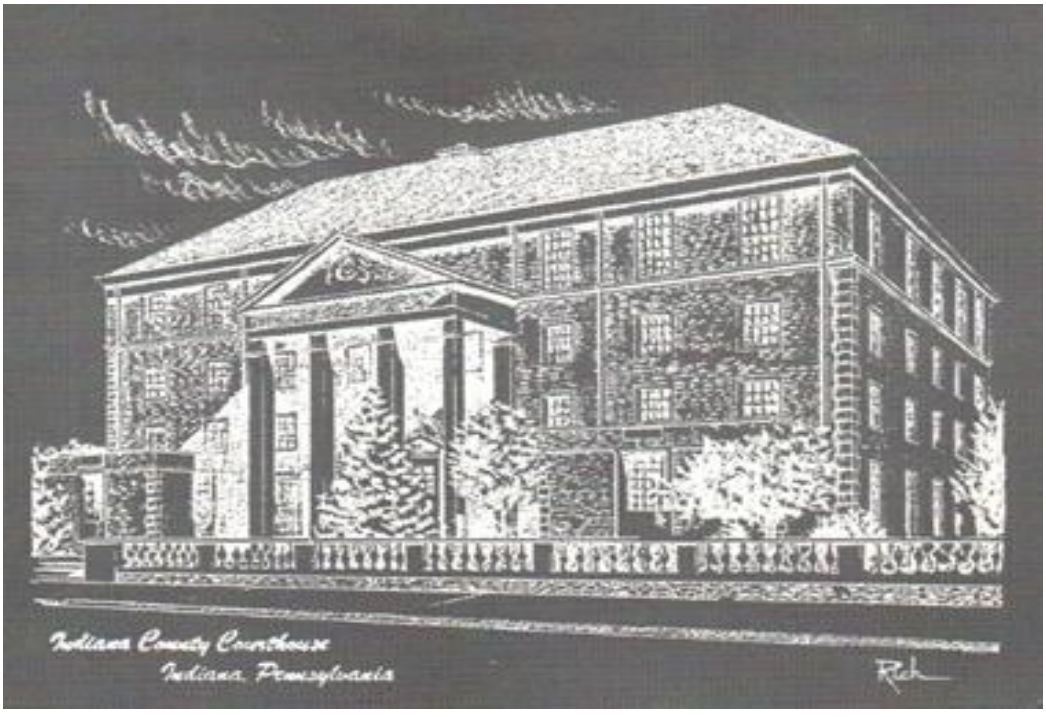
Guidebook for Self-Represented (*Pro Se*) Litigants in Family Court Cases in Indiana County (October, 2026)



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Purpose of the Guidebook[1]

The purpose of this Guidebook is to provide self-represented parties involved in family court matters (i.e. protection from abuse, divorce, and custody cases) in Indiana County, Pennsylvania with general information and an outline about the family court system, process, and procedures. This Guidebook is merely intended to explain what is expected of you, how you must conduct yourself, and provide general information with regard to your duties and responsibilities when appearing as a self-represented litigant in family court matters before the Indiana County Court of Common Pleas.

Remember, only attorneys are permitted to provide you with legal advice. Therefore, you should not interpret anything in this Guidebook as legal advice, nor should this Guidebook be cited or referred to as legal authority. No statements made in this Guidebook should be interpreted or used as a suggestion to take or refrain from a particular course of action, strategy, or steps in your personal legal matter. This Guidebook is not a substitute for proper legal advice regarding your specific situation. If you choose to represent yourself without the assistance of a lawyer, who has specialized training and education, you could put yourself at a disadvantage in your case.

[1] The Indiana County Court of Common Pleas would like to extend its sincerest appreciation and gratitude to the Adams County Court of Common Pleas, the Armstrong County Court of Common Pleas, the Delaware County Court of Common Pleas, the Lebanon County Court of Common Pleas, and the Northampton County Court of Common Pleas. Each of these counties published their own Handbook pertaining to family law matters and each were gracious enough to permit the use and publication of portions of those handbooks that were applicable and used in the preparation of this Guidebook.

Representing Yourself

In many different scenarios and for many different reasons, litigants will decide to represent themselves in court. A person who represents himself/herself in court is often referred to as a self-represented party or being *pro se*, which is a Latin term that means "for oneself" or "on one's own behalf" and refers to representing oneself in a legal proceeding without the assistance of legal counsel.

Unlike certain criminal matters, neither the Court nor Indiana County is required or obligated to appoint legal counsel for you in custody and divorce matters. However, in Protection from Abuse cases, the Plaintiff/Petitioner will be provided a *pro bono* attorney.[2] The Defendant/Respondent is not provided with *pro bono* legal counsel in Protection from Abuse cases; however, they may hire an attorney to represent them.

Although you are not entitled to have legal counsel appointed in your family law case, you have an absolute right to represent yourself; however, it is always advisable and strongly suggested that you obtain an attorney to represent you and your interests. Furthermore, you should understand that there is a real possibility that the other side will have an attorney, who is far more familiar and knowledgeable with the applicable law and procedure than you, which could put you at a disadvantage.

Should you wish to obtain legal counsel to represent you but you do not know where to start, you may contact the Indiana County Court Administrator's Office at 724-465-3955 for a list of attorneys that practice in the area of law that you need assistance with. In addition, the Indiana County Bar Association has a website that lists attorneys that practice in Indiana County and their respective practice areas. This website is www.indianacountybar.com/attorneys.

If you are unable to afford an attorney and if you qualify, Summit Legal Aid may be available to help. This agency can be reached at: 1-800-846-0871 or at info@summitlegal.org. Please understand that only Summit Legal Aid can determine if you qualify and if they can represent you in your matter.

Should you choose to represent yourself, you should realize that there are significant risks and responsibilities attached to that right. Self-represented litigants must prepare, file, and serve all documents properly and follow the same deadlines as attorneys. In addition, you must attend hearings, be prepared to present evidence, and follow courtroom etiquette. Self-represented litigants are held to the same standards as attorneys who are licensed to practice law in the Commonwealth of Pennsylvania. You are required to follow all state and local rules of procedure and evidence just as an attorney must do. You will not be allowed to overlook a particular procedure because you did not know that you had to do it or you did not know how to do it. In fairness to all parties that come before the Court, you will be held to the same standard as an attorney. Representing yourself does not exempt you from understanding and following the applicable law and rules of procedure. It is not a defense to say "I didn't know."

[2] *Pro bono* is another Latin term that means "for the public good" and refers to professional legal work that is undertaken voluntarily and without payment.

In many instances, people who represent themselves eventually find that they need to hire an attorney in an effort to “fix” their own mistakes. More times than not, it will cost more money to hire an attorney to “fix” the problem than it would have to hire an attorney to handle the matter from the beginning. Moreover, there are some instances that problems created by self-representation are not “fixable.” Custody and divorce cases are time consuming and can be complex and complicated. While it is possible to navigate the judicial system on your own, having an experienced attorney to help you can improve your chances of doing things properly and getting a result which you are happy with.

If you choose to represent yourself, please understand that judges, hearing officers, and mediators are not available to guide you through the proceedings or provide you with legal advice or recommendations on what to do. In addition, you are not permitted to contact (telephone, email, or mail) the judges, hearing officers, and mediators. The Court’s authority to act is not exercised in response to letters or telephone calls, but only in response to formal pleadings and evidence presented in official proceedings/hearings.

In addition, Court staff and staff members in the offices of the Prothonotary, Clerk of Courts, Domestic Relations, and Court Administration are not permitted to provide legal advice. These staff members are also not permitted to fill out a legal document for you, give you advice on what documents to file or when to file them, or tell you how to proceed with your case.

Location and Parking

All hearings and proceedings in family law matters that take place before a judge occur at the Indiana County Courthouse located at 825 Philadelphia Street, Indiana, Pennsylvania 15701. Hearings, including Protection from Abuse proceedings, that take place before a judge will be in one of the three courtrooms located on Floor 4 of the Courthouse.

Initial Custody Conferences between the parties take place in either Jury Room No. 1 or 2 on Floor 4M of the Courthouse.

Child Custody Mediations take place before the Child Custody Mediator in the Mediation Room on Floor 4M of the Courthouse.

Divorce Pre-hearing/Settlement Conferences take place before the Divorce Hearing Officer in the Mediation Room on Floor 4M of the Courthouse. Divorce hearings typically take place before the Divorce Hearing Officer and occur in Courtroom No. 4 located on Floor 4M of the Courthouse.

Please be advised that most cases involving support (child and/or spousal) occur at the Indiana County Domestic Relations Section Office and not at the Courthouse. The Indiana County Domestic Relations Section Office is located at 280 Indian Springs Road, Indiana, PA 15701.

Other than six (6) short-term parking spaces behind the Courthouse, there is not an on-site parking lot or garage for the Courthouse. The short-term parking spaces are limited a forty-five (45) minute duration. There are metered parking spaces along Philadelphia Street and side streets around the courthouse. In addition, the Borough of Indiana has a parking garage that is located at 650 Water Street, Indiana, Pennsylvania. There is a fee to park in the garage and it is located approximately 1 ½ blocks from the Courthouse.

