

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Amendments to Rule 1905 of the Pennsylvania Rules of Judicial Administration; No. 593 Judicial Administration Docket

Order

Per Curiam

And Now, this 1st day of May, 2023, it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1905 of the Pennsylvania Rules of Judicial Administration is amended in the form attached.

To the extent that notice of proposed rulemaking would otherwise be required by Pa.R.J.A. 103, the immediate promulgation of the amendments is found to be in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective immediately.

Additions are bolded and are underlined.

Deletions are bolded and are bracketed.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1905. Investment Advisory Board.

(a) *General*. There is hereby established the Investment Advisory Board (“Board”), which shall consist of [**eight**] **nine** voting members. The Supreme Court shall appoint [**four (4)**] **five** members **and the Board’s chair**. The Disciplinary Board of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security Board, the Pennsylvania Continuing Legal Education Board and the Pennsylvania Board of Law Examiners (“the program boards”) shall each appoint one [**(1)**] member to serve on the Board. The Court Administrator **and Counsel to the Supreme Court** shall serve as [**an**] **ex officio members** to the Board. All members of the Board shall serve at the pleasure of the Supreme Court. [**The Board shall annually designate its chair.**]

(b) *Qualifications*. **To the extent possible**, [**A**] all appointees to the Board shall possess knowledge and expertise in investments and knowledge of public sector investment funds. If no current program board member is professionally qualified or able to serve on the Board, the program board will appoint a prior Board member or a non-program board member with the requisite expertise.

(c) *Responsibilities*. The Board shall provide recommendations to the Supreme Court with regard to the development and implementation of an investment policy for the program boards that will maximize investment yields while minimizing risk. In addition, the Board shall provide oversight and monitoring of the activity of the investment portfolios. On a fiscal year basis, the Board shall provide the Supreme Court with a review of its

activities and appropriate recommendations for further action. The Board’s fiscal year shall begin on July 1 and end on June 30.

(d) *Procedure*. All actions of the Board shall be determined by majority vote. The Court Administrator of Pennsylvania will have no voting power except in the case of a tie. **Counsel to the Supreme Court will serve as a non-voting member.**

(e) *Administrative*. The Administrative Office of Pennsylvania Courts shall provide necessary administrative assistance to the Board and shall pay the cost thereof as well as the necessary travel and other expenses of the members of the Board, all staff and any representative of the Supreme Court. The AOPC shall be reimbursed by the program boards for their pro rata share of necessary travel and other expenses.

(f) *Immunity*. Members of the Board, its staff and any other representative of the Supreme Court to the Board shall be immune from civil suit for any conduct in the course of their official duties. Legal costs incurred by Board members in defense of such matters will be borne by the Board but passed through to the program boards in accordance with Rule 1905(e). Such costs must be approved by the Board prior to being obligated for payment or reimbursement.

Comment

In 2001, the Supreme Court asked the Administrative Office of Pennsylvania Courts to review the investment activities of the Court’s three affiliated boards (the Disciplinary Board, Pennsylvania Lawyers Fund for Client Security and the Pennsylvania Continuing Legal Education Board) and to make recommendations for the improved investment stability, performance, operation and cost efficiencies of the boards’ investments. Following collection of information and consultation with investment advisors, the AOPC recommended the formation of an Investment Advisory Board to assist the Supreme Court in its oversight and consolidation of investment portfolios that would enhance returns and reduce investment fees. In 2007 the Pennsylvania Board of Law Examiners became a program board member.

[Pa.B. Doc. No. 23-627. Filed for public inspection May 12, 2023, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Adoption of Pa.R.Civ.P. 1915.3-3 and 1915.3-4 and Amendment of Pa.R.Civ.P. 1915.3-2, 1915.4-4, 1915.7, 1915.10, 1915.15, and 1915.25

The Domestic Relations Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.Civ.P. 1915.3-3 and 1915.3-4 and the amendment of Pa.R.Civ.P. 1915.3-2, 1915.4-4, 1915.7, 1915.10, 1915.15, and 1915.25 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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:

Lynnore K. Seaton, 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 July 5, 2023. 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*

DAVID S. POLLOCK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

(Editor's Note: Pa.R.Civ.P. 1915.3-2 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1915.3-2. Criminal Record or Abuse History.

