physical custody.

(ii) Professional supervised physical custody.

(iii) Limitations on the time of day that physical custody is permitted or on the number of hours of physical custody and the maximum number of hours of physical custody permitted per day or per week.

(iv) The appointment of a qualified professional specializing in programming relating to the history of abuse or risk of harm to provide batterer's intervention and harm prevention programming. Batterer's intervention and harm prevention programming may include programming designed to rehabilitate the offending individual, including prioritizing a batterer's intervention and harm prevention program, if available, or the impacts of

physical, sexual or domestic abuse on the victim. The court may order an evaluation by the appointed qualified professional under this paragraph to determine whether additional programming is necessary.

(v) Limitations on legal custody.

(vi) Any other safety condition, restriction or safeguard as necessary to ensure the safety of the child or to protect a household member.

(e.1) Supervised physical custody.--If a court finds by a preponderance of the evidence that there is an ongoing risk of abuse of the child, there shall be a rebuttable presumption that the court shall only allow supervised physical custody between the child and the party who poses the risk of abuse. A court may find that an indicated report for physical or sexual abuse under Chapter 63 (relating to child protective services) is a basis for a finding of abuse under this subsection only after a de novo review of the circumstances leading to the indicated report. When awarding supervised physical custody under this subsection, the court shall favor professional supervised physical custody. The court may award nonprofessional supervised physical custody if:

(1) the court determines that professional supervised physical custody is not available within a reasonable distance of the parties or the court determines that the party requiring supervised physical custody is unable to pay for the professional supervised physical custody; and

(2) the court designates an adult to supervise the custodial visits who has appeared in person before the court, the individual executes an affidavit of accountability and the court makes finding, on the record, that the individual is capable of promoting the safety of the child.

(f) Enforcement.--In awarding custody, the court shall specify the terms and conditions of the award in sufficient detail to enable a party to enforce the court order through law enforcement authorities.

(g) Contempt for noncompliance with any custody order.--

(1) A party who willfully fails to comply with any custody order may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

(i) Imprisonment for a period of not more than six months.

(ii) A fine of not more than \$500.

(iii) Probation for a period of not more than six months.

(iv) An order for nonrenewal, suspension or denial of operating privilege under section 4355 (relating to denial or suspension of licenses).

(v) Counsel fees and costs.

(2) An order committing an individual to jail under this section shall specify the condition which, when fulfilled, will result in the release of that individual.

(h) Parties in same residence.--Parties living separate and apart in the same residence may seek relief under this chapter, but any custody order made under such a circumstance shall be effective only upon:

(1) one party physically vacating the residence; or

(2) an order awarding one party exclusive possession of the residence.

(Apr. 15, 2024, P.L.24, No.8, eff. 120 days)

2024 Amendment. Act 8 amended subsec. (e) and added subsec. (e.1). See section 1 of Act 8 in the appendix to this title for special provisions relating to findings and declarations.

Cross References. Section 5323 is referred to in sections 5329, 5336 of this title; section 4109 of Title 51 (Military Affairs).

§ 5328. Factors to consider when awarding custody.

(a) **Factors.**--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1) and (2.2) which affect the safety of the child, including the following:

(1) Which party is more likely to ensure the safety of the child.

(2) The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.

(2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).

(2.2) Violent or assaultive behavior committed by a party.

(2.3) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.

(3) The parental duties performed by each party on behalf of the child.

(4) The need for stability and continuity in the child's education, family life and community life, except if changes are necessary to protect the safety of the child or a party.

(5) The availability of extended family.

(6) The child's sibling relationships.

(7) The well-reasoned preference of the child, based on the child's developmental stage, maturity and judgment.

(8) The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.

(9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.

(10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.

(11) The proximity of the residences of the parties.

(12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.

(13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.

(14) The history of drug or alcohol abuse of a party or member of a party's household.

(15) The mental and physical condition of a party or member of a party's household.

(16) Any other relevant factor.

(a.1) Exception.--A factor under subsection (a) shall not be adversely weighed against a party if the circumstances related to the factor were in response to abuse or necessary to protect the child or the abused party from harm and the party alleging abuse does not pose a risk to the safety of the child at the time of the custody hearing. Temporary housing instability as a result of abuse shall not be considered against the party alleging abuse.

(a.2) Determination.--No single factor under subsection (a) shall by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances, giving weighted consideration to the factors that affect the safety of the child, when issuing a custody order that is in the best interest of the child.

(b) Gender neutral.--In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter.

(c) Grandparents and great-grandparents.--

(1) In ordering partial physical custody or supervised physical custody to a party who has standing under section 5325(1) or (2) (relating to standing for partial physical custody and supervised physical custody), the court shall consider the following:

(i) the amount of personal contact between the child and the party prior to the filing of the action;

(ii) whether the award interferes with any parent-child relationship; and

(iii) whether the award is in the best interest of the child.

(2) In ordering partial physical custody or supervised physical custody to a parent's parent or grandparent who has standing under section 5325(3), the court shall consider whether the award:

(i) interferes with any parent-child relationship; and

(ii) is in the best interest of the child.

(Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Apr. 15, 2024, P.L.24, No.8, eff. 120 days)

2024 Amendment. Act 8 amended subsec. (a) and added subsecs. (a.1) and (a.2). See section 1 of Act 8 in the appendix to this title for special provisions relating to findings and declarations.

2013 Amendment. See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5328 is referred to in sections 5323, 6340 of this title; sections 1908, 6307 of Title 42 (Judiciary and Judicial Procedure).

§ 5329. Consideration of criminal conviction.

(a) **Offenses.**--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that party when considering the following offenses:

- 18 Pa.C.S. Ch. 25 (relating to criminal homicide).
- 18 Pa.C.S. § 2701 (relating to simple assault).
- 18 Pa.C.S. § 2702 (relating to aggravated assault).
- 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).
- 18 Pa.C.S. § 2706 (relating to terroristic threats).
- 18 Pa.C.S. § 2709.1 (relating to stalking).
- 18 Pa.C.S. § 2718 (relating to strangulation).
- 18 Pa.C.S. § 2901 (relating to kidnapping).
- 18 Pa.C.S. § 2902 (relating to unlawful restraint).
- 18 Pa.C.S. § 2903 (relating to false imprisonment).
- 18 Pa.C.S. § 2904 (relating to interference with custody of children).
- 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).
- 18 Pa.C.S. Ch. 30 (relating to human trafficking).
- 18 Pa.C.S. § 3121 (relating to rape).
- 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
- 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- 18 Pa.C.S. § 3126 (relating to indecent assault).
- 18 Pa.C.S. § 3127 (relating to indecent exposure).
- 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).
- 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).
- 18 Pa.C.S. § 3301 (relating to arson and related offenses).
- 18 Pa.C.S. § 4302 (relating to incest).
- 18 Pa.C.S. § 4303 (relating to concealing death of child).
- 18 Pa.C.S. § 4304 (relating to endangering welfare of children).
- 18 Pa.C.S. § 4305 (relating to dealing in infant children).
- 18 Pa.C.S. § 5533 (relating to cruelty to animal).
- 18 Pa.C.S. § 5534 (relating to aggravated cruelty to animal).
- 18 Pa.C.S. § 5543 (relating to animal fighting).
- 18 Pa.C.S. § 5544 (relating to possession of animal fighting paraphernalia).
- 18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses).
- 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances).
- 18 Pa.C.S. § 6301 (relating to corruption of minors).
- 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
- 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
- Section 6114 (relating to contempt for violation of order or agreement).
- The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).
- 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

Section 13(a)(1) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

(a.1) Determination.--A criminal conviction specified under subsection (a) shall not by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances when issuing a custody order that is in the best interest of the child.