General Tips and Suggestions

1. Read everything you get from the Court and the other side right away. It is very important that you know what is going on in your case and what deadlines have been set.

2. Meet every deadline. If you do not know exactly how to do something, try to get help and do your best. It is more important to file/submit the required documents and responses on time, than to do everything perfectly. There can be negative consequences in your case if you miss deadlines.

3. Use your own words and be as clear as possible. In the documents you file with the Court, please be specific as possible about the facts that are important and relevant to the filing. Failure to provide specific details and information in a document that you file may lead to the request being denied.

4. Always keep all of your paperwork together and stay organized. Keep a copy of everything you send to and/or file with the Court. Also, keep everything you receive from the Court, the other side, or anyone else relating to your case.

5. Familiarize yourself with the Indiana County local rules of court. Please remember that rules and procedures vary from county to county and as such, you will need to know the rules that apply in the court that will hear your case.

6. Be sure the Court always has your correct address and phone number. If your contact information changes, you must file a Praecipe with the Indiana County Prothonotary's Office so as to provide your new contact information. The burden of changing your contact information is on you. If you do not, there is a very good chance that you will not receive notice of a proceeding/hearing because of an improper address, which could have negative consequences for your case.

Preparing Your Court Documents as a Self-Represented Party

1. As a self-represented party, you must determine on your own which legal documents you must file to achieve the request that you want to make and when to file them. Once you make that determination, there may be blank forms that are available to you. These forms may be available at the Indiana County Prothonotary's Office for a fee or they may be accessible on the Indiana County website, which is www.indianacountypa.gov, under Departments, Courts, and then Forms & Documents. There are no warranties, expressed or implied, with regard to any forms supplied by the Court and/or the Indiana County Prothonotary's Office. They are only examples. They may or may not be suitable for the facts of your particular case. Please understand that you are using these forms at your own risk. They must be modified to fit your unique situation. In addition, the fact that these forms have been provided to you will not be a defense or an excuse that what you filed is wrong.

2. While the internet can be a wonderful source of information, please understand that the documents and materials found through Google or another search engine may not be applicable to Indiana County or even the Commonwealth of Pennsylvania. Each state and each county in Pennsylvania has its own processes, procedures, and requirements that need to be followed.

3. Please understand that the determination of which legal document or documents to file and when to file them is completely your responsibility. Courthouse employees, including those employees that work at the Indiana County Prothonotary's Office are not able to provide you with advice or suggestions on what forms to file and when to file them. Aside from the fact that such information is legal advice, county employees are prohibited from doing so. You will need to take advantage of any and all resources that are outlined in this Guidebook as well as conducting your own separate research that relates to the Commonwealth of Pennsylvania and specifically, Indiana County.

4. Make sure you complete any legal document in its entirety. If you do not, you risk the Court summarily denying the request.

5. Please be as specific as possible detailing the factual allegations in the legal document as well as what specific relief you are asking the Court to take as a result of the filing.

6. Make sure all of the required information is attached to and/or set forth in the legal document that you prepare.

7. Make photocopies of all legal documents that you file for your own records. If you request a court employee to make copies for you, you will be charged a fee.

Fees

A vast majority of filings in divorce and custody cases have an accompanying fee that is charged by the Indiana County Prothonotary's Office. This fee must be paid at the time you file your document. In addition, there are other costs and fees such as the custody mediation fee or divorce hearing officer fee that must be paid at the appropriate time.

A party who is without the financial resources to pay the filing fees and/or court costs may request *in forma pauperis* ("IFP")[3] status. To request to proceed *in forma pauperis*, you must complete, in its entirety, a Petition for Leave to Proceed In Forma Pauperis form. Do not leave anything blank. If a part or section does not apply, write "N/A." This form can be obtained from the Indiana County Prothonotary's Office. The judge will make a determination based upon the information contained in your petition as to whether you can proceed without paying the filing fees and/or court costs. If you do not complete the form in its entirety, you risk the judge denying your IFP and you will be responsible for paying any filing fees and/or court costs. It is important to understand that the granting of an IFP petition is not an automatic right. The court has the discretion to grant or deny this request after reviewing the petition, the individual's financial situation, and the guidelines.

[3] *In forma pauperis* is a Latin phrase that means "cannot afford to pay" and allows individuals who cannot afford to do so to proceed in an action without the financial burden of court costs.

Preparing for Court Proceedings as a Self-Represented Party

1. Choosing to represent oneself in Court is a big decision. In many matters, it may be best to obtain some legal advice ahead of time from a lawyer so you are sure you are doing the right thing and are prepared for the Court hearing. If unsure, or afraid of the court process, it may be best to seek the help of an attorney for the entire process.

2. Make sure you review all Orders and correspondence from the Court or the opposing party. Orders and/or letters are usually the only notice you will receive from the Court regarding the dates, times, and location of hearings and other proceedings. The Court does not send reminders or text message updates. After receiving notice, the responsibility to ensure your presence at the hearings and other proceedings rests with you.

3. Dress appropriately, as if you would for an important event. No shorts, tank tops, flip-flops, or hats are permitted.

4. Unless specifically permitted to do so by the Court, you will not be permitted to bring your cell phone with you into the Courthouse if you have a hearing.

5. You are not permitted to record a legal proceeding (hearing, conference, or mediation) in any way. If a proceeding is to be on the record, a court reporter will be present to record and transcribe the testimony and proceeding so as to make a written record.

6. Look over the materials you are going to present in Court. In addition to the original document, you must bring a copy for the opposing party, a copy for the judge, and you should keep a copy for your records.

7. Make sure you bring all necessary materials to Court in an organized fashion. Often times, the Court, hearing officer, and/or mediator may request to see a document that is being referenced or mentioned during a proceeding. You must be prepared to provide a copy upon request.

8. Unless permitted by the Court otherwise, all witnesses you intend to call must be present at the Court hearing. Verify in advance that the people you wish to serve as your witnesses can, and will, be present at your hearing.

9. It is very helpful to make notes before you come to Court so you are prepared and know exactly what you want to say. The notes can refresh your memory about things you want to testify about.

Going to Court as a Self-Represented Party

1. Be on time. The Court has a busy schedule. If you are late, your case might be postponed to another date, dismissed, or an Order may be entered against your that is unfavorable.

2. Although court staff is not permitted to provide legal advice or recommendations, they can assist you with certain questions such as when your hearing is scheduled or which courtroom or area you are supposed to be in.

3. Bring the paperwork that you received from the Court or the opposing side with you. If you are mistaken about the type of proceeding you are coming to Court for or where you are supposed to be, your paperwork will assist court staff in trying to help you.

4. Do not chew gum or tobacco in the courtroom.

5. No food or drinks are permitted on Floor 4 of the Courthouse, which is the floor that includes the courtrooms.

6. If you or your witnesses are permitted to have a cell phone during a proceeding, they must be silenced. Parties have been reprimanded and/or fined by judges for their phone ringing in the courtroom during a proceeding.

7. Be polite and respectful to everyone, including the judge, court staff, the other parties involved in your case, lawyers, witnesses, and any other people in the area.

8. While the Court understands that divorce, custody, and protection from abuse cases can be emotionally charged, try to stay calm and collected throughout the entire matter.

9. As a sign of respect for the Court and the legal process, you should stand up when the judge enters and exits the courtroom.

10. You should address the judge as “Your Honor” or “Judge.”

11. Do not use profanity, argue, or verbally react to answers given in Court by the opposing party or attorney. Unless you are making an objection to a question that was asked, do not speak at the same time or interrupt anyone who is asking or answering questions. You will be provided with an opportunity to speak.

12. Do not argue with a witness. Courtroom procedure dictates that the dialog involves questions by a party, the opportunity to make a legal objection to a question, and the ability for the witness to answer the question.

13. Even though you are representing yourself, you still have to follow the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Evidence just as an attorney has to.

14. After the hearing or proceeding, make sure you review the terms of the written Order of Court.

Communications with the Judge and Other Court Personnel

Judges and other court personnel are not permitted to have to or consider ex parte communications. Ex parte is a Latin phrase that means “on one side only” or “by one party only.” An ex parte communication occurs when a party to a case, or someone on the party’s behalf, talks or writes to or otherwise communicates directly with the judge or other court personnel about the issues in a case without the other party’s knowledge. The ban on ex parte communication helps assure that cases are heard and decided fairly and impartially and that parties before the Court are treated equally. It also preserves public trust in the court system. You can best understand this concept by considering the following question: Would you like it if the judge or other court personnel spoke to the other side about your case without your knowledge? Would you like it if the judge or other court personnel accepted and reviewed a letter written by the other side of your case without your knowledge and/or permission? Of course you would not. As such, if you need to have the matter reviewed and heard by the Court, you must do so in a written legal document (i.e. a petition or motion) filed with the Indiana County Prothonotary which specifically explains the situation, what relief you are seeking, and why you are entitled to relief.