[(a) *Criminal Record or Abuse History Verification.* A party must file and serve with the complaint, any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim a verification regarding any criminal record or abuse history of that party and anyone living in that party's household. The verification shall be substantially in the form set forth in subdivision (c) below. The party must attach a blank verification

form to a complaint, counterclaim or petition served upon the other party. Although the party served need not file a responsive pleading pursuant to Rule 1915.5, he or she must 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 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. A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party. Both parties shall file and serve updated verifications five days prior to trial.

(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.

***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 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:

<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"/>	_____	_____
<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"/>	_____	_____

<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. § 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"/>	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"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following 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]

(Editor's Note: The following text is proposed to be added and is printed in regular type to enhance readability.)
(This is entirely new text.)

- (a) *Criminal Record/Abuse History Verification.*
- (1) *Confidential Document.* A party's filed Criminal Record/Abuse History Verification form shall be confidential and shall not be publicly accessible.
- (2) *Plaintiff or Petitioner.* Contemporaneous with filing a custody action or a contempt proceeding, the plaintiff or petitioner shall:
 - (i) complete, sign, and file with the prothonotary a Criminal Record/Abuse History Verification form for the party and anyone living in that party's household, as provided in subdivision (c); and

- (ii) serve the complaint, petition, or counterclaim on the defendant or respondent with:
 - (A) a copy of the filed Criminal Record/Abuse History Verification form; and
 - (B) a blank Criminal Record/Abuse History Verification form for the defendant or respondent to complete and file.
- (3) *Defendant or Respondent.* After being served pursuant to subdivision (a)(2)(ii), the defendant or respondent shall:
 - (i) complete, sign, and file with the prothonotary the Criminal Record/Abuse History Verification form for that party and anyone living in that party's household before the initial in-person contact with the court or within 30 days of service of the initiating pleading, whichever occurs first; and
 - (ii) serve a copy of the filed Criminal Record/Abuse History Verification form on the other parties.
- (4) *Updating Criminal Record/Abuse History Verification Form.* A party shall complete, sign, file with the prothonotary, and serve on the other parties an updated Criminal Record/Abuse History Verification form either five days after any change in circumstances, or no less than one day before any proceeding, whichever occurs first. A change in circumstances shall apply to the party, as well as any household members.
- (5) *Sanctions.* A party's failure to file an initial or updated Criminal Record/Abuse History Verification form may result in sanctions against that party.
 - (b) *Evaluation.*
 - (1) *Initial Evaluation.* During the initial in-person custody proceeding, the judge, conference officer, conciliator, or other appointed individual shall evaluate whether a party or household member poses a threat to the child.
 - (i) In determining whether 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(c)—(e), the judge, conference officer, conciliator, or other appointed individual shall consider:
 - (A) the party's Criminal Record/Abuse History Verification form; and
 - (B) other information or documentation of the party's or household member's criminal record or abuse history that is provided by either party.
 - (ii) To the extent a party or household member has a criminal record relating to an enumerated offense in 23 Pa.C.S. § 5329(a) or an 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.
 - (2) *Additional Evaluation or Counseling.* If the initial evaluation set forth in subdivision (b)(1) determines that a party or household member poses a threat to the child, the conference officer, conciliator, or other appointed individual conducting the evaluation may recommend to the judge, and the judge may order:
 - (i) a party or party's household member to undergo an additional evaluation or counseling by a mental health professional appointed by the court; or
 - (ii) temporary custody pending the additional evaluation or counseling.
 - (c) *Form.* The verification regarding criminal record or abuse history shall be substantially in the following form:

(Caption)

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

REPORT OF CHILD ABUSE AND PROTECTIVE SERVICES REQUESTED BY COURT

(Court may use the first page of the parties' criminal record/abuse history verification or may complete a new form.)