(b) Parent convicted of murder.--No court shall award custody, partial custody or supervised physical custody to a parent who has been convicted of murder under 18 Pa.C.S. § 2502(a) (relating to murder) of the other parent of the child who is the subject of the order unless the child is of suitable age and consents to the order.

(b.1) Parent convicted of certain sexual offenses.--

(1) Notwithstanding any provision of this chapter to the contrary and subject to paragraph (2), if a parent who is a victim of any of the offenses set forth in this paragraph objects, no court shall award any type of custody set forth in section 5323 (relating to award of custody) to the other parent of a child conceived as a result of any of the following offenses for which the other parent has been convicted:

18 Pa.C.S. § 3121.

18 Pa.C.S. § 3122.1.

18 Pa.C.S. § 3124.1, where the offense involved sexual intercourse.

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse.

18 Pa.C.S. § 4302.

(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:

(i) the parent who is a victim had an opportunity to address the court;

(ii) the child is of suitable age and consents to the custody order; and

(iii) the court determines the award is in the best interest of the child.

(3) Paternity of the child shall be established by voluntary acknowledgment of paternity or blood, genetic or other paternity testing acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.

(c) Initial evaluation.--At the initial in-person contact with the court, the judge, conference officer or other appointed individual shall perform an initial evaluation to determine whether the party or household member who committed an offense under subsection (a) poses a threat to the child and whether counseling is necessary. The initial evaluation shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary.

(d) Counseling.--

(1) Where the court determines under subsection (c) that counseling is necessary, it shall appoint a qualified professional specializing in treatment relating to the particular offense to provide counseling to the offending individual.

(2) Counseling may include a program of treatment or individual therapy designed to rehabilitate the offending

individual which addresses, but is not limited to, issues regarding physical and sexual abuse, the psychology of the offender and the effects of the offense on the victim.

(e) Subsequent evaluation.--

(1) At any time during or subsequent to the counseling under subsection (d), the court may require another evaluation to determine whether further counseling is necessary.

(2) If the court awards custody to a party who committed an offense under subsection (a) or who shares a household with an individual who committed an offense under subsection (a), the court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation, the court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.

(f) Costs.--The court may order a party to pay all or part of the costs of the counseling and evaluations under this section. (Apr. 12, 2012, P.L.241, No.32, eff. 60 days; Oct. 1, 2015, P.L.172, No.40, eff. 60 days; May 4, 2018, P.L.112, No.21, eff. 60 days; June 5, 2020, P.L.246, No.32, eff. 60 days; June 30, 2021, P.L.197, No.38, eff. 60 days; Apr. 15, 2024, P.L.24, No.8, eff. 120 days)

2024 Amendment. Act 8 amended subsec. (a) and added subsec. (a.1). See section 1 of Act 8 in the appendix to this title for special provisions relating to findings and declarations.

2015 Amendment. Act 40 added subsec. (b.1). Section 3 of Act 40 provided that subsec. (b.1) shall apply to any action regarding custody of a child under Chapter 43 or 53 that is filed on or after the effective date of section 3.

2012 Amendment. Act 32 amended subsec. (c).

Cross References. Section 5329 is referred to in sections 5323, 5330 of this title; section 1904 of Title 42 (Judiciary and Judicial Procedure).

Pa. R.C.P. No. 1915.8

State Court Rules current with amendments September 15, 2024. Local federal district and bankruptcy court rules and ECF documents are current with amendments received through June 1, 2024. All other local federal district and bankruptcy court materials are current with amendments received through June 1, 2024. Local Court Rules are current with amendments received through June 1, 2024

PA - Pennsylvania Local, State & Federal Court Rules
**> PENNSYLVANIA RULES OF CIVIL
PROCEDURE > ACTIONS FOR CUSTODY,
PARTIAL CUSTODY AND VISITATION OF MINOR
CHILDREN**

**Rule 1915.8. Physical and Mental
Examination of Persons**

(a) The court may order the child(ren) and/or any party to submit to and fully participate in an evaluation by an appropriate expert or experts. The order, which shall be substantially in the form set forth in Rule 1915.18, may be made upon the court's own motion, upon the motion of a party with reasonable notice to the person to be examined, or by agreement of the parties. The order shall specify the place, manner, conditions and scope of the examination and the person or persons by whom it shall be made and to whom distributed. In entering an order directing an evaluation pursuant to this rule, the court shall consider all appropriate factors including the following, if applicable:

- (1) the allocation of the costs, including insurance coverage, if any, attendant to the undertaking of the evaluation and preparation of the resultant report and court testimony of any appointed expert;
- (2) the execution of appropriate authorizations and/or consents to facilitate the examination;
- (3) any deadlines imposed regarding the completion of the examination and

payment of costs;

(4) the production of any report and of underlying data to counsel and/or any unrepresented party upon the completion of the examination; and

(5) any additional safeguards that are deemed appropriate as a result of the alleged presence of domestic violence and/or child abuse.

(b) Unless otherwise directed by the court, the expert shall deliver to the court, to the attorneys of record for the parties, to any unrepresented party, and to the guardian ad litem and/or counsel for the child, if any, copies of any reports arising from the evaluation setting out the findings, results of all tests made, diagnosis and conclusions. No reports shall be filed of record or considered evidence unless and until admitted by the court. Any report which is prepared at the request of a party, with or without a court order, and which a party intends to introduce at trial, must be delivered to the court and the other party at least thirty days before trial. If the report or any information from the evaluator is provided to the court, the evaluator shall be subject to cross-examination by all counsel and any unrepresented party without regard to who obtains or pays for the evaluation.

(c) If a party refuses to obey an order of court made under subdivision (a) of this rule, the court may make an order refusing to allow the disobedient party to support or oppose designated claims or defenses, prohibiting the party from introducing in evidence designated documents, things or

testimony, prohibiting the party from introducing evidence of physical or mental condition, or making such other order as is just. The willful failure or refusal of a party to comply with an order entered pursuant to this rule may also give rise to a finding of contempt and the imposition of such sanctions as may be deemed appropriate by the court, including, but not limited to, an adverse inference against the non-complying party.

(d) A petition for contempt alleging failure to comply with an order entered pursuant to subdivision (a) of this rule shall be treated in an expedited manner.

EXPLANATORY COMMENT--2007

This rule addresses the process for any number of expert evaluations a court may order in a custody case, including, but not limited to, physical, mental health, custody and/or drug and alcohol evaluations, and/or home studies. Since the initial promulgation of this rule in 1981, the frequency of utilizing professionals as expert witnesses in child custody litigation has increased considerably. In appropriate cases, evaluations have served as a means to provide the court with a full and complete record and to facilitate settlement of the litigation.

The proposed revisions to Rule 1915.8 are intended to afford the trial court and the parties a more flexible and case-sensitive means of determining the scope and parameters of a physical and/or mental examination, including deadlines, costs, underlying data, and access. In many instances, the previous sixty-day deadline was impractical and ignored. While some cases demanded that the evaluation be completed in less than 60 days, others demanded far more time than that. The revisions to this rule also specifically permit the trial court to draw an adverse inference

from one party's failure to comply with an order pursuant to this rule.