Protection from Abuse Actions

Protection from Abuse ("PFA") actions are designed to protect victims of domestic abuse by obtaining a court order that restricts the abusive behavior of a family or household member, intimate partner, or other certain covered persons. **A PFA is not to be used solely to obtain custody of a child or children or gain an advantage in a custody matter**. In addition, **a PFA should not be used to obtain an advantage as it relates to possession of a residence or property.**

In PFA actions, the Plaintiff (the person who filed the case and is requesting the relief) is almost always represented at the hearing by either a *pro bono* or private lawyer. A Defendant (the person whom the PFA is being filed against) does not have a constitutional right to court-appointed counsel because a PFA action is civil in nature, not criminal. Of course, a Defendant may always hire their own lawyer to represent them in the action.

A PFA may only be filed by an adult on their own behalf; a parent, guardian, or household member on behalf of a minor; or by the representative of an incapacitated person. In addition, a PFA requires there to be a certain relationship between the Plaintiff and Defendant. The relationship between the parties must be at least one of the following:

1. Current or former spouses;
2. Persons living as spouses or who lived as spouses;
3. Parents and children;
4. Other persons related by blood or by marriage;
5. Current or former sexual or intimate partners; or
6. Persons who share biological parenthood.

If none of these relationships exist between the Plaintiff and the Defendant, a PFA cannot be obtained.

To obtain a PFA, there must be an allegation and proof that the Defendant committed abuse. Pennsylvania law (23 Pa.C.S.A. § 6102(a)) defines the term "abuse" to include the occurrence of one or more of the following acts:

1. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon;
2. Placing another in reasonable fear of imminent serious bodily injury;
3. The infliction of false imprisonment pursuant to 18 Pa.C.S.A. § 2903 (relating to false imprisonment);
4. Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services); and/or
5. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury.

To begin the process of obtaining a PFA, you will be required to complete a Petition for Protection from Abuse. This petition must be filed out in its entirety. Do not leave anything blank. If a part or section does not apply, write "N/A." The Alice Paul House is an agency in Indiana, PA that provides services to victims of domestic violence, sexual assault, and other serious crimes. The Alice Paul House provides a variety of services in connection with victims of abuse, and one of those services is assisting persons in filing for and proceeding through the PFA process. There is no cost to you for these services or assistance. This agency can be reached at: (724) 349-4444 / 1-800-435-7249 or at info@alicepaulhouse.org. Please be advised that while the Alice Paul House can assist you in the PFA process, they cannot give you legal advice.

In completing a Petition for Protection from Abuse, you will be required to provide certain information about the Defendant, information concerning the parties' relationship, the dates and times of the occurrence(s), a specific description of what occurred, and what relief from the Court you are seeking in filing for the PFA. Under Pennsylvania law, there is no filing fee that is required to file for a Petition for Protection from Abuse.

Once the Petition for Protection from Abuse is filed, a judge will review it the same day. If the Plaintiff is requesting a Temporary PFA Order, then the judge will hold an ex parte hearing only with the Plaintiff. The Defendant is not present for this proceeding. This is one of the few times the Court may consider a matter ex parte. If after the hearing it is deemed necessary to protect the Plaintiff and/or a minor child or children because the judge finds that they are in immediate and present danger of abuse, the judge may enter a Temporary PFA Order which could include, among other things, a no contact provision, removal of the Defendant from a shared residence, temporary custody of a child or children, and/or surrender of firearms by the Defendant. This Temporary PFA Order will remain in effect until it is modified or terminated by the Court after notice and a hearing.

The Indiana County Sheriff's Office will serve a copy of the Petition for Protection from Abuse and any Temporary Order that is issued by the Court on the Defendant. Unlike other family law matters, you do NOT have to serve any paperwork yourself. The Order will provide a date, time, and location for the final hearing, which is usually scheduled within ten (10) business days.

If the Plaintiff needs to file for a PFA after the Courts are closed, on weekends, or on holidays, an Emergency Petition for Protection from Abuse will need to be filed with the on-call Magisterial District Judge. Emergency PFA's last until the next business day, when you must file the Petition for Protection from Abuse at the Courthouse.

When you arrive at the courthouse for a PFA proceeding, make sure you check in with the Court's tipstaff to indicate that you are present and ready to proceed. After doing so, have a seat until your case is called. Please understand that all PFA hearings on that particular day are scheduled to begin at 8:30 a.m. Depending on the number of PFAs that day and the complexity of your particular case, there is a chance that your case may not be called/heard until much later. The Court asks for your understanding and patience while all cases are given the necessary time and attention.

Prior to your PFA hearing, it is common practice in Indiana County that an attempt be made to see if a resolution can be reached by the parties. Most PFA's are resolved/settled on the day of the hearing either by the parties agreeing to the entry of a consent PFA Order or a civil non-contact Order. The agreed upon Order can specifically state that you are not admitting to any wrongdoing by having the judge enter the Order.

If there is no agreement reached between the parties, a hearing on the Plaintiff's request for a final PFA Order will be held by the judge. Because a PFA action is a civil matter, it is the Plaintiff's burden to prove to the judge by a preponderance of the evidence (not beyond a reasonable doubt) that the Defendant has committed abuse. The Plaintiff will present his/her case first and then the Defendant will present his/her case.

After a party and each witness testifies, the opposing party may ask questions of that person on cross-examination. Cross-examination consists of questions only and not mere statements to the Court. Do not attempt to testify yourself while conducting cross-examination.

Have all of the witnesses you intend to offer to testify on your behalf at the hearing present or if the judge has given you permission in advance to do so, available by phone. While the Plaintiff usually always testifies, the Defendant may testify as well, but please bear in mind that if there are any criminal charges contemplated, pending, or already filed against the Defendant for the incident, what is said at this hearing could possibly be used against the Defendant at a later date and to one's detriment.

Exhibits must be offered to the Court through the testimony of a party or witness. Failure to properly present an exhibit will likely result in the evidence not being considered. In addition, there are certain legal requirements for the admission of exhibits that you must be familiar with since they can have an effect on whether the exhibit is admitted and considered by the Court. Have all your exhibits (papers, text messages, photographs, medical records, etc…) with you in the courtroom. In addition to the original document, you must bring a copy for the opposing party, a copy for the judge, and you should keep a copy for your records. If you have an exhibit that is in a digital format (such as a text message) you must print the exhibit out before arriving at Court.

Either party may object during the testimony of a party or of a party's witness. The objection must be based upon the Pennsylvania Rules of Evidence. Please make yourself familiar with these rules since they can have an effect on whether testimony, or a portion of testimony, will be admitted and considered by the judge. If there is an objection, all parties and the witness must stop talking until the judge makes a ruling. If you make an objection, you must state the legal basis for your objection. If the judge says "sustained," the witness may not answer the question. If the judge says "overruled," the witness may proceed in answering the question.

Under Pennsylvania law, there are a variety of things that a judge can order in a final PFA Order, including, but not limited to, the following:

1. Prohibiting the Defendant from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the Plaintiff;
2. Exclusive possession of a residence;
3. Temporary custody of a child or children;
4. Prohibiting the Defendant from acquiring or possessing any firearm for the duration of the order;

5. Ordering the Defendant to pay reasonable losses suffered by the Plaintiff; and/or
6. Ordering the Defendant to pay the costs of the action.

A PFA order, either entered by consent or after a decision by the judge, can last up to a maximum of three (3) years.

Please understand that the entry of a PFA Order against a Defendant may have a collateral effect on custody rights, if applicable, as well as other rights that the Defendant may have. Speaking with an experienced attorney regarding these collateral effects is always in your best interest so as to fully understand any ramifications/consequences.

Violations of a PFA order, even the temporary one entered at the beginning of the case, is a criminal matter and can result in the arrest and prosecution of the Defendant. Even if the Plaintiff invites the Defendant to have contact, the Defendant can still get in trouble for having contact with the protected party. The PFA order must be vacated or expire before the Defendant can have any direct or indirect contact again with the Plaintiff.

Divorce Actions

The Pennsylvania Divorce Code sets forth four (4) main types of divorces:

1. Fault Divorce – With this type of divorce, you will need to prove that your spouse did something wrong. The grounds for a fault divorce are as follows: willful desertion for one (1) or more years; adultery; by cruel and barbarous treatment, a spouse has endangered the life or health of the other spouse; bigamy; imprisonment for two (2) years or more upon conviction of a crime; and indignities (continuing conduct by a spouse that makes the other spouse's life unbearable and intolerable). See 23 Pa.C.S.A. § 3301(a);

2. Institutionalization – You can get this type of divorce if your spouse is insane or has a serious mental disorder and has been confined to a mental institution for at least 18 months before you filed and your spouse is reasonably expected to remain in the institution for at least 18 months after you file for divorce. See 23 Pa.C.S.A. § 3301(b).

3. No-Fault Mutual Consent Divorce – Under this section, you can get a divorce where it is alleged that the marriage is irretrievably broken and each party consents to the entry of a divorce decree. See 23 Pa.C.S.A. § 3301(c); or

4. Irretrievable Breakdown – Under this section, you can get a divorce without your spouse's consent if the marriage is irretrievably broken and you have lived separate and apart for a period of at least one (1) year if the period of separation began on or after December 5, 2016. If the period of separation began before December 5, 2016, you must have lived separate and apart for a period of at least two (2) years. See 23 Pa.C.S.A. § 3301(d);

The type / section of the Divorce Code you choose to file your divorce under will determine the specific process and procedure you must follow to obtain a Divorce Decree from the Court. Most divorce actions are filed under either no-fault mutual consent and/or irretrievable breakdown.