1. *Participants.* Please list ALL adult members in your/the participant's household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701—6713, or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

Please list ALL members in the opposing party's household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, and/or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. § 6701—6713, and/or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

SUBJECT CHILD(REN)—Attach additional sheets if necessary:

Name	Date of Birth

End of Page 1

2. *Criminal Offenses.* As to the following listed Pennsylvania crimes or offenses, or another jurisdiction's substantially equivalent crimes or offenses, check the box next to any applicable crime or offense in which you or a household member:

- has pleaded guilty or no contest;
- has been convicted;
- has charges pending; or
- has been adjudicated delinquent under the Juvenile Act, 42 Pa.C.S. §§ 6301—6375, and the record is publicly available as set forth in 42 Pa.C.S. § 6307.

You should also check the box next to a listed criminal offense even if the offense was resolved by Accelerated Rehabilitative Disposition (ARD) or another diversionary program, unless it has been expunged pursuant to 18 Pa.C.S. § 9122, or a court has entered an order for limited access, *e.g.*, Clean Slate, pursuant to 18 Pa.C.S. §§ 9122.1 or 9122.2.

<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. § 2718 (relating to strangulation)	<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. Ch. 30 (relating to human trafficking)	<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"/>	_____	_____

<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. § 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"/>	_____	_____
<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) or (b.1) (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"/>	Finding of contempt of a Protection from Abuse order or agreement under 23 Pa.C.S. § 6114	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Finding of contempt of a Protection of Victims of Sexual Violence and Intimidation order or agreement under 42 Pa.C.S. § 62A14	<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"/>	_____	_____

3. *Abuse or Agency Involvement.* Check the box next to any statement that applies to you, a household member, or your child.

<i>Check all that apply</i>	<i>Self</i>	<i>Household Member</i>	<i>Child</i>	
<input type="checkbox"/>	Involvement with a children and youth social service agency in Pennsylvania or a similar agency in another jurisdiction. What jurisdiction?: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	A determination or finding of abuse (<i>i.e.</i> , indicated or founded report) by a children and youth social service agency or court in Pennsylvania or a similar agency or court in another jurisdiction. What jurisdiction?: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Check all that apply

	<i>Self</i>	<i>Household Member</i>	<i>Child</i>
<input type="checkbox"/> An adjudication of dependency or delinquency under Pennsylvania’s Juvenile Act, or a similar law in another jurisdiction, and the record is publicly available as set forth in 42 Pa.C.S. § 6307. What jurisdiction?: _____ Is the case active? _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> A history of perpetrating “abuse” as that term is defined in the Protection from Abuse Act, 23 Pa.C.S. § 6102.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> A history of perpetrating “sexual violence” or “intimidation” as those terms are defined in 42 Pa.C.S. § 62A03 (relating to Protection of Victims of Sexual Violence and Intimidation).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. If you checked a box in (2) or (3), list any evaluation, counseling, or other treatment received as a result:

5. If you checked a box in (2) or (3) that applies to your household member, who is not a party, state that person’s name, date of birth, and relationship to the child.

6. If you are aware that the other party or the other party’s household member has a criminal record or abuse history, please explain:

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.

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.

Date

Plaintiff/Defendant Signature

Printed Name

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Signature

Printed Name

Comment:

There is no obligation for the court to conduct an independent investigation of a party’s or the party’s household member’s criminal record or abuse history.

The intent of subdivision (a)(4) is for the court and parties to have the most current information available, including after a final order—provided the child remains under the court’s jurisdiction. Although the subdivision provides for the filing of an updated Criminal Record/Abuse History Verification form at a hearing, pretrial conference, or trial, the terminology used by a judicial district may vary for these court proceedings.

As used in subdivision (a), a “child custody action” is intended to include any action where custody may be awarded, including a protection from abuse action.

For subdivision (c)(6), see Pa.R.Civ.P. 1930.5 (discovery in domestic relations matters) and Pa.R.E. 614 (court’s calling or examining a witness).

Given the sensitive nature of the record, see Pa.R.Civ.P. 1930.1 (form of caption and applicability of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*).

(Editor’s Note: Rules 1915.3-3 and 1915.3-4 are proposed to be added and they are printed in regular type to enhance readability.)

(This is an entirely new rule.)

Rule 1915.3-3. Report of Child Abuse and Protective Services.

