

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CH. 7 ]

### Amendment of Rule 701 of the Rules of Judicial Administration; No. 517 Judicial Administration Doc.

#### Order

*Per Curiam*

And Now, this 18th day of June, 2019, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 701 of the Rules of Judicial Administration is amended in the following form.

To the extent that notice of proposed rulemaking would otherwise be required by Pa.R.J.A. No. 103, the immediate promulgation of the amendment is found to be in the interest of efficient administration.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendment shall be effective immediately.

#### Annex A

### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

#### CHAPTER 7. ASSIGNMENT OF JUDGES

#### ASSIGNMENT AND TRANSFER OF JUDGES

#### Rule 701. Assignment of judges to courts.

(A) *Conditions Applicable for the Certification of Senior Magisterial District Judges, Judges or Justices.*

(1) To be eligible for senior certification, a magisterial district judge, judge or justice:

(a) shall have served as a magisterial district judge, judge or justice, whether or not continuously or on the same court, by election or appointment for an aggregate period equaling ten years;

(b) shall not have been defeated for reelection or retention; and

(c) shall be at least sixty-five years of age on the date on which he or she begins senior service, or have a combination of years of judicial service plus age that totals at least seventy for magisterial district judges or at least eighty for judges and justices. However, this subsection (c) shall not apply to those serving in senior status as of the effective date of this rule.

(2) In addition to paragraph (1), any duly elected magisterial district judge, judge or justice, having an aggregate of five years of judicial service, who is required to retire due to mandatory retirement age, shall be eligible for certification.

(3) Senior status shall end on the last day of the calendar year in which a magisterial district judge, judge or justice attains age seventy-eight[; **however, those serving in senior status as of the effective date of this rule who were previously excepted from the age seventy-five limitation pursuant to the amend-**

ment of January 1, 1999 may continue to serve until the last day of the calendar year in which they attain age eighty ].

\* \* \* \* \*

[Pa.B. Doc. No. 19-1009. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART II. GENERAL ADMINISTRATION

[ 204 PA. CODE CH. 29 ]

#### Miscellaneous Provisions

Pursuant to its general authority set forth by Article V, Section 10 of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the Court Administrator of Pennsylvania is authorized to promulgate financial regulations in accordance with all applicable statutory provisions.

Section 405, Chapter 29 of Title 204 of the *Pennsylvania Code* is duplicative of Section 353, Chapter 29 of Title 204 of the *Pennsylvania Code* and therefore should be removed.

Filed in the Administrative Office of Pennsylvania Courts on June 24, 2019.

THOMAS B. DARR,  
*Court Administrator of Pennsylvania*

[Pa.B. Doc. No. 19-1010. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1915 ]

#### Proposed Amendment of Pa.R.C.P. Nos. 1915.3-2 and 1915.4-4

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1915.3-2 and 1915.4-4 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel  
 Domestic Relations Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 Fax: 717-231-9531  
 domesticrules@pacourts.us

All communications in reference to the proposal should be received by October 4, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations  
 Procedural Rules Committee*

WALTER J. McHUGH, Esq.,  
 Chair

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

##### Rule 1915.3-2. Criminal Record or Abuse History.

(a) [*Criminal Record or Abuse History Verification*] Criminal Record/Abuse History Verification.

(1) A party [ **must** ] shall sign, file with the prothonotary, and serve on the other party a completed criminal record or abuse history verification with [ the ] a complaint, [ any ] petition for modification, [ any ] counterclaim, [ any ] petition for contempt, or [ any count for custody in a divorce complaint ] a divorce pleading that includes a custody claim or counterclaim [ a verification regarding any criminal record or abuse history of that party and anyone living in that party's household ].

(2) The verification shall be substantially in the form set forth in subdivision (c) [ **below** ].

(3) The party [ **must** ] shall attach a blank verification form to a complaint, counterclaim, or petition served [ **upon the** ] on other party.

(4) Although the party served need not file a responsive pleading [ **pursuant to Rule 1915.5, he or she must** ] to the complaint or petition, see Pa.R.C.P. No. 1915.5, the party shall sign, file with the [ court a verification regarding his or her own criminal record or abuse history and that of anyone living in his or her household ] prothonotary, and serve on the other party a completed criminal record or abuse history verification on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not later than 30 days after service of the complaint or petition.

(5) A party's failure to file a Criminal Record [ **or** ] / Abuse History Verification may result in sanctions against that party. [ **Both parties** ]

(6) A party shall sign, file with the prothonotary, and serve on the other party an updated [ verifications ] verification:

(i) five days prior to a hearing or trial[ . ]; or

(ii) whenever a party's, household member's, or child's circumstances change or a party obtains additional information affecting the veracity of a previously filed verification.

(b) *Initial Evaluation.* [ At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the existence of a criminal or abuse history of either party or a party's household member poses a threat to the child and whether counseling is necessary. The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, the court may enter a temporary custody order on behalf of a party with a criminal history or a party with a household member who has a criminal history, pending the party's or household member's evaluation and/or counseling. ]

(1) During the initial in-person custody proceeding as provided in Pa.R.C.P. No. 1915.4(a), the judge, conference officer, conciliator, or other appointed individual shall determine whether a party or household member poses a threat to the child.