I. Filing of a New Divorce Complaint

To start the divorce process in Indiana County, you must file a Complaint in Divorce which must also include a Notice to Defend and Claim Rights and Notice of the Availability of Counseling form. The form for the Complaint and Notice may be found at Pa. R. Civ. Pro. 1920.71 and 1920.72. The divorce action may only be brought and filed in Indiana County if either you or your spouse reside in the county or both parties agree in writing to have the case filed in Indiana County. This agreement must be attached to the Divorce Complaint. The Divorce Complaint must be filled out in its entirety. Do not leave anything blank. If a part or section does not apply, write "N/A." Please consider typing the information into the Complaint. If you are unable to do so, please write as legibly as possible. If you are filing to start the divorce action, you will be the Plaintiff. Your spouse will be named as the Defendant.

There is a fee that the Indiana County Prothonotary charges for filing this document. If your financial situation is such that you are unable to afford this fee, you may file a Petition for Leave to Proceed In Forma Pauperis with the Court to have the fee waived. Please see the Fees section of this Guidebook for information concerning IFP status.

After filing a Divorce Complaint, you MUST serve the other party with a copy of the completed Complaint and the Notice to Defend and Claim Rights and Notice of the Availability of Counseling form. You are solely responsible for ensuring that the other party or parties have been served. In addition, once the other party or parties have been properly served, you are solely responsible for filing the appropriate Affidavit of Service or Certificate of Service with the Indiana County Prothonotary's Office showing that proper service has been effectuated on the other party or parties. Please see the Serving of Documents section of this Guidebook for more information concerning service.

In addition to a request for the entry of a Divorce Decree by the Court, if you have property together with your spouse, you may wish to add a Count in the Complaint for Divorce requesting equitable distribution of marital property. Furthermore, there may be other economic claims/requests that you wish to raise as Counts in the Complaint for Divorce including, but not limited to, alimony, counsel fees, costs and expenses, and injunctive relief. It is extremely important that if you wish to raise these ancillary economic claims that you do so prior to the entry of a Divorce Decree otherwise, you may be unable to do so thereafter.

A Divorce Complaint is not to include claims or requests for child support, spousal support, or alimony pendente lite. Instead, these claims are to be raised and requested by filing a Complaint for Support with the Indiana County Domestic Relations Office.

If you and your spouse have a child or children, you are permitted to add a custody action as a separate Count in the Divorce Complaint. If you wish to add a custody count to the Divorce Complaint, you will be required to set forth the necessary information required for a custody action in the Complaint. In addition, you will be required to follow the practice and procedure regarding custody matters. Please see the Custody section of this Guidebook for more information concerning custody actions. Unlike ancillary economic claims, if you do not raise or make a claim for custody in the Divorce Complaint, you are not barred from making a custody claim at a later point.

After the Divorce Complaint has been filed and served, a Defendant is permitted to file a response/answer to the Divorce Complaint and if the Defendant wishes to raise his/her own claims, he/she must do so in section titled Counterclaim.

If you are only wishing to obtain a Divorce Decree from the Court, the course of action you must take depends on the type / section of the Divorce Code you are proceeding under. For an excellent summary concerning the process and procedure concerning the different filings and required time periods for each section of the Divorce Code, please see https://www.pacourts.us/Storage/media/pdfs/20210515/225026-file-5373.pdf.

Pursuant to Pa. R. Civ. Pro. 1920.46, if the Defendant in the Divorce action has been properly served with the Divorce Complaint but fails to appear or take any action in the case, the Plaintiff must file an Affidavit of Non-Military Service to obtain a Divorce Decree, a copy of this Affidavit may be found at https://www.pacourts.us/Storage/media/pdfs/20210224/165526-form10affidavitofnonmilitaryservice-004570.pdf.

II. Contested Divorces and Ancillary Economic Claims

Generally, a judge does not hear the evidence and testimony in a divorce case. Instead, a hearing officer will be appointed to conduct a hearing and receive evidence and testimony concerning the claims that are raised by the parties. If a hearing is required, the hearing officer will consider the evidence and testimony and then issue a report that will include certain recommendations to the judge on how to resolve the divorce, equitable distribution, alimony, legal fees, court costs/fees, and any other issues for which the hearing officer has been appointed.

To proceed to a hearing officer, either party may file a Motion for the Appointment of a Hearing Officer, a copy of this Motion may be found in Pa. R. Civ. Pro. 1920.74. In addition to the filing of the Motion, an initial deposit must be paid to the Indiana County Prothonotary ($800.00 at the time of the issuance of this Guidebook). This money is deposited with the Prothonotary and is used to help pay the hearing officer for the services rendered in the case.

Upon the appointment of the hearing officer, a pre-hearing/settlement conference will be scheduled and the parties are required to attend. While this proceeding is titled a pre-hearing/settlement conference, it is in fact a true settlement conference where the hearing officer will work with the parties and their counsel to explore settlement all of the issues so that no further litigation will be necessary. If necessary, the hearing officer will hold multiple pre-hearing/settlement conferences. The hearing officer's settlement conference(s) are aimed at assisting the parties in reaching a resolution/settlement of the divorce action between themselves rather than having the hearing officer and/or judge impose a decision upon them. Reaching a resolution/settlement at the pre-hearing/settlement conference ensures certainty and finality for the parties, as well as saving time and money. You should approach the pre-hearing/settlement conference with an open mind, aimed at a willingness to negotiate and compromise.

Prior to the pre-hearing/settlement conference, you will be required to file an Inventory pursuant to Pa. R. Civ. Pro. 1920.33(a) as well as a Pre-hearing Statement that shall contain all of the matters set forth in Pa. R. Civ. Pro. 1920.33(b). In addition, you will be required to identify any exhibits and have a copy of them with you at the conference. Please understand that pursuant to Pa. R. Civ. Pro. 1920.33(d)(1), if a Pre-hearing Statement is not filed and served within the time frame set forth by the hearing officer, that party, except upon good cause shown, will be barred from offering any testimony or introducing any evidence in support or in opposition to claims for matters that are not covered in Pre-hearing Statement.

In the event the parties are unable to reach a resolution/settlement, then the hearing officer will proceed with the scheduling a hearing. A Pre-Hearing Order of Court will be issued scheduling the hearing date or dates and setting forth certain deadlines for the filing of witness lists, exhibit lists, motions in limine, stipulations, etc…. In addition and before the hearing is held, substantially more money must be deposited by each party with the Indiana County Prothonotary. This money will go towards paying for the services and time expended by the hearing officer for the hearing and issuance of the report and recommendation, as well as any court reporter fees and costs.

A hearing before the hearing officer is extensively more formal than the pre-hearing/settlement conference. There will be testimony from the parties and witnesses and evidence/exhibits will be presented. The Pennsylvania Rules of Civil Procedure and Rules of Evidence will apply. A court reporter will be present to record and transcribe the testimony and

proceeding. After the hearing, the hearing officer will review the evidence and record and then prepare a written report with recommendations to the Court pertaining to the divorce, equitable distribution of property, alimony, legal fees, court costs/fees, and any other issues for which the hearing officer was appointed. The divorce will be based upon the grounds requested. The recommendation on equitable distribution of property will be based upon the factors contained in 23 Pa.C.S.A. § 3502(a), which are set forth below. Alimony, if requested and deemed necessary, will be based upon the factors contained in 23 Pa.C.S.A. § 3701(b), which are also set forth below. The report and recommendation will then be provided to the judge. If neither party files written exceptions to the report and recommendation, the judge will sign a final order which will follow the hearing officer's recommendations.

After the issuance of the hearing officer's report and recommendation, either party may file exceptions to the report or any part of it, to the rulings on objections to evidence, to findings of fact, to conclusions of law, and/or to any other matter occurring during the hearing. Exceptions to the hearing officer's report and recommendation must be in writing and filed in the Indiana County Prothonotary's Office within twenty (20) days from the date of receipt of the report and recommendation or the date of mailing of the hearing officer's report and recommendation, whichever occurs first. These exceptions must be specifically listed and detailed. If you file exceptions to the hearing officer's report and recommendation, you must serve a copy on the other party. Please see the Serving of Documents section of this Guidebook for more information concerning service. Matters not covered by exceptions are deemed waived unless, prior to entry of the final divorce decree, leave is granted by the Court to file exceptions raising those matters.

If exceptions are filed, an oral argument will be held in front of a judge. At the argument before the judge, you will be expected to explain why, in your view, the hearing officer was correct or incorrect in the particular decision or decisions that were made. Please be advised that the judge will not hear any more testimony or receive additional evidence/exhibits. The judge will rely solely upon the written transcript of the hearing, the exhibits admitted into evidence, and the report and recommendation by the hearing officer.

III. Factors in a request for Equitable Distribution

When a divorce action includes a request for equitable distribution of property, any decision regarding such a determination must include an assessment of the factors contained in 23 Pa.C.S.A. § 3502(a). Remember, equitable distribution does not necessarily mean an equal or 50/50 split. Rather, it is what is fair and equitable based upon the circumstances of the case and an assessment of the factors.