(a) *General Rule.* A court shall determine whether a participant in a child custody action has a history of child abuse or involvement with protective services.

(b) *Definitions.* The following definitions shall apply to this rule:

(1) "Participant" shall include any party, child, or member of a party's household identified on the Criminal Record or Abuse History Verification, as required by Pa.R.Civ.P. 1915.3-2.

(2) "County agency" shall have the same meaning as set forth in Pa.R.J.C.P. 1120 (defining "county agency").

(3) "Form" shall be the form found at Pa.R.Civ.P. 1915.3-4.

(c) *Submission.* Whenever a party has disclosed a history of child abuse or involvement with protective services pursuant to Pa.R.Civ.P. 1915.3-2, or the court or its designee believes that further inquiry is warranted, the court shall confirm or identify all participants on the form in Pa.R.Civ.P. 1915.3-4 and transmit the form for completion to the county agency with notice to the parties.

(d) *Return.* The county agency shall complete the form for all participants and return it to the court no later than five days or the time specified by the court after receiving the submission.

(e) *Dissemination.* Upon receipt of the completed form, the court shall promptly docket and disseminate it to the parties.

(f) *Confidentiality.* The completed form shall be confidential and not publicly accessible. Further dissemination by the recipients of the form is in violation of 23 Pa.C.S. Ch. 63 (Child Protective Services Law).

(g) *Witnesses.* The parties may subpoena with leave of court, or the court may otherwise order, the county agency to provide a witness or witnesses to attend and testify about any child abuse history or protective services disclosed on the form.

Comment:

This rule is intended to implement 23 Pa.C.S. § 5329.1.

As used in subdivision (a), a "child custody action" is intended to include any action where custody may be awarded, including a protection from abuse action.

For subdivision (c), the court may use Part I (Participant) of each party's Criminal Record or Abuse History Verification ("Verification"), as provided in Rule 1915.3-2, in lieu of completing the "participant" section of the form. The court shall indicate the request for information by checking the box at the top of the first page of the Verification.

For subdivision (f), see Pa.R.Civ.P. 1930.5 (discovery in domestic relations matters) and Pa.R.E. 614 (court's calling or examining a witness).

Given the sensitive nature of the record, see Pa.R.Civ.P. 1930.1 (form of caption and applicability of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*).

Rule 1915.25(c) suspends 23 Pa.C.S. § 6339, insofar as it is inconsistent with this rule.

(This is an entirely new rule.)

Rule 1915.3-4. Form for Report of Child Abuse and Protective Services.

The report of child abuse and protective services pursuant to Pa.R.Civ.P. 1915.3-3 shall be substantially in the following form:

(Caption)

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

REPORT OF CHILD ABUSE AND PROTECTIVE SERVICES REQUESTED BY COURT

(Court may use the first page of the parties' criminal record/abuse history verification or may complete a new form.)

1. *Participants.* Please list ALL adult members in your/the participant's household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701—6713, or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

Please list ALL members in the opposing party's household and attach sheets if necessary:

Name	Date of Birth	Address	Relationship to Child(ren)

_____ Party requests their residence remain confidential as they are protected by the Protection from Abuse Act, 23 Pa.C.S. § 6112, or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701—6713, or the Child Custody Act, 23 Pa.C.S. § 5336(b), or they are in the process of seeking protection under the same.

SUBJECT CHILD(REN)—Attach additional sheets if necessary:

Name	Date of Birth

End of Page 1

TO BE COMPLETED BY THE COUNTY AGENCY:

CHECK ALL THAT APPLY:

_____ No information on this family within county agency records.

_____ Child Protective Services (Complete CPS section below).

_____ General Protective Services (Complete GPS section below).

2. *Child Protective Services (CPS) Cases:*

Was any child(ren), listed above, subject of an indicated or founded report of child abuse? Circle your response and supplement, if indicated.

Yes No If yes, indicate date(s) of incident(s) and name(s):

Was any child(ren), listed above, subject of a founded report of child abuse?

Yes No If yes, indicate date(s) of incident(s) and name(s):

Has a party or member of the party's household been identified as the perpetrator in an indicated or founded report of child abuse?