PENNSYLVANIA RULES OF COURT

End of Document

Supervised Custody Options

Inns of court – 10/09/2024

1

Private Supervision Options

- Assurance Group – Montgomery County
- Child and Adolescent Counseling Service of Philadelphia – West Chester
- Vesta Family Services – West Chester

2

Assurance Group – Montgomery County

- Offers
 - Supervision
 - billed as an hourly rate of \$70 for one child and \$85 for two children.
 - Therapeutic Supervision
 - Therapeutic Supervision rates varies
 - Supervised custodial exchanges.

Contact Information

- TheAssuranceGroup.org
- 215-348-3379
- theassurancegroupa@gmail.com

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Child and Adolescent Counseling Services of Philadelphia – West Chester

- Offers
 - Supervised Custody
 - In office or at home
 - Supervised Therapeutic Custody
 - In office or at home
 - Reunification Therapy
- (prices are not displayed on their website)

Contact information

- www.counselingservicesofsepa.com
- 610-764-8655
- 127 E. Chestnut Street, 3rd Floor, West Chester, PA 19380
- Trinh (Angela) Nguyen-Smallwood, MS, LPC
- angela@counselingservicesofsepa.com

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Vesta Family Services

- Offers
 - Supervised Custody
 - Supervised Therapeutic Custody
 - Visits are in a public setting and costs can vary

Contact information

- P.O. Box 5166, West Chester, PA 19380
- 610-732-8461
- Susanne Aversa
- saversa@vestafamilyservices.com

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ARC – Achieving Reunification Center

- Offers
 - Mental Health Assessments/Evaluations
 - Anger Management Workshops
 - Counseling
 - Individual, Family, and couples
 - Parenting education programs

Contact information

- 1211 Chestnut Street, Suite 700, Philadelphia, PA 19107
- info@arccenter.org
- 267-514-3500

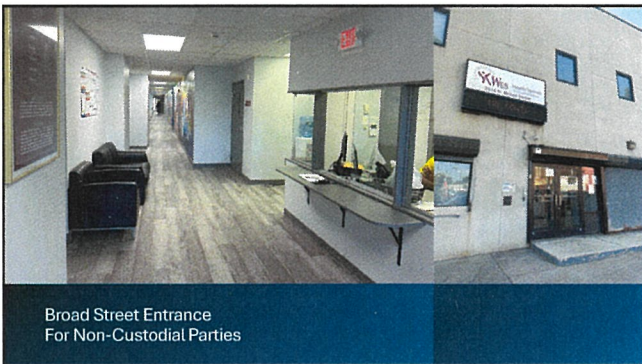
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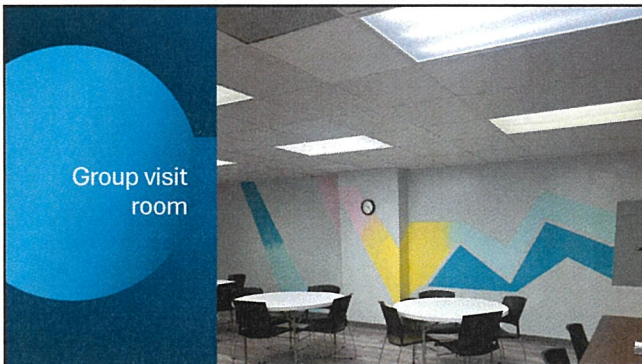
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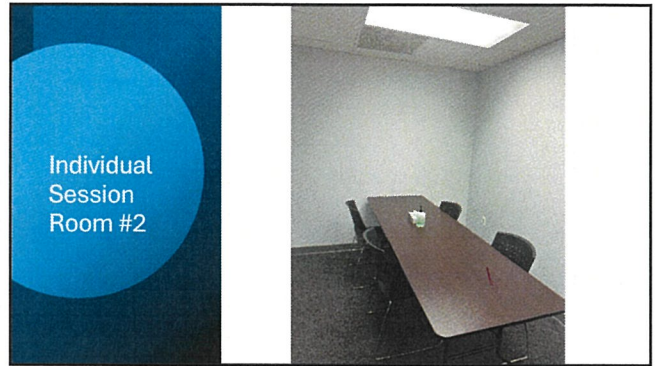
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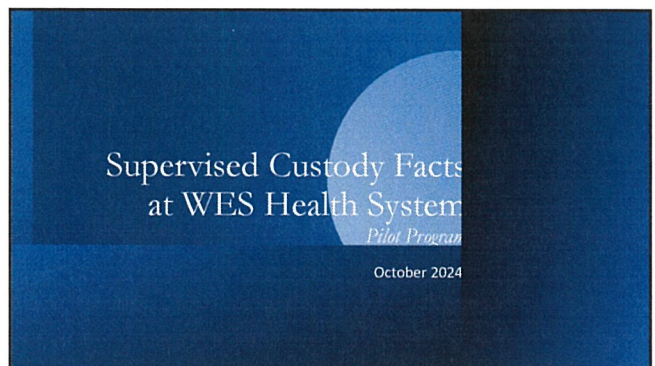
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Basic Order of Operations for Supervised Custody

- Order for Supervised Custody, with scheduled status hearing
- Intake appointments at WES
- Supervised Custody Sessions at WES
- Reports provided by WES
- Parties return to Family Court for status hearing

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Court Orders for Supervised Custody

- Judges send parties for intake appointments at WES
- Judges order frequency of Supervised Custody sessions (every other week, once a month, etc.)
- Supervised Custody sessions automatically terminate if the person with SC misses a specified number of sessions
- Orders for Supervised Custody are not final: Relist 90-120 days for status
- Judge becomes CCM Judge to the case once SC is Ordered

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Intake Appointments at WES

- Parties leave the courthouse with the Order for SC, and an intake appointment on an information sheet about WES.
- Parties are given intake appointments on separate days, and will not know when the other party's appointment is.
- At intake, WES will orient parties to the facility & staff, give a welcome packet; review safety measures, program conditions & guidelines; go over reasons for interrupting/ending a session, the termination of supervised custody services and WES' grievance procedure
- Once the parties complete intake, Supervised Custody Sessions will be scheduled.

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Supervised Custody Sessions at WES

- Adult parties enter and exit with separate doors, and do not interact. Parties are wanded and packages are inspected.
- Child is escorted by WES staff to and from Supervised Custody session.
- Child is escorted to bathroom by WES staff, (depending on safety plan, non-custodial may also escort but will be supervised). If adult needs to use the bathroom, child will remain with WES staff.
- All monitors have experience in social services and additional training to specific to the supervised custody environment.
- Armed guards are in place as of August 2024. Cameras in place outside the facility and in most SC areas.
- Supervisors are trained and have experience in supporting families.
- Parties and counsel may access reports at any time by emailing WES.
- Incident reports for unusual events.
- Very high participation rate. Over 98% of cases complete intake. Supervised Custody sessions have about an 85% rate of attendance.

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Communications with WES

Email:

supcustody@drwes.org

Your communications will be sent to WES' QA Department.

WES will provide reports via email.

Every message sent to WES is recorded as a communication note.