*Official Note:* See 23 Pa.C.S. § 5329(c).

(2) In determining if a party or household member poses a threat to the child or requires an additional evaluation or counseling, as provided in 23 Pa.C.S. §§ 5329(d) and (e), the judge, conference officer, conciliator, or other appointed individual shall consider the Criminal Record/Abuse History Verification forms required by subdivision (c) and other information or documentation of the individual's criminal record or abuse history.

*Official Note:* See 23 Pa.C.S. § 5330(b) and 42 Pa.C.S. § 1904.

(i) To the extent an individual has a criminal record or abuse history, the judge, conference officer, conciliator, or other appointed individual shall consider:

(A) the severity of the offense or abuse;

(B) when the offense or abuse occurred;

(C) if the victim was a child or family member; and

(D) whether the offense or abuse involved physical violence.

(ii) The judge, conference officer, conciliator, or other appointed individual shall disregard a criminal offense resolved by Accelerated Rehabilitative Disposition (ARD) or other diversionary programs.

(3) If it is in the child's best interest, the judge may enter an interim custody order pending the evaluation or counseling.

[ *Official Note:* The court shall consider evidence of criminal record or abusive history presented by the parties. There is no obligation for the court to conduct an independent investigation of the criminal record or abusive history of either party or members of their household. The court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling,

or whether a party or household member poses a threat to a child, the court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member and whether the offense involved violence. ]

(c) *Verification.* The verification regarding criminal record or abuse history shall be substantially in the following form:

(Caption)

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

I \_\_\_\_\_, hereby swear or affirm [ , subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities ] that:

[ 1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction including pending charges: ]

1. Unless I checked a box next to a listed crime or offense, neither a household member nor I have pled guilty or no contest, have been convicted or adjudicated delinquent in which the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307, or have pending charges to a listed crime or offense in Pennsylvania or a substantially equivalent crime or offense from another state:

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2901 (relating to kidnapping)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2902 (relating to unlawful restraint)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2903 (relating to false imprisonment)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3121 (relating to rape)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3122.1 (relating to statutory sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3124.1 (relating to sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3125 (relating to aggravated indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3126 (relating to indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 3127 (relating to indecent exposure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3129 (relating to sexual intercourse with animal)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3301 (relating to arson and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4302 (relating to incest)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4303 (relating to concealing death of child)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4304 (relating to endangering welfare of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4305 (relating to dealing in infant children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6301 (relating to corruption of minors)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6312 (relating to sexual abuse of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6320 (relating to sexual exploitation of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	23 Pa.C.S. § 6114 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	<b><u>42 Pa.C.S. § 62A14</u></b> <b><u>(relating to contempt for violation of protection order or agreement)</u></b>	<input type="checkbox"/>	<input type="checkbox"/>	=====	=====
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

[ 2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

<i>Check all that apply</i>	<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction. Where?: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ ]

2. Unless I have checked a box next to one of the following statements, the statements do not apply to a household member, my child, or me.

<i>Check all that apply</i>	<i>Self</i>	<i>Household member</i>	<i>Child</i>
<input type="checkbox"/> <u>Involvement with a children and youth social service agency in Pennsylvania or a similar agency in another state.</u> <u>What county and state?:</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A determination or finding of abuse (i.e., indicated or founded report) by a children and youth social service agency or court in Pennsylvania or a similar agency or court in another state.</u> <u>What county and state?:</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>An adjudication of dependency or delinquency under Pennsylvania's Juvenile Act or a similar law in another state.</u> <u>What county and state?:</u> _____ <u>Is the case active?</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A history of abuse as defined in the Protection from Abuse Act.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A history of sexual violence or intimidation as defined in the Protection of Victims of Sexual Violence and Intimidation Act.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Please list any evaluation, counseling, or other treatment received following a conviction or finding of abuse:

\_\_\_\_\_

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth, and relationship to the child.

\_\_\_\_\_

5. If you are aware that the other party or members of the other party's household has [ or have ] a criminal record/abuse history, please explain:

\_\_\_\_\_

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Only a party can sign this form. If a party is represented by an attorney, the attorney cannot sign this form on behalf of the party.

(d) *Child Abuse and Protective Services Involvement.* The court shall develop procedures by local rule, as appropriate, for:

(1) obtaining from the county children and youth social service agency the information required by 23 Pa.C.S. § 5329.1(a) that will assist the court in determining the factors set forth in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329(a);

(2) distributing the information obtained in subdivision (d)(1), as appropriate, to the party or the party's counsel while ensuring that the sharing of information from confidential reports is consistent with the law, including 23 Pa.C.S. § 6340; and

(3) how the relevant information is introduced as evidence at a hearing or trial.