When dealing with equitable distribution, please understand that the hearing officer and the Court will not, and cannot, consider any martial misconduct. The hearing officer and the Court are tasked with the responsibility to equitably divide, distribute, or assign marital property between the parties in such percentages and in such manner as is deemed just after considering all relevant factors. These factors include the following:

1. The length of the marriage;
2. Any prior marriage of either party;
3. The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
4. The contribution by one party to the education, training or increased earning power of the other party;

5. The opportunity of each party for future acquisitions of capital assets and income;
6. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits;
7. The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker;
8. The value of the property set apart to each party;
9. The standard of living of the parties established during the marriage;
10. The economic circumstances of each party at the time the division of property is to become effective;
11. The Federal, State and local tax ramifications associated with each asset to be divided, distributed or assigned, which ramifications need not be immediate and certain;
12. The expense of sale, transfer or liquidation associated with a particular asset, which expense need not be immediate and certain; and
13. Whether a party will be serving as the custodian of any dependent minor children.

The hearing officer in the report and recommendation, or the Court on exceptions, may consider each marital asset or group of assets independently and apply a different percentage to each marital asset or group of assets.

IV. Factors in a request for Alimony

When a divorce action includes a request for alimony, a decision must be made by the hearing officer, or the Court on exceptions, whether alimony is in fact necessary and that there is an economic need for it. Alimony is not automatic nor is it guaranteed, it is not to serve as a punishment, or based solely upon who caused the separation between the parties. There is no formal formula for the calculation of alimony. The decision to award alimony is based upon an assessment of the relevant factors contained in 23 Pa.C.S.A. § 3701(b). These factors include the following:

1. The relative earnings and earning capacities of the parties;
2. The ages and the physical, mental and emotional conditions of the parties;
3. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits;
4. The expectancies and inheritances of the parties;
5. The duration of the marriage;
6. The contribution by one party to the education, training or increased earning power of the other party;
7. The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child;
8. The standard of living of the parties established during the marriage;
9. The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;
10. The relative assets and liabilities of the parties;
11. The property brought to the marriage by either party;

12. The contribution of a spouse as homemaker;
13. The relative needs of the parties;
14. The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony, except that the court shall consider any abuse of one party by the other party;
15. The Federal, State and local tax ramifications of the alimony award;
16. Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under equitable distribution, to provide for the party's reasonable needs; and
17. Whether the party seeking alimony is incapable of self-support through appropriate employment.

If alimony is found to be necessary under the circumstances, then the hearing officer, or the Court on exceptions, will also determine a reasonable duration of the alimony, which may be for a definite or an indefinite period of time.

Custody Actions

For custody matters in Indiana County, you must first determine whether you are beginning a new custody case or filing in a custody case that already exists.

I. New Custody Cases

If you are starting a new custody case, you must file a Complaint for Custody. However, to file a new custody action, you need to have standing, which is a legal term that means that you must have a legally recognized right to participate as a party in the custody action. Biological or adoptive parents automatically have standing. Under certain circumstances, grandparents and great-grandparents can have standing. In addition, adult individuals who stand *in loco parentis*[4] to the child can also have standing. Because standing can be a complex issue, it is recommended that if you are not the biological or adoptive parent of the child, that you speak with an attorney to assist you with whether you have standing to file for custody. The statutes governing standing can be found at 23 Pa.C.S.A. § 5324 and 23 Pa.C.S.A. § 5325.

In addition to standing, you must also make sure that you are filing the Complaint for Custody in the proper county. Typically, the proper county for a custody action is the county in which the minor child or children have primarily resided in for the six (6) months period prior to the filing of the custody action. If you file in the wrong county, it may result in dismissal or a delay in the action.

The Complaint for Custody must be filed out in its entirety. Do not leave anything blank. If a part or section does not apply, write "N/A." Please consider typing the information into the complaint. If you are unable to do so, please write as legibly as possible. If you are starting the custody action, you will be the Plaintiff. **The other parent and any other person(s) who have custody or claims to have custody to the child or children must be named as parties** and they will be the Defendant or Defendants. In the Complaint for Custody, you will be required to name the child or children that are the subject of the custody matter. Please be aware that pursuant to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that a minor child's name and date of birth are confidential information and you are required to insert only the minor's child's initials in the Complaint for Custody and then fill out a Confidential Information form that sets forth the minor child's full name and date of birth. You must provide the Confidential Information form to the Indiana County Prothonotary when you file the Complaint for Custody. This Confidential Information form may be found at https://www.pacourts.us/Storage/media/pdfs/20220103/205149-confidentialinformationformcif.pdf.

The Complaint for Custody must include an Order directing the parties to attend the Children in Between program. This program is currently administered by the Indiana County Guidance Center. This program is required for all parties in a custody matter and each party is responsible for any fees involved in attending the program. Each party must contact the Guidance Center (1-888-686-1991 or (724) 465-5576) to register and schedule a time to attend the program. Once you successfully complete the program, a Certificate of Completion will be provided to the Indiana County Prothonotary's Office to be placed in the file demonstrating that

[4] *In loco parentis* is a Latin term that means "in place of a parent," or "instead of a parent," and commonly refers to situations in which someone other than a biological parent takes on the role of parent to a minor child without formally adopting the child.

you completed the course. If you do not live in Indiana County and/or are out of state, you may provide proof of completion of a substantially similar program from your jurisdiction to the Indiana County Prothonotary's Office.

The Order included with the Complaint for Custody must also provide for the scheduling of an Initial Custody Conference, the first step in the Indiana County custody process. Please note that an Initial Custody Conference will not be scheduled in the event that there is an active Protection from Abuse Order (temporary or final) that is in effect between the parties involved in the custody matter. In that case, the matter will be scheduled for a Custody Mediation.

In addition to completing the Complaint for Custody, you must also complete and file a Criminal Record/Abuse History Verification form. **You must complete this form for yourself and any adult household members that are in the residence/home where you live in.** Please only check the box and provide details regarding a specific crime, involvement with Children & Youth Services, or abusive conduct within the context of a Protection from Abuse action if it is applicable to you and/or another person; otherwise, leave it blank. You must also list the names and dates of birth of each adult who resides with you.

There is a fee that the Indiana County Prothonotary charges for filing a Complaint for Custody. If your financial situation is such that you are unable to afford this fee, you may file a Petition for Leave to Proceed In Forma Pauperis with the Court to have the fee waived. Please see the Fees section of this Guidebook for information concerning obtaining IFP status.

When filing a Complaint for Custody, you MUST serve all parties with a copy of the completed Complaint as well as a blank copy of the Criminal Record/Abuse History Verification form pursuant to the Pennsylvania Rules of Civil Procedure. You are solely responsible for ensuring that the other party or parties have been served. In addition, once the other party or parties have been properly served, you are solely responsible for filing the appropriate Affidavit of Service or Certificate of Service with the Indiana County Prothonotary's Office showing that proper service has been effectuated on the other party or parties. Please see the Serving of Documents section of this Guidebook for more information concerning service.

II. Already Existing Custody Cases

If there is an already existing custody case involving the child or children and you wish to modify or change something contained within the current Custody Order, you will need to file a Petition for Modification of Custody Order. This petition must be filed out in its entirety and a copy of the existing Custody Order of Court must be attached. Do not leave anything blank. If a part or section does not apply, write "N/A." Please consider typing the information into the petition. If you are unable to do so, please write as legibly as possible.

When completing a Petition for Modification of a Custody Order, the minor child or children's names and dates of birth are confidential information. As such, you will need to use initials for the minor child or children's name in the filing. In addition, you must complete a Confidential Information form setting forth the minor child's full name and date of birth and provide that document to the Indiana County Prothonotary when you file the Petition for Modification. This Confidential Information form may be found at https://www.pacourts.us/Storage/media/pdfs/20220103/205149-confidentialinformationformcif.pdf.

As with most custody filings, there is a fee that the Indiana County Prothonotary charges for filing a Petition for Modification. If your financial situation is such that you are unable to afford this fee, you may file a Petition for Leave to Proceed In Forma Pauperis with the Court to have the fee waived. Please see the Fees section of this Guidebook for information concerning IFP status.

In addition to completing the Petition for Modification, you must also complete and file a Criminal Record/Abuse History Verification form, **even if you already filed one previously**. Again, this form must be completed for yourself and any adult household members that are in your residence/home. The form is filed with the Indiana County Prothonotary's Office and you must serve a copy of the filed document on the other party.

The Petition for Modification must also include an Order so that an Initial Custody Conference can be scheduled, the first step in the Indiana County custody process. However, if there is an active Protection from Abuse Order (temporary or final) that is in effect between the parties involved in the custody matter, a Custody Mediation will be scheduled instead.

When filing a Petition for Modification of a Custody Order, you MUST serve all parties with a copy of the Petition as well as a blank copy of the Criminal Record/Abuse History Verification form pursuant to the Pennsylvania Rules of Civil Procedure. You are solely responsible for ensuring that the other party or parties have been served. In addition, once the other party or parties have been properly served, you are solely responsible for filing the appropriate Certificate of Service with the Indiana County Prothonotary's Office showing that proper service has been effectuated on the other party or parties. Please see the Serving of Documents section of this Guidebook for more information concerning service.