Court Liaison for Supervised Custody

Email:

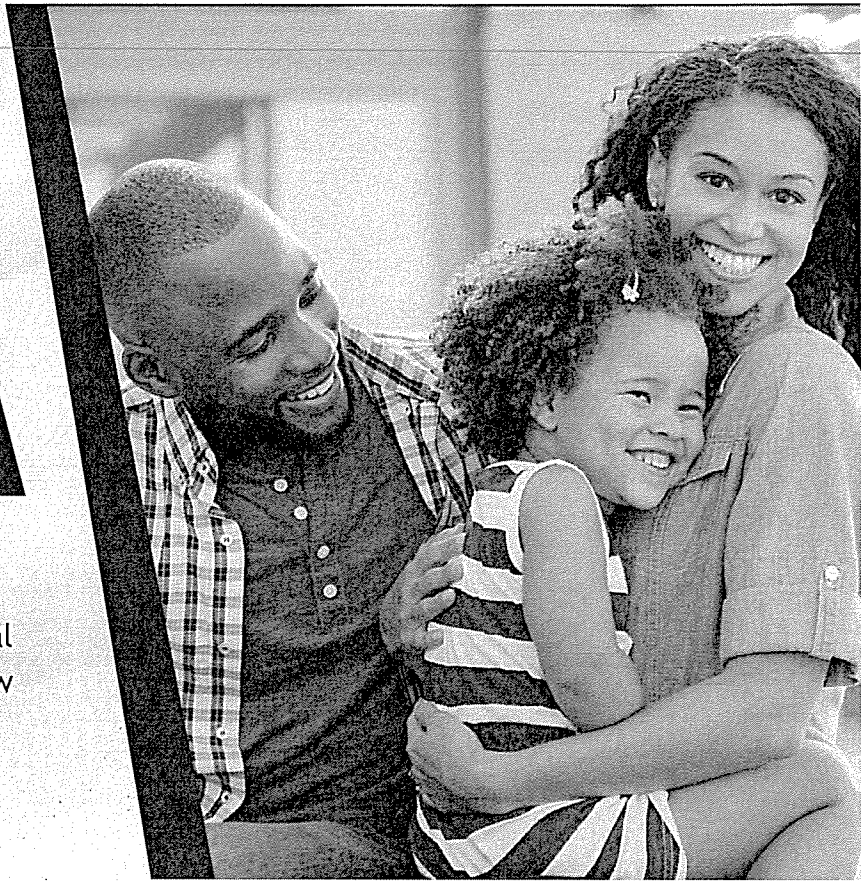
supervisedcustody@courts.phila.gov

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SUPERVISED CUSTODY VISITATION

WES Health System is a non-profit health and human service organization committed to promoting total wellness by providing behavioral and physical health services in Philadelphia, New Jersey, Delaware, and Illinois. For nearly three decades, WES has been committed to meeting the social service needs of a culturally diverse population of children and families.



Our Service:

- ✓ Family Oriented Environment
- ✓ Efficient Intake Process
- ✓ Focus on Parent Engagement
- ✓ Access to Referral Support Services

Why Choose Us

Safety is paramount to supervised child custody visits. WES' goal is to ensure the safety of all parties involved in the supervised custody process. WES' SCV program reports directly to Family Court. WES meets the uniform standard of practice for providers of supervised visitations.

*All program participants are referred by Family Court in conjunction with court ordered supervised child custody visits.

Contact Us:

- ☎ 215-599-2814
- 🌐 supcustody@drwes.org
- 📍 2514 N. Broad St.
Philadelphia, Pa. 19132

Frequently Asked Questions: Supervised Custody at WES Health System

WES supervised custody program facilitates safe visitation between noncustodial parties and children. WES only takes cases through a court order from Philadelphia Family Court. Visitation monitors are trained to promote the health, safety, and welfare of children.

Who are monitors at WES?

All monitors have experience in social services. They often hold full-time positions at WES or other agencies in Philadelphia. Examples of their professional backgrounds include positions specializing in:

- Behavioral health
- School-based services
- Child & family services
- Other types of therapeutic supports

What training do monitors have?

On top of training from prior social service experience, WES requires additional training. Monitors complete 10 hours of training within their first two weeks. They complete 6 more hours of training in the rest of the year. Training is both online and in-person. Topics include:

- Trauma-informed care 101
- Crisis management and de-escalation
- Family violence intervention
- Victims of technology harassment
- Recognizing and responding to intimate partner violence
- CPR & first aid; Fire safety
- Child abuse mandated reporting

Monitors do not use therapeutic interventions in visits. But their work is informed by their clinical experience and training. This helps them approach the emotions, challenges, and cultural diversity of families at visits.

What do monitors do?

To facilitate and support the supervised visits, the monitors:

- Ensure that contact between parties follows the court order and program rules.
- Facilitate interaction and/or provide constructive feedback or redirection to the adult party.
- Intervene to ensure the welfare of the child and/or vulnerable adult party.
- Communicate information about visitation through objective observation to Family Court and adult parties.
- Terminate the visit if the child's safety or that of other parties cannot be maintained.



INTAKE APPOINTMENT FORM

WES HEALTH SYSTEMS SUPERVISED CUSTODY PROGRAM

Phone: 215-599-2814 (ext. 1445) Fax: 215-599-2873

WES supervised custody service provides support for parents and children who require court-ordered supervised custody visits. You are scheduled to complete a court-ordered in-person intake appointment on:

DATE: _____ TIME: _____

at WES Health Systems, located at 2514 N. Broad Street, Phila., PA, 19132. If you are unable to attend this appointment, you must give 24-hours' notice by contacting the program at 215-599-2814 ext.1445 and your appointment will be rescheduled. Family Court will be notified of all cancellations and no-show appointments.

You are required to provide the following documentation on the day of your intake appointment:

- ❖ The court order
- ❖ Your government-issued Driver's License or Identification Card
- ❖ Any restraining orders, protection from abuse orders, or no contact orders

Intake Process

Only you will attend your intake appointment, children are welcomed. The other party to the case has a separately scheduled intake appointment. During the intake you will complete the orientation process, review policies & procedures, and receive your welcome packet. Once all requested documents are received you will be placed in pending status until both parties to the matter have completed the intake process. Once all the paperwork is received and the file is complete, you will receive the first available day, date, and time to start your supervised custody visits.

Where: In-office appointment at WES facility located on 2514 N Broad St. Phila PA 19132.

How Long: About 45 minutes

What Is Covered:

- Supervised Custody as set forth by your court order
- Agreement for Services from WES Health Systems
- Safety and Security Measures
- Program Conditions and Guidelines
- Reasons for Interrupting or Ending a Visit
- Termination of Supervised Custody Service

Tips for a productive intake process

- Make a list of questions and bring them with you.
- Attend your intake appointment on time.
- Bring all the requested documentation.
- Be open to sharing your story to ensure your needs are met!

NAME: _____ Signature of Recipient: _____

Template Order for Supervised Custody

TEMPORARY SUPERVISED CUSTODY ORDER FOR:
CHILDREN'S NAMES AND BIRTHDATES

WHO HAS SUPERVISED CUSTODY

WHAT INTERVAL WILL SUPERVISED CUSTODY BE SCHEDULED

(SC Party Relationship to the Child, Name) SHALL HAVE SUPERVISED PARTIAL PHYSICAL CUSTODY OF THE CHILDREN (scheduling interval). (Primary Custody Party Relationship to the Child, Name) SHALL BE RESPONSIBLE FOR THE CHILDREN'S ATTENDANCE AT SUPERVISED CUSTODY SESSIONS.