#### Explanatory Comment—2019

Based on the amendments to 23 Pa.C.S. §§ 5328 and 5329 and the addition of 23 Pa.C.S. § 5329.1 included in the Act of Dec. 18, 2013, P.L. 1167, No. 107, several substantive rule amendments were made.

Subdivision (b) was reorganized, and the Note accompanying the previous version of the subdivision was deleted and incorporated into the rule text, instead.

Subdivision (c) was amended to include more specific questions on the Criminal Record/Abuse History Verification related to the individual's, child's, or household member's involvement with the county children and youth social service agency and the juvenile court system.

Subdivision (d) was added to the rule and requires judicial districts, as appropriate, to adopt local rules for obtaining information from the juvenile dependency court and the county children and youth social service agency demonstrating whether a party, child, or party's household member has had involvement with the juvenile court or the children and youth social service agency and appropriately distributing the information to the parties or the parties' counsel. Specific statewide rules providing for the information sharing mandated in Section 5329.1 were not promulgated due to the varied practice and procedures in the judicial districts' domestic relations courts and juvenile dependency courts.

In judicial districts with a "one family—one judge" policy or in counties in which a judge may hear the custody and dependency cases, a local rule may not be required as the judge will have access to the requisite Section 5329.1 information as set forth in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329(a). In contrast, a local procedure may be necessary in judicial districts in which the juvenile dependency court's information and the county children and youth social service agency's file are inaccessible to all of the custody litigants or the custody judge is not directly involved in the juvenile dependency case.

In several counties, judicial districts have developed forms to elicit the appropriate Section 5329.1 information from the children and youth social

service agency. While this may be an appropriate information gathering practice, the court and parties should ensure the information obtained, which may be confidential, is handled in accordance with applicable laws and only distributed to the appropriate individuals. Moreover, the local rules and practice should ensure compliance with Pennsylvania Rules of Evidence.

#### Rule 1915.4-4. Pre-Trial Procedures.

\* \* \* \* \*

(e) At the pre-trial conference, the court shall consider the following [ shall be considered ]:

- (1) issues for resolution by the court;
- (2) unresolved discovery matters;
- (3) [ any ] agreements of the parties;
- (4) issues relating to expert witnesses;
- (5) settlement [ and/or ] or mediation of the case;

(6) a party's or household member's criminal record or abuse history or a party's, household member's, or child's involvement with the juvenile dependency court or the children and youth social service agency as outlined in 23 Pa.C.S. §§ 5329 and 5329.1, including the admissibility of related documents, other evidentiary issues, or testimony;

Official Note: See 42 Pa.C.S. § 6307(a)(4.1) and 23 Pa.C.S. § 6340(a)(5.1).

(7) such other matters as may aid in the disposition of the case; and

[ (7) ] (8) if a trial date has not been scheduled, it shall be scheduled at the pre-trial conference.

\* \* \* \* \*

### **REPUBLICATION REPORT**

#### **Recommendation 154**

The Domestic Relations Procedural Rules Committee ("Committee") is proposing amendments to Pa.R.C.P. No. 1915.3-2, Criminal Record or Abuse History, and Pa.R.C.P. No. 1915.4-4, Pre-Trial Procedures. Act 107 of 2013 ("Act"), effective January 1, 2014, directs custody courts to consider child abuse and the involvement of a party, household member, or child with a child protective services agency when determining child custody under 23 Pa.C.S. §§ 5321—5340. The Act further directs the Department of Public Welfare, now the Department of Human Services (DHS), the local county children and youth social services agencies (CYS), and the courts of common pleas to cooperate with the exchange of information that is necessary for the court's determination of a child custody order. The Act amended not only Title 23 as it relates to child custody, but also the Child Protective Services Law, 23 Pa.C.S. §§ 6301—6375, and the Juvenile Act, 42 Pa.C.S. §§ 6301—6375.

As it relates to child custody determinations, the Act requires inter-branch cooperation between family courts and DHS, including CYS, for sharing reports and other information of families and children involved with CYS. The information sharing is necessary for a custody court to determine the newly amended factors in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329.1(a).

The Act provides a number of procedural and evidentiary problems. First, child custody proceedings are adversarial, and the parties are required to present evidence in support of their claim for custody and ad-

addressing the Section 5328 factors, which now includes (a)(2.1). Often custody litigants are not the litigants in the dependency action (e.g., grandparents, other third parties) and may not have access to juvenile court records and CYS files, and the dependency/CYS information may be relevant to the custody action. Moreover, some dependency and CYS information or reports may be confidential and, as such, a custody litigant may be precluded from obtaining evidence relevant to the custody action.

Second, the Act amends the Child Protective Services Law and Juvenile Act by granting courts of common pleas access to reports, files, and court records that would assist the court in determining custody. Allowing the custody judge access to the CYS information and files places the judge in an investigative rather than an adjudicative role, which many comments objected to the previously published proposals.