Yes No If yes, indicate date(s) of incident(s) and name(s):

Has a party or member of the party's household been identified as the perpetrator in a founded report of child abuse?

Yes No If yes, indicate date(s) of incident(s) and name(s):

If any of the questions above are answered "Yes," provide the following information:

Name of county agency: _____

County agency caseworker(s): (please list current or most recently assigned if known)

County agency supervisor(s): (please list current or most recently assigned if known)

For each instance, please provide: (Attach additional sheets if necessary to provide the information below for additional participants)

A. Determination date of indicated or founded CPS referral(s):

B. Was a service provided?

No If answered "No", skip questions C, D, E, and F.

Yes If answered "Yes", please list the type of service(s) and name of service provider(s):

C. Date services ended, if applicable:

D. Who received the services?

E. Services were:

_____ Voluntary _____ Court-ordered. If court-ordered,
please provide the docket number:

F. Generally describe the services provided:

G. If the county agency made referrals to outside providers, list the type of service and the name of the service provider:

3. *General Protective Services (GPS) Cases:*

Has a party or a member of a party's household been provided services? Circle your response and supplement, if indicated.

Yes No If answered "Yes," provide the following information:

Name of county agency: _____

County agency caseworker(s): (please list current or most recently assigned, if known)

County agency supervisor(s): (please list current or most recently assigned if known)

For each instance, please provide: (attach additional sheets if necessary to provide the information below for additional participants)

A. The concerns identified on the GPS referral(s) were:

Valid Invalid

Determination date:

B. Was a service provided?

No If answered "No", skip questions C, D, E and F.

Yes If answered "Yes", please list the type of service(s) and name of service provider(s):

C. Date GPS services ended, if applicable: _____

D. Who received GPS services? _____

E. GPS Services were:

_____ Voluntary _____ Court-ordered. If court-ordered please provide the docket number:

F. Generally describe the services provided:

G. If the county agency made referrals to outside providers, list the type of service and the name of the service provider:

Comment:

Rule 1915.25(c) suspends 23 Pa.C.S. § 6339, insofar as it is inconsistent with this rule.

(*Editor's Note:* Pa.R.Civ.P. 1915.4-4 as printed in 231 Pa. Code reads "Official Note" rather than "Note." The Explanatory Comment is not codified in 231 Pa. Code.)

Rule 1915.4-4. Pre-Trial Procedures.

[A pre-trial conference in an initial custody or modification proceeding shall be scheduled before a judge at the request of a party or sua sponte by the court and the procedure shall be as set forth in this rule. If a party wishes to request a pre-trial conference, the praecipe set forth in subdivision (g) shall be filed. The scheduling of a pre-trial conference shall not stay any previously scheduled proceeding unless otherwise ordered by the court.

(a) The praecipe may be filed at any time after a custody conciliation or conference with a conference officer unless a pre-trial conference has already been scheduled or held. The pre-trial conference may be scheduled at any time, but must be scheduled at least 30 days prior to trial.

(b) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary's office and serve a copy upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) the name and address of each expert whom the party intends to call at trial as a witness;

(2) the name and address of each witness the party intends to call at trial and the relationship of that witness to the party. Inclusion of a witness on the pre-trial statement constitutes an affirmation that the party's counsel or the self-represented party has communicated with the witness about the substance of the witness's testimony prior to the filing of the pretrial statement; and

(3) a proposed order setting forth the custody schedule requested by the party.

In addition to the above items included in the pre-trial statement, any reports of experts and other proposed exhibits shall be included as part of the pre-trial statement served upon the other party or opposing counsel, but not included with the pre-trial statement served upon the court.

Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(c) If a party fails to file a pre-trial statement or otherwise comply with the requirements of subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c)(2) and (4) governing sanctions.

(d) Unless otherwise ordered by the court, the parties may amend their pre-trial statements at any time, but not later than seven days before trial.

(e) At the pre-trial conference, 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 mediation of the case;

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

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

(f) The court shall enter an order following the pre-trial conference detailing the agreements made by the parties as to any of the matters considered, limiting the issues for trial to those not disposed of by agreement and setting forth the schedule for further action in the case. Such order shall control the subsequent course of the action unless modified at trial to prevent manifest injustice.