If you did not previously register and successfully attend the Children in Between education course, you must do so. You should take all necessary steps to register for this program as soon as possible and preferably prior to a Custody Mediation. This program is currently administered by the Indiana County Guidance Center and you are responsible for any fees involved in attending the program. You must contact the Guidance Center (1-888-686-1991 or (724) 465-5576) to register and schedule a time to attend the program. Once you successfully complete the program, a Certificate of Completion will be provided to the Indiana County Prothonotary's Office to be placed in the file demonstrating that you completed the course. If you do not live in Indiana County and/or are out of state, you may provide proof of completion of a substantially similar program from your jurisdiction to the Indiana County Prothonotary's Office.

III. Factors in Custody Cases

Regardless of whether your custody case is just beginning or has been going on for some time, any decision regarding custody is guided by what is in the best interests of the child or children. "Best interests" can be viewed as fairly generic term and open to a variety of interpretations. At its core, the Court must determine an arrangement/schedule that best protects the child's safety, emotional well-being, stability, and healthy development. Best interests of a child does not mean the following:

1. What is in the best interests of a parent or party;
2. What is fair for a parent or party or what a parent or party deserves;
3. Who is the better parent or party; or
4. Using custody to punish the other parent or party or as retribution.

Remember, the focus always remains on the child or children.

To assist the Court in the determination of the best interests of a child and when awarding any form of custody, the following factors under in 23 Pa.C.S.A. § 5328(a), which are relevant to the matter, must be considered:

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;
3. The information set forth in Section 5329.1(a) (relating to consideration of child abuse and involvement with protective services);
4. Violent or assaultive behavior committed by a party;
5. The level of cooperation and conflict between the parties, including:

   (i) which party is more likely to encourage and permit frequent and continuing contact between the child and the other party or parties if contact is consistent with the safety needs of the child; and

   (ii) the attempts by 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 good faith and reasonable effort to protect the safety of a child or self shall not be considered evidence of unwillingness or inability to cooperate with the other party. 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;

6. A willingness and ability of a party to prioritize the needs of the child by providing appropriate care, stability and continuity for the child, considering the parental duties performed by the party on behalf of the child in the past and whether the party is willing and able to perform the duties in the future, and attend to the daily physical, emotional, developmental, educational and special needs of the child;
7. 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;
8. The child's siblings and other familial relationships;
9. The well-reasoned preference of the child, based on the child's developmental stage, maturity, and judgment;
10. The proximity of the residences of the parties;
11. Each party's employment schedule and availability to care for the child or ability to make appropriate child-care arrangements;
12. The history of drug or alcohol abuse of a party or member of a party's household;
13. The mental and physical condition of a party or member of a party's household; and
14. Any other relevant factor.

The Court is to give substantial consideration to the factors specified in 1, 2, 3, and 4 above, which affect the safety of the child or children.

There is no "magic age" in Pennsylvania when a child can decide what should occur in a custody case. A child's preference is only one factor. The judge will decide how much weight to give the child's preference based on the child's age, maturity, and reasoning. There can be some circumstances where a child's preference may carry little or no weight. Regardless, the judge will absolutely listen and consider the child's opinion; however, such an opinion does not control the outcome.

IV. Custody Process in Indiana County

Once a new Custody Complaint or Petition for Modification has been filed, Indiana County has a three (3) step custody process, which includes, in order: 1.) an Initial Custody Conference; 2.) a Custody Mediation; and 3.) a Custody Trial before a judge.

1. Initial Custody Conference

The first step in the custody process is the scheduling of an Initial Custody Conference ("ICC") unless there is an active Protection from Abuse Order (temporary or final) that is in effect between the involved parties. If there is an active PFA, the ICC will be skipped and matter will be scheduled for a Custody Mediation.

ICC's occur in either Jury Room No. 1 or No. 2 on Floor 4M of the Indiana County Courthouse. Please be advised that this conference is **ONLY** between the parties and their counsel. There is no judge or custody mediator present or available for the conference. The purpose of the ICC is to provide a place to have parties sit down together with the goal of reaching a Custody Consent Agreement between themselves. The parties are required to put forth a good faith effort to try and work through any issues and/or problems that may be experiencing. The ICC is not a forum to yell at, intimidate, or berate the other party; rather, the object is to find common ground to come up with a custody schedule that works. Remember, it is not your best interests, it is the child's best interests that remains the focus of any custody action.

Because there is no judge, custody mediator, or court staff that is involved with an ICC, upon your arrival to Floor 4M, check either Jury Room No. 1 or No. 2 to see if the other party has arrived. If not, have a seat in the area outside of the elevators on Floor 4M and wait for the other party. Once the other party arrives, please proceed, on your own, to either Jury Room No. 1 or No. 2 to begin the ICC.

In Jury Room No. 1 or No. 2, there are Custody Consent Agreement forms and Criminal Record/Abuse History Verification forms. In the event that the parties are able to reach an agreement, the Custody Consent Agreement form is to be completed with as much information as is possible concerning legal custody, physical custody, holidays, transportation, etc…. Once completed, this document must be taken down to the Indiana County Prothonotary's Office for filing. In addition to the filing of a Custody Consent Agreement, each party must also complete and file a Criminal Record/Abuse History Verification form, which must include yourself and any adult household members that are in your residence/home.

Should the other party not show at the start time for the ICC, it is recommended that you wait at least 15-20 minutes past the scheduled start time to ensure that the other party is just not late rather than not showing at all.

2. Mediation

In the event that the parties are unable to reach an agreement at the Initial Custody Conference, a party may file a Motion for Mediation with the Indiana County Prothonotary's Office and a custody mediation conference will be scheduled before the Indiana County Child Custody Mediator. If you file a Motion for Mediation, you MUST serve all parties with a copy of the pleading pursuant to the Pennsylvania Rules of Civil Procedure and once the other party or parties have been properly served, you are solely responsible for filing the appropriate Certificate of Service with the Indiana County Prothonotary's Office showing that proper service has been effectuated on the other party or parties. Please see the Serving of Documents section of this Guidebook for more information concerning service.

Presently, custody mediations before the custody mediator are scheduled every Tuesday and Thursday at either 9:30 A.M. or 1:15 P.M.

The litigation process is adversarial. It can worsen the divisiveness, tension, worry, frustration, and hurt that families and children experience when they are faced with an uncertain future due to changes in the family structure. Typically, parties to a custody action are in a better position to jointly make decisions for their child or children than a judge, who is a stranger to the family and situation. For this reason, the mandatory custody mediation step was implemented by Indiana County to assist parties in negotiating compromises and settlements regarding custody of their child or children. The purpose of mediation is not to assign blame or assess the worthiness of the other party. Instead, mediation is an excellent tool/opportunity to help the parties work through their issues and problems, arrive at creative solutions, and assist the parties in reaching common ground regarding their roles and relationships with their child or children rather than having a judge impose a decision upon the family. Resolving the matter by mutual compromise promotes positive co-parenting relationships and reduces conflict in families, particularly for the children. Reaching a resolution at mediation also saves time and money. You should approach mediation with an open mind, aimed towards negotiation and compromise in a respectful manner.

After the mediation has been scheduled, you will be provided with a Mediation Questionnaire by the Indiana County Court Administrator's Office. This Questionnaire requests certain information from the parties concerning the case and is reviewed by the Child Custody Mediator to assist in the mediation process. This Questionnaire is required to be filled out in its entirety and submitted to the Child Custody Mediator no less than seven (7) days prior to the scheduled mediation. In addition, each party will be required to pay a mediation fee of $200.00 to the Indiana County Prothonotary's Office. If your financial situation is such that you are unable to afford this fee, you may file a Petition for Leave to Proceed In Forma Pauperis with the Court to have the fee waived. Please see the Fees section of this Guidebook for information concerning IFP status.

When you arrive at the Courthouse for a custody mediation, go to Floor 4M and have a seat in the waiting area outside of the elevators. Once all the parties have arrived and the mediator is ready, your case will be called and you will proceed to the Mediation Room.

Custody mediations are limited to the parties and/or their attorneys. Spouses, significant others, and family members are not permitted to participate in the mediation or be present in the room.

A child or children that are ten (10) years or older are required to be brought to the mediation by the parent having custody at the time of the mediation. Depending on the circumstances, the mediator may or may not talk to the child or children. The mediator is very mindful that the whole custody process is stressful, particularly on children, and a child can be nervous and/or anxious in having to speak with a stranger about their life and situation at home. The mediator also understands the perception by a child that having to talk to someone in a court setting about the situation can make them feel they are "required" to make a decision or have an opinion about what they want to see happen. Many children feel that they are caught in the middle between their parents' situation and it unnecessarily weighs on them. In addition and as noted above, there is no "magic age" in Pennsylvania when a child can decide what should occur in a custody case. While the mediator absolutely values a child's opinion and thoughts, their position is not the ultimate deciding factor.

The Indiana County Courthouse has a Children's Room on Floor 4M that was graciously renovated by the Indiana County Bar Association for the benefit of the children involved in court proceedings. You may inquire with court staff to access and use the room for your child or children. While the room is available for the benefit of making coming to Court more comfortable for children, the Courthouse does not provide childcare and you are solely responsible for arranging for someone to watch any child that should not to be left alone during any proceeding.