Complicating matters are the varying court procedures in judicial districts for custody cases and juvenile dependency cases. In judicial districts in which judges hear both custody and dependency cases or the judicial district is “one family one judge,” the issues are less problematic since the court typically would be aware of the parties’ or child’s involvement with CYS and dependency court. Additionally, the court would already have access to the dependency case records and files, and may have conducted hearings in which this information had been entered as evidence. Although the issue of how CYS and dependency court information is entered into evidence into the custody action is still an issue as is third-party litigants having accessing confidential reports and information.

On two occasions, the Committee published for public comment a variation of this Rule Proposal in the *Pennsylvania Bulletin*, 46 Pa.B. 3932 (July 23, 2016) and 47 Pa.B. 3333 (June 17, 2017). After a substantial revision to the previous proposals, the Committee is now republishing the Rule Proposal. In the previous published rule proposals, Pa.R.C.P. No. 1915.3 had been included for amendment, which has been omitted from this proposal and, instead, an amendment to Pa.R.C.P. No. 1915.4-4 has been included.

Initially, the Committee proposes reformatting Pa.R.C.P. No. 1915.3-2 into an outline format rather than the current narrative format. The Committee believes this format is more easily understood, especially in rules in which there are numerous procedural parts. Additionally, the Committee has deleted the Note following the current rule text and, instead, incorporated the relevant portions into subdivision (b).

Also, the Rule Proposal adds subdivision (d) to Pa.R.C.P. No. 1915.3-2 providing for judicial districts to develop local rules/procedures for obtaining the requisite information from CYS and the dependency courts, as appropriate. As provided in the accompanying Explanatory Comment, the comment acknowledges the varying judicial district procedures in custody and juvenile dependency cases, and that a “one-size fits all” statewide rule was not appropriate or practical.

Finally, as noted above, the rule proposal adds an amendment to Pa.R.C.P. No. 1915.4-4, Pre-Trial Procedures. This proposed amendment would require the court address the parties’ criminal record or abuse history at a pre-trial conference. In addition, the proposed amendment

would require the court address the admissibility of the CYS documents and information and other related evidentiary issues, including authenticating CYS witness testimony.

The DRPRC invites comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 19-1011. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### MONROE COUNTY

#### Promulgation of M.C.R.J.A. 478; 62 AD 2019

#### Order

And Now, this 19th day of June, 2019, pursuant to recordkeeping requirements/public inspection limitations for firearm lists identified in 18 Pa.C.S. § 6105.2(f) and 23 Pa.C.S. § 6108(a)(7)(v), it is Ordered that Monroe County Rule of Judicial Administration 478 is created and shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the District Court Administrator shall:

1. File one copy of this Rule with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.
2. File two paper copies and one electronic copy of this Rule in a Microsoft Word format only on a CD-ROM to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Arrange to have this Rule published on the Monroe County Bar Association website at [www.monroebar.org](http://www.monroebar.org).
4. Arrange to have this Rule, as well as all local rules, published on the 43rd Judicial District website at [www.monroepacourts.us](http://www.monroepacourts.us).
5. Keep this Rule, as well as all local rules of this Court, continuously available for public inspection and copying in the respective Monroe County filing office.
  - a. Upon request and payment of reasonable cost of reproduction and mailing, the respective filing office shall furnish to any person a copy of any local rule.

*By the Court*

MARGHERITA PATTI-WORTHINGTON,  
*President Judge*

**Rule 478. Assignment of Recordkeeping Requirements of 18 Pa.C.S. § 6105.2(f), and 23 Pa.C.S. § 6108(a)(7)(v).**

The filing offices shall insure compliance with the recordkeeping requirements/public inspection limitations pursuant to 18 Pa.C.S. § 6105.2(f) and 23 Pa.C.S. § 6108(a)(7)(v).

[Pa.B. Doc. No. 19-1012. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### SCHUYLKILL COUNTY

#### Local Orphans' Court Rule 14.3(b); 2008-5000E

##### Order of Court

*And Now*, this 18th day of June, 2019, at 2 p.m., the Schuylkill County Court of Common Pleas hereby adopts Local Orphans' Court Rule 14.3(b) for use in the Schuylkill County Court of Common Pleas, Twenty-First Judicial District, effective 30 days after publication in the *Pennsylvania Bulletin*.

The Schuylkill County District Court Administrator is Ordered and Directed to do the following:

1) File one (1) copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts via email to [adminrules@pacourts.us](mailto:adminrules@pacourts.us).

2) File two (2) paper copies of this Order and Rule and (1) electronic copy in a Microsoft Word format to [bulletin@palrb.us](mailto:bulletin@palrb.us) with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish the local rule on the Schuylkill County Court website at [www.co.schuylkill.pa.us](http://www.co.schuylkill.pa.us).

4) Incorporate the local rule into the set of local rules on [www.co.schuylkill.pa.us](http://www.co.schuylkill.pa.us) within thirty (30) days after publication in the *Pennsylvania Bulletin*.

5) File one (1) copy of the local rule in the Office of the Schuylkill County Register of Wills/Orphans' Court for public inspection and copying.

6) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

WILLIAM E. BALDWIN,  
*President Judge*

#### **Rule 14.3(b). Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert. Submission to the Court.**

(b) If petitioner elects to submit an expert report in lieu of testimony pursuant to Pa. O.C. Rule 14.3(a), the petitioner shall provide the Court with a copy of the report at the time service of the report is made pursuant to Pa. O.C. Rule 14.3(b)(1).

[Pa.B. Doc. No. 19-1013. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### SULLIVAN COUNTY

#### Local Rule of Civil Procedure Governing Custody and Storage of Trial Exhibits; No. 2019-CV-134

##### Order of Court

*And Now*, this 31st day of May, 2019, in compliance with Rule 103 of the Pennsylvania Rules of Judicial Administration,

*It Is Hereby Ordered* that the Court adopts the following Local Rule 244 of Civil Procedure Custody and Storage of Trial Exhibits, which becomes effective July 29, 2019.

*By the Court*

RUSSELL D. SHURTLEFF,  
*President Judge*

#### Rule 244. Custody and Storage of Trial Exhibits.

A. The moving party shall keep custody of and be responsible for all non-documentary material and documentary exhibits larger than 8.5 × 11 inches submitted into evidence at trial. That material shall not be left in the courtroom after the conclusion of the trial of the case.

B. If a party offers into evidence documentary exhibits larger than 8.5 × 11 inches, the party shall provide the Court, at the time of trial, with a copy of the document reduced to 8.5 × 11 inches, which copy shall be marked and filed of record.

C. Notwithstanding the above provision, any party may petition the Court to retain custody of an Exhibit.

D. Trial exhibits entered into evidence prior to the effective date of this Rule, and those filed of record pursuant to the provisions above, shall be retained by the Court until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained until disposition of the appeal. Within sixty (60) days of the final disposition of all appeals, or the date when no further appeal may be taken under the Pennsylvania Rules of Appellate Procedure, the party who offered the exhibits may reclaim them from the Court Administrator. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Court Administrator without further notice being provided by the Court. In cases where final disposition of all appeals predates the effective date of this Rule by more than sixty (60) days, the sixty (60) day time period within which to reclaim trial exhibits shall run from the effective date of this Rule.

*Note:* The purpose of this rule is to eliminate problems encountered by the Court relating to custody and storage of large exhibits. The rule is not intended to limit the exhibits which are either shown to the jury or sent out with the jury during deliberation.

[Pa.B. Doc. No. 19-1014. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### WESTMORELAND COUNTY

#### Guardianship Rules; No. 3 of 2019

##### Administrative Order of Court

*And Now*, this 10th day of June, 2019, *It Is Hereby Ordered* that Westmoreland County Guardianship Rules WO14.1(c), WO14.3, WO14.6, WO14.10 and WO14.14 are hereby adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

RITA DONOVAN HATHAWAY,  
*President Judge*

#### **Rule WO14.1(c). Petition to Invade Principal Assets and Petition for Compromise of Claim (Incapacitated Persons).**

(i) A Petition to Invade Principal Assets shall be presented to the court in all situations where the guardian intends to invade the principal assets of an incapacitated person. Such Petition to Invade Principal Assets shall contain, at minimum, the following averments of fact:



(1) Name, age and residence of the incapacitated person.

(2) A reference to the original date of the guardian's appointment.

(3) Whether the guardian is bonded and, if so, for what amount.

(4) An itemized listing of the assets of the incapacitated person.

(5) An itemized listing of the income and expenses of the incapacitated person.

(6) A listing of the names and addresses of all creditors, and the amount due each.

(7) The purpose for the proposed invasion of principal.

(8) Whether any prior Petitions to Invade Principal Assets have been presented.

(9) In those cases where the guardianship estate is expected to be insolvent, that the creditors of the incapacitated person have been notified of the presentation of the Petition to Invade Principal Assets.

(10) The maximum amount estimated to be needed per month or per year, and the time period during which such invasion will be necessary (e.g., \$500.00 per month for the period January 1, 2019 through December 31, 2019).

(ii) A Petition for Compromise of Claim shall be presented to the court in all situations where the guardian proposes to compromise a claim by or against an incapacitated person. Such Petition for Compromise of Claim shall contain, at minimum, the following averments of fact:

(1) A reference to the original date of the guardian's appointment.

(2) Whether the guardian is bonded and, if so, for what amount.

(3) An itemized listing of the assets of the incapacitated person.

(4) An itemized listing of the income of the incapacitated person.

(5) A listing of the names and addresses of all creditors, and the amount due each.

(6) A concise description of the claim which is proposed to be compromised.

(7) Whether any prior Petitions for Compromise of Claim have been presented.

(8) That the next-of-kin of the incapacitated person have been notified of the presentation of the Petition for Compromise of Claim.

(9) In those cases where the guardianship estate is expected to be insolvent, that the creditors of the incapacitated person have been notified of the presentation of the Petition for Compromise of Claim.