(g) The praecipe for pre-trial conference shall be substantially in the following form:

(Caption)

PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:

Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa.R.C.P. No. 1915.4-4.

The parties' initial in-person contact with the court (conference with a conference officer or judge, conciliation, or mediation) occurred on _____.

Plaintiff/Defendant/Attorney for Plaintiff/Defendant

EXPLANATORY COMMENT

In 2013, the Domestic Relations Procedural Rules Committee (the "Committee") recognized there was a wide disparity in pre-trial procedures in custody cases among the various judicial districts. By adopting this rule, the Supreme Court established uniform state-wide pre-trial procedures in custody cases. With an eye toward reducing custody litigation, the rule encourages early preparation and court involvement for purposes of expedited resolutions. The rule was based upon the pretrial procedures in divorce cases as set forth in Pa.R.C.P. No. 1920.33(b). The rule does not affect, however, the First Judicial District's practice of conducting a pre-trial conference upon the filing of a motion for a protracted or semi-protracted trial.

In 2015, the Committee expressed concern the rule as previously adopted by the Supreme Court allowed for an interpretation contrary to the intent of the rule. The Committee proposed and the Court adopted an amendment to the rule to clarify the rule's mandate as it relates to witnesses. As a goal of any pre-trial conference is to settle the case, in whole or in part, the Committee believed a best practice in reaching that goal is having a thorough knowledge of the case, including the substance of anticipated witness testimony. As amended, the rule plainly states that counsel or a self-represented party is required to discuss with the witness their testimony prior to including the witness on the pre-trial statement.

Unlike Pa.R.C.P. No. 1920.33(b), the rule does not require inclusion of a summary of the witness's testimony in the pre-trial statement; but rather, an affirmation by counsel or self-represented party that there was actual communication with each witness about the witness's testimony. With the additional information from witnesses, counsel, self-represented parties, and the trial court can better engage in more fruitful settlement discussions at the pre-trial conference.]

(This is entirely new text.)

(*Editor's Note:* The following text is proposed to be added and is printed in regular type to enhance readability.)

(a) *Pre-Trial Conference.*

(1) The court shall schedule a pre-trial conference before a judge in an initial custody or modification proceeding at the request of a party or by the court *sua sponte*.

(2) The pre-trial conference scheduling procedure shall be as follows:

(i) If a party wishes to request a pre-trial conference, the party shall file a *praecipe* set forth in subdivision (h).

(ii) A party may file the *praecipe* any time after a custody conciliation or conference unless a pre-trial conference has already been scheduled or held.

(iii) The scheduling of a pre-trial conference shall not stay a previously scheduled proceeding unless otherwise ordered by the court.

(iv) The pretrial conference may be scheduled at any time, but shall be scheduled at least 30 days prior to trial.

(b) *Pre-Trial Statement.*

(1) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary and serve a copy upon the court and the other party or the party's counsel.

(2) The pre-trial statement shall include, together with any additional information required by special order of the court, the following matters:

(i) the name and address of each expert whom the party intends to call as a witness at trial;

(ii) the name and address of each person the party intends to call as a witness at trial and the relationship of that witness to the party. Inclusion of a witness on the pre-trial statement constitutes an affirmation that the party's counsel or the self-represented party has communicated with the witness about the substance of the witness's testimony prior to the filing of the pre-trial statement; and

(iii) a proposed order setting forth the custody schedule requested by the party.

(c) *Exhibits.* In addition to subdivision (b)(2), the party shall include any proposed exhibits to be introduced at trial, including the expert's report, as part of the pre-trial statement served upon the other party or other party's counsel, but the proposed exhibits shall not be included with the pre-trial statement served upon the court.

(d) *Sanctions.* If a party fails to file a pre-trial statement or otherwise comply with the subdivision (b), the court may sanction the party as provided in Pa.R.Civ.P. 4019(c)(2) and (c)(4).

(e) *Amendments.* Unless the court orders otherwise, the parties may amend a pretrial statements at any time, but not less than seven days before trial.