At the beginning of the mediation, the Child Custody Mediator will introduce him or herself and call the case. In addition, if you are not represented, you will be informed that you have the right to have legal counsel represent you at the mediation. Furthermore, you will be asked to waive your right to have an attorney present if you intend to proceed in the mediation as a self-represented party.

Please understand that while the Child Custody Mediator will work extremely hard to assist the parties in reaching an amicable resolution, the Child Custody Mediator is prohibited from giving legal advice to any party or advise any party what they should do or how they should do it. In addition, the Child Custody Mediator is prohibited to talking or speaking with any party outside of the mediation, whether that be before or after the mediation takes place. You would not want the other side to provide their side of the situation without you being present to hear and respond to it. In fairness to all parties, such communication is prohibited.

If a party fails to show at the mediation without just cause, the mediator may draft and submit a Custody Order to the Court for consideration based upon the circumstances of the case. Upon the entry of the Order, it will remain in full force and effect until further Order of Court. In other circumstances when a party fails to show, the mediator may to move the case to a pre-trial conference before the Court.

If an agreement is not reached at mediation, the matter will be referred to the Court and a pre-trial conference before a judge will be scheduled.

At the pre-trial conference, the judge will discuss the issues and matters of the case, set a date for trial, and if appropriate, a schedule to interview your child or children. The judge's Pre-Trial Order of Court will also set deadlines for the filing of the parties' positions on the custody factors set forth in 23 Pa.C.S.A. § 5328; a pre-trial statement pursuant to Pa. R. Civ.

Pro. 1915.4-4(b); an updated Criminal Record/Abuse History Verification; and a proposed custody order. Finally, the Pre-Trial Order of Court may schedule a Status Conference prior to the trial date to discuss potential resolution/settlement and whether the case is in fact ready for trial.

3. Custody Trial/Hearings

Please make sure to read the judge's Pre-trial Order of Court and take careful note of all deadlines and requirements. If you do not comply with the Order, you may be precluded from introducing evidence and/or presenting witnesses to support your case at the trial.

When you arrive at the Courthouse for a custody trial or hearing before the judge, go to Floor 4. Make sure you check in with the Court's tip-staff to indicate that you are present and ready to proceed. After doing so, have a seat until the judge is ready and your case is called.

It is a good idea to bring a pen and paper so as to write down notes and questions for the trial or hearing.

Each party will be afforded an opportunity to present their side of the case. The moving party (which is either the Plaintiff or the party that filed the pleading that triggered the hearing) will present his/her case first and then the opposing party will present his/her case next.

After one party's witness testifies, the opposing party may ask questions of that witness on cross-examination. Cross-examination consists of questions only and not mere statements to the Court. Do not attempt to testify yourself while conducting cross-examination.

Have all of the witnesses you intend to offer at the hearing or trial present whom you wish to call to testify on your behalf, or available by phone if the judge has given you, in advance, permission to do so.

Exhibits must be offered to the Court through the testimony of a party or witness. Failure to properly present an exhibit will likely result in the evidence not being considered by the judge. In addition, there are certain legal requirements for the admission of exhibits that you must be familiar with since they can have an effect on whether an exhibit is admitted and considered by the judge.

Have all your exhibits (papers, text messages, photographs, medical records, etc.) with you in the courtroom and organized. In addition to the original document, you must bring a copy for the opposing party, a copy for the judge, and you should keep a copy for your records. All exhibits which are admitted by the judge will be kept and made part of the record and will not be returned to you. If you have an exhibit that is in a digital format (such as a text message) you must print the exhibit out before arriving at Court.

Either party may object during the testimony of a party or a party's witness during a custody trial or hearing. The objection must be based upon the Pennsylvania Rules of Evidence. Please make yourself familiar with these rules since they can have an effect on whether testimony, or a portion of testimony, will be admitted and considered by the judge. If there is an objection, all parties and the witness must stop talking until the judge makes a ruling. If you make an objection, you must state the legal basis for your objection. If the judge says "sustained", the witness may not answer the question. If the judge says "overruled", the witness may answer the question.

If the judge decides to interview the child or children for the trial or hearing, typically these interviews are held in the judge's chambers and are called "in camera" interviews. As noted in the mediation section, there is no "magic age" in Pennsylvania when a child can choose or decide what should occur in a custody case. The Court must review all of the factors involving the best interest of the child and the child's preference is only one of those factors. The weight that the judge gives that preference will depend upon the age, maturity, intelligence, and reasoning of the child.

At the conclusion of a custody hearing, the judge may immediately issue a decision or take the matter under advisement and issue a decision at a later point. Any decision will be memorialized in an Order of Court.

After a custody trial, the judge will review the record and then issue an Opinion and Order of Court based upon the evidence and testimony presented and an assessment of the relevant custody factors.

V. Other Custody filings

1. Petition for Contempt and a Petition for Special or Emergency Relief

Other common custody filings include Petitions for Contempt and Petitions for Special or Emergency Relief. A Petition for Contempt deals with allegations that the other party is in contempt (i.e. failure to follow or violation of the terms) of the Custody Order. When filing a Petition for Contempt, please be as specific as possible in the petition by detailing the factual allegations (i.e. dates, times, and what was ordered versus what actually occurred) and what relief you specifically asking the Court to take as a result of the contempt allegations. When filing a Petition for Contempt with the Indiana County Prothonotary's Office, it must include a Notice and Order to Appear form that substantially complies with Pa. R. Civ. Pro. 1915.12. A Petition for Contempt will be scheduled by the Court for a hearing.

With regard to a Petition for Special or Emergency Relief, the pleading must include the necessary facts that form the exceptional basis for, and necessitate the immediate involvement of, the Court. A request for emergency relief requires an immediate and irreparable risk of harm to the child or an imminent and substantial interference with custody rights that cannot be dealt with during the custody regular course. A minor disagreement or inconvenience is not an emergency. When filing a Petition for Special or Emergency Relief, please be as specific as possible in the petition detailing the factual allegations (i.e. dates, times, what occurred, why the risk is immediate) and what relief you specifically asking the Court to take as a result of your allegations. A Petition for Special or Emergency Relief, upon review and at the discretion of the Court, may be granted without a hearing, denied without a hearing, or scheduled for a hearing.

As with any filing, please consider typing the information into a Petition for Contempt and a Petition for Special or Emergency Relief. If you are unable to do so, please write as legibly as possible.

There is a fee that the Indiana County Prothonotary charges for filing of these documents. If your financial situation is such that you are unable to afford this fee, you may file a Petition for Leave to Proceed In Forma Pauperis with the Court to have the fee waived. Please see the Fees section of this Guidebook for information concerning IFP status.

When filing a Petition for Contempt and a Petition for Special or Emergency Relief, you MUST serve all parties with a copy of the Petition pursuant to the Pennsylvania Rules of Civil Procedure. You are solely responsible for ensuring that the other party or parties have been served. In addition, once the other party or parties have been properly served, you are solely responsible for filing the appropriate Certificate of Service with the Indiana County Prothonotary's Office showing that proper service has been effectuated on the other party or parties. Please see the Serving of Documents section of this Guidebook for more information concerning service.

When completing a Petition for Special of Emergency Relief or Petition for Contempt, the minor child or children's names and dates of birth are confidential information. As such, you will need to use initials for the minor child or children's name in the filing. In addition, you must complete a Confidential Information form setting forth for the minor child's full name and date of birth and provide that document to the Indiana County Prothonotary when you file the petition. This Confidential Information form may be found at https://www.pacourts.us/Storage/media/pdfs/20220103/205149-confidentialinformationformcif.pdf.

2. Petition for Relocation

Another common proceeding in custody cases involves a party's intention to relocate with the minor child or children from their current residence/home. If you are proposing to change the residence of the child or children, which would significantly impair the ability of a non-relocating party to exercise their custodial rights, then there is a very precise procedure that you must follow. Please understand that no relocation may occur unless every person who has custody rights to the child or children consents to the proposed relocation or the Court approves the proposed relocation after a relocation hearing takes place.

Before you are permitted to relocate, you must follow the procedure contained in 23 Pa.C.S.A. § 5337 and Pa. R. Civ. Pro. 1915.17. Generally, you must first notify every person who has custodial rights to the child or children in writing and provide them with a counter-affidavit where the person may agree or object to the relocation. This written notification must be served on the other party, within the timeframe provided, and include all of the information contained in statute/rule.

The next course of action will depend on whether the opposing party objects or consents to the proposed relocation. If no objection to the proposed relocation is filed, the party proposing the relocation shall file the following information with the court prior to the relocation:

1. An affidavit stating that the party provided notice to every individual entitled to receive notice, the time to file an objection to the proposed relocation has passed, and no individual entitled to receive notice has filed an objection to the proposed relocation;
2. Proof that proper notice was given in the form of a return receipt with the signature of the addressee and the full notice that was sent to the addressee;
3. A petition to confirm the relocation and modify any existing custody order; and
4. A proposed order containing the information set forth in 23 Pa.C.S.A. § 5337(c)(3).

In the event that the other party objects, a hearing before the Court will need to be requested prior to the relocation occurring. A relocation hearing before the judge can be very complex; therefore, it is strongly suggested that you seek advice from a lawyer before you proceed.