*Cross References:* For subparagraph (i), see 20 Pa.C.S. § 5536(a), which permits the expenditure of income for the care and maintenance of an incapacitated person without the necessity of court approval, but which requires court authorization for the expenditure of principal.

For subparagraph (ii), see 20 Pa.C.S. § 5521(b), relating to the guardian's powers, duties and liabilities.

See Pa.R.C.P. No. 2051, et seq., for the settlement procedures applicable to actions commenced in the civil division.

*Explanatory Comments:* The time period for which an invasion of principal may be requested may generally not exceed 1 year.

Under 20 Pa.C.S. § 5536(a), court approval is required to use income for anyone other than the minor or incapacitated person. In such cases, a petition in essentially the same form as provided by this rule should be filed.

Subparagraph (a) adopted February 1, 1996, effective May 1, 1996. Rule WO503 Renumbered 2016, effective 2016. Rescinded and new rule adopted , 2019. Subparagraph (b) adopted February 1, 1996, effective May 1, 1996. Rule WO505 renumbered 2016, effective 2016. Rescinded and new rule adopted , 2019.

### **Rule WO14.3. Medical Testimony—Guardianships.**

(a) It is presumed that the testimony of physicians, psychologists and other medical professionals may be taken in the courtroom by speaker telephone in all guardianship cases, unless objections are filed at least 10 days before the hearing.

(b) When an emergency guardianship petition is presented, the testimony of a physician or psychologist shall be taken in the courtroom by speaker telephone unless otherwise directed by order of court.

(c) All documents in a foreign language shall be translated into English. The translation shall be typed and a certificate of accurate translation shall be attached.

*Cross References:* See 20 Pa.C.S. § 5518 for provisions regarding testimony by qualified professionals. See 20 Pa.C.S. § 5513 regarding emergency guardianships.

Adopted February 1, 1996, effective May 1, 1996. Rule WO501 renumbered 2016, effective 2016. Rescinded and new rule adopted , 2019.

### **Rule WO14.6. Petition.**

(a) In addition to the allegations required by statute or Supreme Court Rule, when the Petitioner has knowledge that the alleged incapacitated person is a fiduciary, the Petitioner shall indicate this to the Court by averment.

*Cross References:* See 20 Pa.C.S. § 5511(e) for current required allegations for petitions. See 20 Pa.C.S. § 5511(a) regarding the requirement of notice.

Adopted February 1, 1996, effective May 1, 1996. Rule WO501 amended and renumbered , 2016, effective 2016. Subparagraph (1) is taken from prior Rule WO19(a)(1). Subparagraph (2) is taken from prior Supreme Court Orphans' Court Rule 14.2(a)(5). Subparagraph (3) is taken from prior Supreme Court Orphans' Court Rule 14.2(a)(9). Rescinded and new rule adopted , 2019.

### **Rule WO14.10. Petition for Sale of Assets.**

A Petition for Sale of Assets shall be presented to the court in all situations where the guardian intends to sell real or tangible personal property of an incapacitated person. Such Petition for Sale of Assets shall contain, at minimum, the following averments of fact:

(a) A reference to the original date of the guardian's appointment.

(b) Whether the guardian is bonded and, if so, for what amount.

(c) An itemized listing of the assets of the incapacitated person.

(d) An itemized listing of the income and expenses of the incapacitated person.

(e) The reason for the proposed sale and the proposed distribution of proceeds. If the property is real estate, (i) whether the property is expensive to maintain; (ii) whether the property is occupied and/or generating income; (iii) whether the guardian needs the proceeds for the care of the incapacitated person.

(f) If the purpose for the proposed sale is the payment of debts, a listing of the names of all creditors, and the amount due each.

(g) If the property is tangible personal property, one appraisal shall be attached. If the property is real estate, the petition shall be accompanied by a valuation of two appraisers not related to any of the parties, setting forth the fair market value of the property claimed. The appraisers shall state their profession and shall certify that by virtue of their profession, they are familiar with values of real estate in the vicinity of the subject property.

(h) If the property is the incapacitated person's residence,

(1) That the incapacitated person will not be returning to the property to live. (Indicate where the incapacitated

person is currently living, i.e., nursing home, personal care home, etc.)

(2) If a private sale, that the price is greater than could be obtained at a public sale. If not, or if the price is less than the appraisal, indicate whether a commission is being charged.

(i) Notice of the presentation of the Petition for Sale of Assets shall be given to all next of kin of the incapacitated person, whose written consents to the sale are not attached.

(j) The proposed decree shall contain a provision regarding the posting of bond.

*Cross References:* See Rules 5.10 and 5.11 the Pa. O.C. Rules regarding sales of property. See the 1949 Official Comment to 20 Pa.C.S. § 5521, which discusses 20 Pa.C.S. §§ 5151 and 5155 and the concerns regarding the sale of property.

Adopted February 1, 1996, effective May 1, 1996. Rule WO504 amended and renumbered \_\_\_\_\_, 2016, effective \_\_\_\_\_ 2016. Rescinded and new rule adopted \_\_\_\_\_, 2019.