(Parties and relationships to child) ARE REFERRED TO WES HEALTH SYSTEM FOR INTAKE APPOINTMENTS AND SCHEDULING OF SUPERVISED CUSTODY. PARTIES RECEIVED SUPERVISED CUSTODY INFORMATION WITH THIS ORDER WHICH CONTAINED THEIR INTAKE APPOINTMENT INSTRUCTIONS. ALL PARTIES ARE DIRECTED TO ATTEND SUPERVISED CUSTODY SESSIONS AS SCHEDULED, AND COMPLY WITH POLICIES AND PROCEDURES AS SET FORTH BY WES HEALTH SYSTEM. PARTIES WHO FAIL TO ATTEND INTAKE APPOINTMENTS OR SUPERVISED CUSTODY SESSIONS, AND/OR FAIL TO FOLLOW THE POLICIES AND PROCEDURES AS OUTLINED BY WES HEALTH SYSTEMS, MAY BE SUBJECT TO FINDINGS IN CONTEMPT OF COURT AND/OR SANCTIONS.

AUTOMATIC TERMINATION OF VISITS IF SC PARTY FTA

IF (SC Party Relationship to the Child, Name) IS A NO-CALL/NO-SHOW TO THREE (3) VISITS, SUPERVISED PARTIAL PHYSICAL CUSTODY SHALL BE SUSPENDED UNTIL FURTHER ORDER OF COURT. WES HEALTH SYSTEM SHALL WRITE A REPORT AVAILABLE TO ALL PARTIES AND COUNSEL FOR ANY NO-CALL/NO-SHOW SESSIONS.

ADDITIONAL ATTENDEES such as grandparents, step-siblings, aunts and uncles

(Name, Relationship to child), IS PERMITTED TO APPEAR AT SUPERVISED CUSTODY SESSIONS. MUST HAVE IDENTIFICATION AND ARRIVE FOR SUPERVISED CUSTODY WITH (SC Party Relationship to the Child).

NEXT DATE

SUPERVISED CUSTODY WILL BE REVIEWED AT THE NEXT COURT DATE ON:
(Date, time, Courtroom, Judge)



WES Health System PA

1315 Windrim Avenue Philadelphia PA 191412710

Client Name:	xxxxxxxxxx	Date of birth:	xxxxxxxx
Date/Time:	4/6/2024 11:00 AM to 1:00 PM	CPT	N/P SVPE VISIT EXCHANGE
Employee:			

DEMOGRAPHIC INFORMATION

FIRST NAME:
xxxxxxx

LAST NAME:
xxxxxxx

PARENT'S NAME: xxxxxxxx

STATUS: CUSTODIAL

CASE NUMBER: xxxxxx

SERVICE INFORMATION

DATE: 04/06/2024

TIME: 11:00 am

OTHER TIME:

SESSION DAY:

OTHER SESSION DAY: 4/13/2024

ATTENDEES: FATHER

DOCUMENTATION

HAS AN INCIDENT OCCURED?: NO

NOTE (CHECK BOX TO OPEN SECTION TO WRITE): :

Non-custodial parent (NCP) arrived to the scheduled visit on time. NCP brought with him a few snacks and multiple games such as Operation, Candy Land, UNO, and PlayDoh. When the NCP's child arrived, she was in her pajamas. NCP and the child greeted each other warmly upon arrival. NCP and the child spoke about school, toys, winning games, and Barbie dolls. No concerns were present during the visit.

Employee Signature

4/6/2024 4:39 PM

Supervisor's Signature

Approved by CREESE on 4/9/2024

Cherita Reese-Butler,



WES Health System PA
 1315 Windrim Avenue Philadelphia PA 191412710

Client Name: XXXXXXXXXXXX Date of birth: XXXXXXXX
 Date/Time: 4/13/2024 3:00 PM to 3:30 PM CPT N/P SCV UNUSUAL OCC FORM
 Employee:

UNUSUAL OCCURENCE INFO

Form must be submitted no later than one 48 hours following the date of the unusual occurrence

Submit form to: (Family Court designated contacts/emails information)

DATE SUBMITTED: 04/13/2024

DATE OF UNUSUAL OCCURENCE: 04/13/2024

TIME OF UNUSUAL OCCURENCE: 3:00 pm

NAME OF CHILD/CHILDREN INVOLVED: XXXXXXXX

LOCATION OF UNUSUAL OCCURENCE AT WES SITE: 2514 N Broad Street, Philadelphia

Incident report needed for this unusual occurrence: (yes or N/A): N/A

PROVIDE A DETAILED DESCRIPTION OF UNUSUAL OCCURENCE BEING REPORTED: :

Halfway through the visit at approximately 3pm, Noncustodial requested to get glue from his car (parked on Broad St.) because he and the child were playing with card craft, and they needed additional glue that was in his car. Noncustodial was being monitored by the Security guard-XXXX who watched him go to the car and researched him upon reentry to the center.

Custodial then came into the center from the Carlise St. entrance while the visitation was happening to say that noncustodial left the visit and nobody is looking after her child. Custodial started videoing and acting out, stating that she is not leaving the center until she picks up her child. She said, "she does not know what noncustodial is going to get from his car, and that probably it is drugs". Custodial was very aggressive in her tone and demeanor and had to be told several times to leave the center.

The child remained in the visiting area down the hall during this incident and did not witness the incident. Staff confirmed that monitors were with XXXXX, Custodial eventually left and the visit continued until 4pm at which time the visit was scheduled to end.

Noncustodial was visibly shaken and expressed his concerns for his own safety after the incident as someone had to be watching him going to his car.

Staff Observations/Supports provided: :

The security guard observed that custodial was stalking around the center after she dropped the child. After storming into the center to make accusations against noncustodial, the security guard-XXXXXXX observed that Custodial was stalking around the outside of the center at Carlise St. entrance. Custodial was asked to leave the center when she started making a scene and escorted out the building. The monitors are all in the visiting area observing the visit.

AGENCY RECOMMENDATIONS: SEE BELOW:

Custodial must follow policy and procedures reviewed in orientation, stating, "Custodial parents cannot remain in the vicinity of the building during visitation." Custodial will be discharged from visitation program if she cannot follow policy and procedures.