In a relocation hearing, the Court must address whether the proposed relocation is in the best interests of the child or children. In addition, the Court must also consider the following factors under 23 Pa.C.S.A. § 5337(h):

1. The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the nonrelocating party, siblings and other significant persons in the child's life;
2. The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child;
3. The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties;
4. The child's preference, taking into consideration the age and maturity of the child;
5. Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party;
6. Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity;
7. Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity;
8. The reasons and motivation of each party for seeking or opposing the relocation;
9. The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party; and
10. Any other factor affecting the best interest of the child.

The Court is to give weighted consideration to the factors which affect the safety of the child or children.

The party seeking to relocate has the burden of establishing that the proposed relocation is in the best interest of the child or children.

VI. Additional Custody Information

Due to recent changes in the Pennsylvania custody law, commonly known as “Kayden’s Law,” the filing of an up-to-date Criminal Record/Abuse History Verification is required and essential in the custody process. Should the information contained in a previously filed Criminal Record/Abuse History Verification form no longer be accurate, needs updated, or there is a new adult household member(s) in the residence/home, you must file an updated Criminal Record/Abuse History Verification form with the Indiana County Prothonotary’s Office and serve a copy of the filed document on the other party.

Currently, Indiana County uses a Family Motions Court. Upon the filing of a family law motion/petition with the Indiana County Prothonotary, the pleading will be reviewed by the Court. After review, a preliminary determination based upon the complexity and issues in the motion/petition will be made by the Court to either place the matter on a motions court date or have it scheduled for a separate hearing date. Currently, motions court occurs twice a month on Tuesdays. All motions/petitions on the day of Motions Court are scheduled at 8:30 A.M.

On the day of Motions Court, it is the expectation of the Court that any self-represented parties and counsel will have a good faith discussion regarding the matter with the goal of trying to amicably resolve the issues that form the basis of the motion/petition. In the event that the parties are unable to reach an agreement, the matter will be brought before the Court for a hearing. If after discussion with the Court it appears that a hearing on the matter cannot be completed within a reasonable amount of time on the day of Motions Court, the case will be scheduled for a date that will provide sufficient time to present the matter.

Serving of Documents

Proper service of each and every filing in a custody and divorce matter is not only mandatory, but is essential in the legal process. Failure to properly serve documents may result in dismissal or a delay in the action.

Service in custody and divorce actions are broken down into service of original process and service of legal documents other than original process.

I. Service of Original Process

Original process refers to the initial legal document that formally begins the action. This initial filing serves to notify the other party or parties that a legal action has been commenced against them. In family law matters, original process pertains to the service of a new Complaint for Custody or Complaint in Divorce.

Service of original process must be made by either an Acceptance of Service, by Personal Service, or by certified United States mail return receipt requested, restricted delivery. Service of original process must be made on each and every Defendant that is named in the Complaint. The following is a general summary regarding each course of service:

1. Acceptance of Service – This means giving, and the other party or parties accepting, a time-stamped copy of the Complaint for Custody or Complaint in Divorce. After being given a copy of the Complaint for Custody or Complaint in Divorce, you must have the other party sign an Acceptance of Service form stating that he/she has received a copy. A sample Acceptance of Service form may be found in Pa. R. Civ. Pro. 402(b) and at https://www.pacourts.us/Storage/media/pdfs/20210224/165642-form3aacceptanceofservice-004557.pdf. Once completed, this document must be filed with the Indiana County Prothonotary, which will demonstrate that service was in fact accomplished.

2. Personal Service – You may use the Indiana County Sheriff to serve original process. Please be advised that the Indiana County Sheriff's Office charges a fee to serve legal documents. In addition, a Constable or an adult (a person 18 years of age of older) who is not you nor is an employee or relative of a party may personally hand the Complaint for Custody or Complaint in Divorce to the other party. The person who hands the papers to the Defendant or Defendants must complete and sign an Affidavit of Service by Personal Service form. A sample Affidavit of Service by Personal Service may be found at https://www.pacourts.us/Storage/media/pdfs/20210224/165656-form3caffidavitofpersonalservice-004559.pdf. Once completed, this document must then be filed with the Indiana County Prothonotary, which will demonstrate that service was in fact accomplished.

3. Service by Certified Mail – Service utilizing the United States mail can be accomplished by sending a copy of the legal document to the Defendant or Defendants by certified mail, return receipt requested, restricted delivery. After filing your document or documents, prepare an envelope with the other party's name and address, using your own address as the return address. It is

suggested that you print the words "Restricted Delivery" on the lower left-hand corner of the envelope. Take the envelope to the Post Office and ask that it be sent "certified mail, return receipt requested, restricted delivery." Someone at the post office should be able to help you complete the cards. When your green card is returned to you, you must attach both the green card and the white slip of paper to an Affidavit of Service by Mail form that you will need to complete. A sample Affidavit of Service by Mail may be found at https://www.pacourts.us/Storage/media/pdfs/20210224/165650-form3baffidavitofserviceoforiginalprocessbymail-004558.pdf. Once completed, this Affidavit must be filed with the Indiana County Prothonotary, which will demonstrate that service was in fact accomplished. If the green card is not returned to you, contact the post office where you mailed the envelope from. If the certified mail is returned unclaimed, another form of original service must be used.

The service of documents that require original process must be served on the other party or parties within thirty (30) days of the date they were filed (i.e. the date of the Prothonotary time-stamp on the document). However, if the other party does not live in Pennsylvania, the time requirement is extended to ninety (90) days from the date of filing. If service is not completed within thirty (30) days of the date of filing (or ninety (90) days for out-of-state parties), the Complaint must be reinstated by filing a Praecipe to Reinstate the Complaint. Then the documents must be re-served. The date you file this Praecipe re-starts the clock for service, and you will have another thirty (30) days to serve the other party (or ninety (90) days for out-of-state parties).

II. Service of Documents/Filings other than Original Process

After original process has been properly accomplished, each and every legal document that you file thereafter still must be served upon the other party or parties. However, unlike original process, you may serve these documents by regular mail to the address that was used when you initially served the Complaint by certified mail, return receipt requested, restricted delivery or the address in which the party or parties were personally served. If the other party or parties have updated their current address with the Prothonotary, you would use this address to serve legal documents. Once again, it is your sole responsibility to serve the legal documents and to demonstrate that you in fact served the other party or parties. To show that you served the other party or parties with any filings, you will need to file a Certificate of Service with the Indiana County Prothonotary's office. A Certificate of Service is a document that you file that verifies that you properly provided a filing to the other party. A Certificate of Service must be filed each and every time you file a pleading. An explanation on how to complete a Certificate of Service as well as a sample form may be found at https://www.pacourts.us/Storage/media/pdfs/20210224/171058-certificateofserviceoflegalpapersotherthanoriginalprocess-003917.pdf.

Continuances

Judges do not typically like to grant continuances in cases, particularly last-minute ones. However, judges are understanding that a continuance may be required because there is a good reason or a legitimate "last minute" emergency. In many of those instances, a hearing or other court appearance will be continued to a later date. Any request for a continuance must in writing and are accomplished through a Motion for Continuance. If you want to file for a continuance, you must notify the other party or the attorney if that person is represented of your intention to file a continuance prior to filing it. By doing so, this will allow you to note in the Motion for Continuance that you file whether the other party consents or objects to the continuance request. A sample Motion for Continuance is available at the Indiana County Prothonotary's Office or it may be accessible on the Indiana County website, www.indianacountypa.gov, under Departments, then Courts, and then Forms & Documents.

As with all other legal documents that are filed, you MUST serve all parties with a copy of the Motion for Continuance. Please see the Serving of Documents section of this Guidebook for more information concerning service.

Final Tips and Suggestions

1. Remain open minded about the possibility of resolving/settling your case. In many family matters, it is often far better for the parties to agree to a compromise than to risk having a judge, who does not know any of the parties and who often has heard only a limited amount of evidence, decide the dispute based solely on the information provided in a court proceeding. Prior to the hearing or proceeding, you can always call or email the lawyer on the other side or, if there is no lawyer representing the other side and there is no prohibition against having direct contact with the other party, call or email the other side to discuss an out-of-court resolution/settlement.

2. Always be honest in your dealings with the judge and in any court proceedings, including custody mediations and divorce hearings. If you "stretch the truth" or lie, it may result in a conclusion that you are not credible and therefore anything you say cannot be reasonably relied upon.

3. If you do not prevail in a hearing or trial, do not take it personally. The judge is not ruling against you because the judge does not like you or is attacking you as a person. The judge is required to make a decision in these sometimes difficult and emotional-charged cases. That is part of a judge's job duties. Often, a decision made by a judge is based on legal considerations or may be supported by a contested factual record where the judge has done his/her best to decide issues of credibility between the parties.

4. There are many more topics, procedures, and matters that are involved in family law cases that are not set forth in this Guidebook. As stated in the beginning, this Guidebook is intended to give a general introduction to the process and procedure in protection from abuse, divorce, and custody cases in Indiana County. As always, the Court highly encourages you to speak with an experienced attorney who can guide and fully explain the process and procedure and your rights in these types of cases.