**Rule WO14.14. Forms.**

(a) The Final Decree for Permanent/Limited Guardians and the Final Decree for Emergency Guardians shall be in the following form:

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION**

\* \* \*

IN RE: Estate of \_\_\_\_\_ )  
 ) No. 65 \_\_\_\_\_  
an Incapacitated Person )

\* \* \*

**FINAL DECREE**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, based upon the record and the evidence received, it is HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. This Court finds by clear and convincing evidence that \_\_\_\_\_, is adjudicated a totally incapacitated person. The Court finds that \_\_\_\_\_ suffers from \_\_\_\_\_, a condition or disability which totally impairs his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning his/her management of financial affairs or to meet essential requirements for his/her physical health and safety.

2. The Court further finds by clear and convincing evidence that his/her \_\_\_\_\_, \_\_\_\_\_, is hereby appointed Plenary Permanent Guardian of the Person of \_\_\_\_\_. The Guardian of the Person shall file an original report annually from the date of the Final Order on the social, medical and other relevant conditions with the Register of Wills office and this report shall comply with 20 Pa.C.S. Section 5521(C) and Pennsylvania Orphans' Court Rule 14.8(a)(3).

3. His/Her \_\_\_\_\_, \_\_\_\_\_, is hereby appointed Plenary Permanent Guardian of the Estate of \_\_\_\_\_. The Guardian of the Estate (shall) (shall not) be required to post bond in the amount of \_\_\_\_\_ and shall file an Inventory within 90 days and shall file a report beginning one year from the date of the appointment of the guardian, and annually thereafter. The reports must be filed at the Register of Wills office and shall comply with 20 Pa.C.S. Section 5521(C) and Pennsylvania Orphans' Court Rules 14.8(a)(1) and 14.8(a)(2).

4. Neither the Guardian of the Person nor the Guardian of the Estate shall have authority to enter a safety deposit box in the name of \_\_\_\_\_, individually or jointly, without written Court authorization.

5. The Guardian of the Person shall have authority and responsibility to decide where \_\_\_\_\_ shall live and how meals, personal care, transportation and recreation will be provided. The Guardian of the Person shall also have authority to authorize and consent to medical treatment and surgical procedures necessary for the well-being of \_\_\_\_\_, except those powers and duties specifically excluded in 20 Pa.C.S. Section 5521(D).

6. The Guardian of the Estate shall have authority and responsibility to manage and use \_\_\_\_\_'s property primarily for his/her benefit in accordance with 20 Pa.C.S. Section 5536(A). 20 Pa.C.S. Section 5536(A) authorizes the Guardian of the Estate to spend income for the aforesaid purposes without the Court's written approval; however, the Guardian of the Estate cannot spend principal assets without written Court approval.

7. All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the guardian of \_\_\_\_\_'s estate access to any and all assets, records, and accounts maintained for the benefit of \_\_\_\_\_, and the guardian of \_\_\_\_\_'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this Order may lead to contempt proceedings and the imposition of sanctions.

8. The Guardian of the Person and the Guardian of the Estate shall perform his/her functions and exercise his/her authority so as to permit the incapacitated person as much daily activity and as much independence as circumstances will permit with safety.

9. The aforementioned judicial determinations have taken into consideration the matters required by 20 Pa.C.S. Section 5512.1. The Court's findings of fact and conclusions of law have been placed on the record at the evidentiary hearing.

10. \_\_\_\_\_ is hereby notified of the right to seek reconsideration of this Order pursuant to Rule 8.2 and the right to appeal this Order within 30 days from the date of this Order by filing a Notice of Appeal with the Clerk of the Orphans' Court. \_\_\_\_\_ may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. \_\_\_\_\_ has a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and \_\_\_\_\_ cannot afford an attorney, an attorney will be appointed to represent \_\_\_\_\_ free of charge.

BY THE COURT:

\_\_\_\_\_  
Judge

ATTEST:

\_\_\_\_\_  
Clerk of the Orphans' Court

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION**

\* \* \*

IN RE: Estate of \_\_\_\_\_ )  
 ) No. 65 \_\_\_\_\_  
an Alleged Incapacitated Person )

\* \* \*

**FINAL DECREE FOR EMERGENCY GUARDIAN**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, based upon the record and the evidence received, it is HEREBY ORDERED, ADJUDGED and DECREED:

1. This Court finds by clear and convincing evidence that \_\_\_\_\_'s ability to receive and evaluate information effectively is totally impaired because she/he suffers from \_\_\_\_\_.

2. \_\_\_\_\_'s ability to communicate decisions is totally impaired because of the aforementioned condition.

3. The alleged incapacitated person is in immediate need of an emergency guardian of the person and an emergency guardian of the estate.

4. Failure to make these requested appointments of emergency guardians will result in irreparable harm for reasons set forth on the record.