NOTIFICATIONS

FAMILY COURT DESIGNEE (NAME, RELATION, DATE & TIME): :

Alexis Buss, 4/15/24 12:36pm

ADDITIONAL NOTIFICATIONS NEEDED? (NAME, RELATION, DATE & TIME): N/A

MEMBER INFORMATION

FIRST NAME:

XXXXXXXX

LAST NAME:

XXXXX

DOB:

XXXXXXXX

GENDER:

PHONE #:

ADDRESS:



WES Health System PA
1315 Windrim Avenue Philadelphia PA 191412710

Client Name:	xxxxxx	Date of birth:	xxxxxxx
Date/Time:	4/27/2024 3:15 PM to 3:45 PM	CPT	N/P SCV CRITICAL IR
Employee:	Ellen Sia Wongo		

INCIDENT INFORMATION

DATE OF REPORT: 04/27/2024

DATE OF INCIDENT: 04/27/2024

TIME OF INCIDENT: 3:15 pm

NAME OF CLIENT(S) INVOLVED: xxxxxx(CP), xxxxxx(NCP)

NAME OF STAFF INVOLVED: Ellen Sia Wongo, Zaraya Lewis, Jacob Scott, Lyala McCray

IDENTIFIED WITNESSES (IF APPLICABLE): SEE BELOW:
Tyrone Leggette, Dorian Gatewood (Security guards)

LOCATION: 2514 N Board Street, Philadelphia, 19132- SCV program

TYPE OF INCIDENT: :
Physical altercation, Child Safety, and verbal threat of harm

PROVIDE A DETAILED DESCRIPTION OF INCIDENT BEING REPORTED: :
Custodial-xxxxxxx came back into the building after picking up the child from Carlise street exit of the supervised custody site. She left the 4 year old child in the car after she came around the building to the Board Street Entrance where noncustodial was attempting tfrom which she is not assigned to this entrance. Custodial was very violent and aggressive causing physical altercation with noncustodial-xxxxxxx who came back into the center when he saw her approaching him. Immediately she started with the threats of harm; noncustodial immediately contacted police via cellphone. Staff requested her to leave as she was standing outside making threats of harm the child remained in the car alone during this time. Security requested she leave which she did not comply when asked several times. She later left the center and went back into the car and drove off. After she left the site with the child in the car, she called noncustodial via cellphone and continued making verbal threats. Custodial was so aggressive, belligerent, violent, causing an unsafe environment and undo stress to the other families and staff. 22nd district Police arrived approximately 30mins later advised noncustodial to file report at station.

NOTIFICATIONS

FAMILY (NAME, RELATION, DATE & TIME): :
N/A

LOCAL LAW ENFORCEMENT (NAME, RELATION, DATE & TIME): :
911, awaiting copy of police report form NCP with additional information.

*UPDATED BY CHERITA REESE-BUTLER (DIRECTOR) ON 4/30/24 @ 4:30PM TO INCLUDE DC REPORT INFORMATION RECEIVED FROM NCP; DC#24-XXXXXXXXXXXXXX

FAMILY COURT DESIGNEE (NAME, RELATION, DATE & TIME): :

Immediate actions taken or other actions planned (include responsible party): :
WES security staff requested custodial to leave the center even though she was fighting not the leave. Noncustodial called 911 to make a formal complaint, he was advised by police to go the station to make a formal complaint and if he thinks the child is not safe, they will go check on the child at the address he provides.

MEMBER INFORMATION

FIRST NAME:

LAST NAME:

DOB:

GENDER:

PHONE #:

ADDRESS:

CITY:
Philadelphia



WES Health System PA
1315 Windrim Avenue Philadelphia PA 191412710

Client Name:	xxxxxx	Date of birth:	xxxxxx
Date/Time:	2/17/2024 1:00 PM to 3:00 PM	CPT	N/P SVPE VISIT EXCHANGE
Employee:	Dominique Howard		

DEMOGRAPHIC INFORMATION

FIRST NAME:
xxxxxx

LAST NAME:
xxxxxx

PARENT'S NAME: xxxxxxxx

STATUS: NON-CUSTODIAL

CASE NUMBER: xxxxxx

SERVICE INFORMATION

DATE: 02/17/2024

TIME: 1:00 pm

OTHER TIME: 3:00 pm

SESSION DAY: 02/27/2024

OTHER SESSION DAY: 03/02/2024

ATTENDEES: FATHER

DOCUMENTATION

HAS AN INCIDENT OCCURED?: NO

NOTE (CHECK BOX TO OPEN SECTION TO WRITE): :

Non-Custodial and Custodial Parent arrived on time for today's exchange visit. Mr. xxxxxx and xxxx greeted each other with hugs and other appropriate affection. xxxxxx appeared very engaged with her father through out today's visit as the two played games as the family was also observed engaging with another family where Mr. xxxxxx presented the children with prizes for playing well together. Mr. xxxxxx also presented xxxxx with individual toys as well as lunch. In conclusion, xxxx appears intact and appropriate before being linked to her mother. Both parents were presented appointment cards on when to return as Mr. xxxxxx remained within the meeting room an additional 15mins allowing xxxxx and her mother to fully depart the facility.

Employee Signature

Signature 3

Dominique Howard, BY
2/19/2024 9:30 AM
Dominique Howard

2/19/2024 2:54 PM
Ellen Wongo

Approved by EWONGO on 2/19/2024



WES Health System PA
1315 Windrim Avenue Philadelphia PA 191412710

Client Name:	xxxxxxxx	Date of birth:	xxxxxx
Date/Time:	6/29/2024 9:00 AM to 9:45 AM	CPT	N/P SVPE NOTIFICATIONS
Employee:	Ellen Sia Wongo		

MEMBER INFORMATION

FIRST NAME: xxxxx

LAST NAME: xxxxxx

TYPE OF EXCHANGE: CUSTODIAL

PROGRAM: Supervised Visits & Parental Exchange

RELEASE OF RECORDS:

I acknowledge that I have been notified that all documentation related to my participation in the WES Supervised Custody Visitation program shall be released to the Courts and to all legal counsel.: YES

Was verbal acknowledgement provided?: YES

GRIEVANCE POLICY:

I acknowledge that I have been notified of the WES Grievance Policy and Procedure.: YES

Was verbal acknowledgement provided?: YES

ORIENTATION POLICY & PROCEDURES:

I acknowledge that I have been notified of all WES Visitation Policies and Procedures.: YES

Was verbal acknowledgement provided?: YES

INCIDENT REPORTING POLICY & PROCEDURES:

I acknowledge that I have been notified of all WES INCIDENT REPORTING Policies and Procedures: YES

Was verbal acknowledgement provided?: YES

CLIENT RIGHTS POLICY & PROCEDURES:

I acknowledge that I have been notified of all WES CLIENT RIGHTS & RESPONSIBILITY Policies and Procedures: YES

Was verbal acknowledgement provided?: YES

REGISTRATION POLICY & PROCEDURES:

I acknowledge that I have been notified of all WES REGISTRATION Policies and Procedures: YES

Was verbal acknowledgement provided?: YES

ORIENTATION PACKET:

I acknowledge that I have been notified of all WES REGISTRATION & ORIENTATION Policies and Procedures: YES

Was verbal acknowledgement provided?: YES

Employee Signature

6/29/2024 8:57 AM
Ellen Wongo

Client Signature

6/29/2024 8:57 AM

Supervisor's Signature
Approved by CREESE on 7/6/2024
Cherita Reese-Butler,

CHANGES TO THE CUSTODY STATUTE RESULTING FROM KAYDEN'S LAW

DEFINITIONS

Abuse-now includes stalking.

Household members-now includes anyone living there, without regard to relationship.

Nonprofessional Supervised Custody-court agreed to monitoring of child and adult with custody rights.

Professional Supervised Custody-supervisor trained and educated in dynamics of domestic violence, sexual assault, child abuse, trauma and the impact of domestic violence on children who is promoting "safety of the child".

Safety of the Child-including but not limited to physical, emotional and psychological well-being of child.

Temporary Housing Instability-not to exceed 6 months after the last incident of abuse.