5. Because ( \_\_\_\_\_ is presently confined in \_\_\_\_\_ ) of the physical and mental condition of \_\_\_\_\_, it would be harmful for her/him to be present and her/his presence is excused. Her/His \_\_\_\_\_, \_\_\_\_\_, is hereby appointed emergency guardian of the person. The term of this appointment is 72 hours; however, the term of this appointment can be extended for an additional 20 days if the emergency continues beyond the initial 72 hours. (Based

upon the evidence this Court has received, the Court finds that the emergency condition will continue beyond the initial 72 hours. Consequently, the authority granted to the emergency guardian of the person is hereby continued and extended for an additional 20 days beyond the initial 72 hours.)

6. The emergency guardian of the person shall have the authority and responsibility to decide where \_\_\_\_\_ shall live and how meals, personal care, transportation and recreation will be provided. The emergency guardian of the person shall also have authority to authorize and consent to medical treatment and surgical procedures necessary for the well-being of \_\_\_\_\_, except those powers and duties specifically excluded in 20 Pa.C.S. Section 5521(D).

7. \_\_\_\_\_ is hereby appointed emergency guardian of the estate. The term of this appointment is 30 days or when the emergency condition ceases to exist, whichever is shorter. The emergency guardian of the estate (shall) (shall not) be required to post bond in the amount of \_\_\_\_\_. The said emergency guardian of the estate shall have authority and responsibility to manage and use \_\_\_\_\_'s property, primarily for her/his benefit in accordance with 20 Pa.C.S. Section 5536(A). 20 Pa.C.S. Section 5536(A) authorizes the emergency guardian of the estate to spend income for the aforesaid purposes without the Court's written approval; however, the emergency guardian of the estate cannot spend principal assets without written Court approval.

8. All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the guardian of \_\_\_\_\_'s estate access to any and all assets, records, and accounts maintained for the benefit of \_\_\_\_\_, and the guardian of \_\_\_\_\_'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this Order may lead to contempt proceedings and the imposition of sanctions.

9. The aforementioned judicial determinations have taken into consideration the matters required by 20 Pa.C.S. Section 5512.1. The Court's findings of fact and conclusions of law have been placed on the record at the evidentiary hearing.

10. \_\_\_\_\_ is hereby notified of the right to seek reconsideration of this Order pursuant to Rule 8.2 and the right to appeal this Order within 30 days from the date of this Order by filing a Notice of Appeal with the Clerk of the Orphans' Court. \_\_\_\_\_ may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. \_\_\_\_\_ has a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and \_\_\_\_\_ cannot afford an attorney, an attorney will be appointed to represent \_\_\_\_\_ free of charge.

BY THE COURT:

\_\_\_\_\_  
Judge

ATTEST:

\_\_\_\_\_  
Clerk of the Orphans' Court

New rule adopted \_\_\_\_\_, 2019.

[Pa.B. Doc. No. 19-1015. Filed for public inspection July 5, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### WYOMING COUNTY

#### Local Rule of Civil Procedure Governing Custody and Storage of Trial Exhibits; No. 2019-CV-685

##### Order of Court

*And Now*, this 31st day of May, 2019, in compliance with Rule 103 of the Pennsylvania Rules of Judicial Administration,

*It Is Hereby Ordered* that the Court adopts the following Local Rule 244 of Civil Procedure Custody and Storage of Trial Exhibits, which becomes effective July 29, 2019.

*By the Court*

RUSSELL D. SHURTLEFF,  
*President Judge*

#### Rule 244. Custody and Storage of Trial Exhibits.

A. The moving party shall keep custody of and be responsible for all non-documentary material and documentary exhibits larger than 8.5 × 11 inches submitted into evidence at trial. That material shall not be left in the courtroom after the conclusion of the trial of the case.

B. If a party offers into evidence documentary exhibits larger than 8.5 × 11 inches, the party shall provide the Court, at the time of trial, with a copy of the document reduced to 8.5 × 11 inches, which copy shall be marked and filed of record.

C. Notwithstanding the above provision, any party may petition the Court to retain custody of an Exhibit.

D. Trial exhibits entered into evidence prior to the effective date of this Rule, and those filed of record pursuant to the provisions above, shall be retained by the Court until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken,

the exhibits shall be retained until disposition of the appeal. Within sixty (60) days of the final disposition of all appeals, or the date when no further appeal may be taken under the Pennsylvania Rules of Appellate Procedure, the party who offered the exhibits may reclaim them from the Court Administrator. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Court Administrator without further notice being provided by the Court. In cases where final disposition of all appeals predates the effective date of this Rule by more than sixty (60) days, the sixty (60) day time period

within which to reclaim trial exhibits shall run from the effective date of this Rule.

*Note:* The purpose of this rule is to eliminate problems encountered by the Court relating to custody and storage of large exhibits. The rule is not intended to limit the exhibits which are either shown to the jury or sent out with the jury during deliberation.

[Pa.B. Doc. No. 19-1016. Filed for public inspection July 5, 2019, 9:00 a.m.]

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