Awards of Custody

23 PaCSA §5323 (e)(1)-Safety Conditions-If after considering the factors (§5328), conviction (§5329), abuse (§5329.1) and criminal charge (§5330), the Court finds a history of abuse to child or household member and awards any form of custody to that party, the Court must include in the order: 1)Safety conditions/restrictions/safeguards necessary to keep child safe; 2)Basis for the conditions/restrictions/safeguards and why they are in the child's best interest; and 3)Basis for unsupervised after a finding past abuse.

23 PaCSA §5323 (e)(2)-If supervision is ordered, may be reviewed upon the filing of a Petition. Safety conditions/restrictions/safeguards include but not limited to: 1) Nonprofessional supervised custody; 2) Professional Supervised Custody; 3) Limitations as to timing and length of any period of custody; 4) Appointment of a qualified individual to provide batterer's intervention and harm prevention programming, trained in both areas, to educate about offending behavior, harm prevention or impacts of physical, sexual, or domestic abuse on victim. The Court may also appoint this individual do an evaluation to determine if additional safety precautions are required; 5) Limitations on legal custody; and 6) Any other safety condition/restriction/safeguard deemed necessary.

23 PaCSA §5323 (e.1)-Burden of Proof for supervised custody is PREPONDERANCE OF THE EVIDENCE of ongoing risk of abuse and creates REBUTTABLE PRESUMPTION of supervised physical custody. Court may rely on an indicated finding by CPS for this finding, ONLY after de novo hearing on the facts of the indicated report. If awarding supervised custody under this subsection, the Court SHALL favor professional supervision. However, COURT MAY AWARD nonprofessional supervision if: 1) Court finds professional supervision is not available within a reasonable distance OR the party requiring supervision is unable to pay; and 2) Supervisor is identified in Court, executes an affidavit of accountability and the Court makes a finding ON THE RECORD that the supervisor is capable of promoting the safety of the child.

Consideration of Criminal Conviction-23 PaCSA §5329(a)

Now includes Simple Assault, Recklessly Endangering Another Person, Interference with Custody of Children, Cruelty to Animals, Aggravated Cruelty to Animals, Animal Fighting and Possession of Animal Fighting Paraphernalia.

23 PaCSA §5329(a.1)-Conviction is not determinative in custody award; a totality of the circumstances in the best interests.

Guardian Ad Litem-23 PaCSA §5334

Appointment of GAL is permissible, no longer mandatory, if there is no counsel for child AND it is the only way to get relevant information.

Guardian Ad Litem-23 PaCSA §5334 (f)-Court must make reasonable efforts to appoint a guardian who has received evidence-based education and training related to child abuse, including sexual abuse, domestic abuse education and the effect of sexual and domestic abuse on children.

CHANGES TO THE CUSTODY FACTORS STATUTE RESULTING FROM KAYDEN'S LAW
(CHANGES ARE UNDERLINED AND BOLD)

§ 5328. Factors to consider when awarding custody.

(a) **Factors.**—In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, **giving substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1) and (2.2) which affect the safety of the child,** including the following:

(1) **Which party is more likely to ensure the safety of the child.**

(2) The present and past abuse committed by a party or member of the party's household, **which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.**

(2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).

(2.2) **Violent or assaultive behavior committed by a party.**

(2.3) **Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.**

(3) The parental duties performed by each party on behalf of the child.

(4) The need for stability and continuity in the child's education, family life and community life, **except if changes are necessary to protect the safety of the child or a party.**

(5) The availability of extended family.

(6) The child's sibling relationships.

(7) The well-reasoned preference of the child, based on the child's **developmental stage**, maturity and judgment.

(8) The attempts of a **party** to turn the child against the other **party**, except in cases of **abuse** where reasonable safety measures are necessary to protect the **safety of the child.** **A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.**

(9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.

(10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.

(11) The proximity of the residences of the parties.

(12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.

(13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child **or self** from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.

(14) The history of drug or alcohol abuse of a party or member of a party's household.

(15) The mental and physical condition of a party or member of a party's household.

(16) Any other relevant factor.

(a.1) **Exception.**—**A factor under subsection (a) shall not be adversely weighed against a party if the circumstances related to the factor were in response to abuse or necessary to protect the child or the abused party from harm and the party alleging abuse does not pose a risk to the safety of the child at the time of the custody hearing. Temporary housing instability as a result of abuse shall not be considered against the party alleging abuse.**

(a.2) **Determination.**—**No single factor under subsection (a) shall by itself be determinative in the awarding of custody. The court shall examine the totality of the circumstances, giving weighted consideration to the factors that affect the safety of the child, when issuing a custody order that is in the best interest of the child.**

Award of Counsel Fees, costs and expenses-23 PaCSA §5339

Obdurate, vexatious, repetitive and bad faith not a basis if party engaged in judicial process in good faith to protect the child from harm.

42 PaCSA §1908-Education and training. The AOPC may develop education and training for judges, et al.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FAMILY DIVISION**

Plaintiff

:

:

:

:

:

:

:

:

Defendant

NO. _____

IN CUSTODY

AFFIDAVIT OF ACCOUNTABILITY OF SUPERVISOR

I, _____, hereby agree to supervise the physical custody of
_____ (name of party) with the following child(ren):

<i>NAME</i>	<i>AGE</i>	<i>DOB</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The supervised physical custody is provided in an Order dated _____. A copy of the Order is attached to this Affidavit as Exhibit "A."

My relationship to the aforesaid minor child(ren) is that of _____.

I agree to abide by and fulfill the following requirements and conditions of the role of supervisor: (Check boxes of all those that apply)

- I am aware that circumstances have arisen showing a need for supervised physical custody.
- I understand that the role of a supervisor requires my physical presence with the child(ren) and the person to be supervised in the manner for the period of time that supervision is required pursuant to the custody order, i.e., the whole visit, overnight only.
- I understand that I must accompany the minor child(ren) and the person to be supervised on any and all executions, no matter how short or long in duration, as required by the custody order and if such executions are permissible in this case.
- I will make prompt notations of any behavior of the person to be supervised which I believe to be harmful to the best interest of the child(ren) in this matter and I will make a prompt report of those observations to the parties, counsel for both parties, and the Court.

- I will not permit the person to be supervised to drive a motor vehicle after having consumed alcoholic beverages or controlled substances, or while under the influence of alcohol or controlled substances, with the child(ren) present in the motor vehicle. At all times, I shall insure that the child(ren) are securely fastened in an appropriate passenger restraint.
- I will not permit the person to be supervised to operate dangerous machinery in the presence of the child(ren) after having consumed alcoholic beverages or controlled substances, or while under the influence of alcohol or controlled substances.
- I understand that I cannot delegate my responsibility as a supervisor to anyone else without the prior approval of the Court.
- Additional provisions:

- I agree to be fully accountable to the Court as a supervisor in this matter.**

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE

Print Name of Supervisor

Signature of Supervisor

Address

Home Phone Work Phone

Email Address

- Amount of time it takes for benzos to leave system depends on factors like age, weight, metabolism, prolonged use, health history <https://americanaddictioncenters.org/xanax-treatment/how-long-in-system/>
 - Ex. Older individuals can't excrete drug as quickly, people with higher metabolism will have drug leave system quicker, etc. <https://www.therecoveryvillage.com/benzodiazepine-addiction/faq/how-long-do-benzos-stay-in-system/#gref>
 - More frequent use can take longer to excrete, higher dosage can take longer to excrete/metabolize; frequent users take longer to metabolize due to higher tolerance
- Short/intermediate acting benzos = can stay in system up to a week, habitual users it might stay in system much longer
- Long acting benzos = can show significant traces for long time after use, up to a week to reduce
- Ultra short acting benzos = can be out of system entirely within a day or so
- Xanax = intermediate acting
- DEPENDS on the type of benzo; if she was really only taking the medications she mentioned, including Xanax, Xanax is an intermediate acting benzo and could stay in system for up to a week, or longer with a habitual user (which she would have been if she was taking the medication daily); presence in system varies by benzos half life
- Doses of sertraline (Zoloft) exceeding 150 mg/day could lead to false positive benzodiazepine urine drug screens (Nasky Study) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2728940/>
- Length of time Xanax stays in a person's bodily fluids depends largely on how heavy the use of the drug has been
 - For occasional users, urine test will probably not work past 4 days; with heavy users, it can last up to a week
 - First test was on 8/21, didn't find results out until 8/23, next tests were on 8/24; unlikely it would have been out of her system by then even if she didn't take the drugs habitually, which she was prescribed to do, at least for the urine test
- Xanax half life of 9-16 hours; takes this long for body to get rid of half of the dose of the drug <https://americanaddictioncenters.org/xanax-treatment/how-long-in-system/>
 - Xanax typically takes 2-4 days to exit system fully
 - If someone had levels that off the charts, it would take longer to leave the system, probably longer than a few days
 - It would take a normal dosage 2-7 days to leave system; for an extremely high dosage like the original urine screen would indicate, it would probably take longer; could not have left system that quickly
- Benzodiazepines can typically be detected within 2-3 days
 - Hair follicle test will test for benzos up to 90 days (but not typically used to test for benzos because not very good at detecting them), blood within 1-2 days
- Even if she stopped taking the medication completely before the new tests, it might not have shown up on blood test but would have shown up on urine and possibly hair follicle tests three days later, so it is unlikely she changed how she was taking them
- How quickly benzos are metabolized depends on how many tablets you take and what dosage
- Many benzodiazepines show up in urine tests but some don't; "Alprazolam (Xanax), clonazepam (Klonopin), temazepam (Restoril), and triazolam (Halcion) may not be found in many of the

common tests. Many benzodiazepine tests can find whether the medicine is present, but can't give the amount." Type or urine test might have been different, accounting for different showings from 8/21 to 8/24?

- https://www.urmc.rochester.edu/encyclopedia/content.aspx?contentTypeid=167&contentid=benzodiazepine_urine
- What kind of urine test was it? Gas chromatography/mass spectrometry or immunoassay?
COMMENT: Imposing Liability on Drug Testing Laboratories for "False Positives": Getting Around Privity, 64 U. Chi. L. Rev. 287
 - Immunoassay = cheaper, usually used for initial screenings, "These methods do not test for the presence of particular drugs in the urine, but for their metabolites of drugs, the chemicals produced when a drug enters the digestive system. These tests are inherently overinclusive because they detect metabolites with properties similar to the metabolites of the drugs for which they are testing." ... "some studies show that in practice the tests yield incorrect results in 25 to 60 percent of the cases."; can be cross-reactivity that can lead to false positive results in immunoassay tests
 - Gas chromatography = more expensive, thorough; "...can positively identify the existence of a particular illegal substance in the urine. That procedure requires expert administration in controlled clinical conditions and is considerably more expensive than the cheapest testing method."
 - Immunoassay usually used as initial test, gas chromatography as confirmatory test
 - "Immunoassays provide useful clinical information, but should be viewed as 'presumptive positive' results until confirmed by an independent chemical technique such as GC-MS or liquid chromatography-tandem mass spectrometry." Alec Saitman, Hyung-Doo Park, Robert L. Fitzgerald; False-Positive Interferences of Common Urine Drug Screen Immunoassays: A Review, *Journal of Analytical Toxicology*, Volume 38, Issue 7, 1 September 2014, Pages 387-396, <https://doi.org/10.1093/jat/bku075>
- Possibly relevant: "Unlike most other laboratory results, however, results of urine drug tests can be accurate and still yield misleading information – in other words a test can yield a true negative result in the context of ongoing psychoactive substance use (e.g., if the test was performed outside the window of detection of the drug that the adolescent was using), or a true positive result in the context of no use of psychoactive substances (e.g., if the test detects substances found in food such as poppy seeds, which can trigger an opioid screen, or in a patient's prescribed medications such as stimulants for ADHD, which can trigger an amphetamine screen)." <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4920965/>
- Treatises on benzodiazepines, urine drug testing, and cut-off levels:
 - <https://advance.lexis.com/document/?pdmfid=1000516&crd=1bec529c-dbc1-4277-aa88-dbb804c36bf3&pddocfullpath=%2Fshared%2Fdocument%2Fanalytical-materials%2Furn%3AcontentItem%3A4YF6-6BF0-003N-N02S-00000-00&pddocid=urn%3AcontentItem%3A4YF6-6BF0-003N-N02S-00000-00&pdcontentcomponentid=306184&pdteaserkey=sr3&pditab=allpods&ecomp=5pkLk&earg=sr3&prid=09424550-2a36-4429-9330-64c241d769ef>
 - <https://advance.lexis.com/document/?pdmfid=1000516&crd=01ff11f8-91de-4301-9931-655fdee2fa6e&pddocfullpath=%2Fshared%2Fdocument%2Fanalytical-materials%2Furn%3AcontentItem%3A56JB-HVDO-R03N-B4NF-00000->

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- [2-23 Scientific Evidence § 23.02 \(2017\)](#) “Unfortunately, most drug analysis techniques are nonspecific; a positive test result is indicative of the drug’s identity, but other drugs could yield the same result the same color or number. Nonspecific tests thus can lead to false positive results, a finding of one drug’s presence when in fact another drug is present.” ... “However, the immunoassay tests have weaknesses. They are nonspecific. The tests are said to be “cross-reactive” with other drugs. Consequently, false positives are possible. Northwestern University researchers reported that one of the widely used immunoassay tests yielded 25% false positives.”
- [Reed T. Drug Label 55289-381](#)
- [ARTICLE: Campbell and Its Progeny: The Death of the Urinalysis Case, 47 Naval L. Rev. 1](#)
- Alec Saitman, Hyung-Doo Park, Robert L. Fitzgerald; False-Positive Interferences of Common Urine Drug Screen Immunoassays: A Review, *Journal of Analytical Toxicology*, Volume 38, Issue 7, 1 September 2014, Pages 387–396, <https://doi.org/10.1093/jat/bku075>
- SETRALINE DIAGNOSTIC TEST EFFECTS: May increase serum total cholesterol, triglyceride, AST (SGOT), and ALT (SGPT) levels. May decrease serum uric acid level. May cause false positive urine screen for benzodiazepines; use confirmatory tests to distinguish.
 - Laboratory Tests: False-positive urine immunoassay screening tests for benzodiazepines have been reported in patients taking sertraline. This is due to lack of specificity of the screening tests. False positive test results may be expected for several days following discontinuation of sertraline therapy. Confirmatory tests, such as gas chromatography/mass spectrometry, will distinguish sertraline from benzodiazepines. [Reed T. Drug Label 55289-381](#)