(f) *Topics.* The court shall consider the following topics at the pre-trial conference:

(1) issues for resolution by the court;

(2) unresolved discovery matters;

(3) agreements of the parties;

(4) issues relating to expert witnesses;

(5) settlement 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;

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

(8) if a trial date has not been scheduled, the court shall schedule the trial at the pre-trial conference.

(g) *Order.* The court shall enter an order following the pre-trial conference detailing the parties' agreements as to any of the matters considered, limiting the trial to unresolved issues, and setting forth the schedule for further action in the case. The order shall control the subsequent course of the action unless modified at trial to prevent manifest injustice.

(h) *Form.* The *praecipe* for pre-trial conference required by this rule shall be substantially in the following form:

PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:

Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa.R.Civ.P. 1915.4-4.

The parties' initial in-person contact with the court (conference with a conference officer or judge, conciliation, or mediation) occurred on _____.

Plaintiff/Defendant/
Attorney for Plaintiff/Defendant

Comment:

Rule 1930.1(b) may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(*Editor's Note:* Pa.R.Civ.P. 1915.7 as printed in 231 Pa. Code reads "Official Note" rather than "Note." The Explanatory Comment—1981 is not codified in 231 Pa. Code.)

Rule 1915.7. Consent Order.

[If the parties have an agreement regarding custody and request that the court enter a consent order incorporating the agreement's terms:

- (a) the parties shall submit to the court a proposed custody order bearing the parties' written consent; or
- (b) the parties may state the agreement on the record, provided that:
 - (1) within ten days of placing the agreement on the record, the parties comply with subdivision (a); or
 - (2) the court memorializes the oral agreement from the record into a written custody order.

Note: See Pa.R.Civ.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

See Pa.R.C.P. No. 1915.10(b) regarding written custody order requirements.

EXPLANATORY COMMENT—1981

As in other types of litigation, determination of an action through agreement of the parties is a desirable goal. However, the power of the parties to enter into an agreement is not absolute. In *Com. ex rel. Veihdeffer v. Veihdeffer*, 235 Pa.Super. 447, 344 A.2d 613, 614 (1975), the Superior Court stated:

It is well settled that an agreement between the parties as to custody is not controlling but should be given weight taking into consideration all the circumstances. . . . A child cannot be made the subject of a contract with the same force and effect as if it were a mere chattel has long been established law.

If the parties seek to have their agreement incorporated into a consent order, Rule 1915.7 provides two methods of presenting the agreement to the court. The first is by noting the agreement on the record. The second is by submitting to the court a proposed order bearing the written consent of the parties. Whichever method is used, however, the parties must be present before the court unless the court directs otherwise. The child affected by the order need be present only if the court so directs.

Explanatory Comment—2019

The rule has been amended to ensure that when a custody agreement is orally placed on the record that a written custody order prepared by the parties memorializing the parties' agreement is timely submitted to the court or the court memorializes the oral agreement into a written custody order. The amendment avoids the untenable circumstance that the only written record of the parties' oral agreement is a transcription of what had been placed on the record. Transcription agreements are often cumbersome and difficult to discern as to the custody terms and provisions, which makes enforcement difficult. This amendment is consistent with the holding in *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015).]

(This is entirely new text.)

(Editor's Note: The following text is proposed to be added and is printed in regular type to enhance readability.)

(a) *Agreement.* If the parties have an agreement regarding custody, the parties may request that the court incorporate the agreement's terms into a consent order.

(b) *Consent Order.*

- (1) The parties shall submit to the court a proposed custody order bearing the parties' written consent; or
- (2) the parties may state the agreement on the record, provided:
 - (i) within ten days of placing the agreement on the record, the parties comply with subdivision (a); or
 - (ii) the court memorializes the oral agreement from the record into a written custody order.

Comment:

Rule 1930.1(b) may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

As in other types of litigation, determination of an action through agreement of the parties is a desirable goal. However, the power of the parties to enter into an agreement is not absolute.

It is well settled that an agreement between the parties as to custody is not controlling but should be given weight taking into consideration all the circumstances. . . . A child cannot be made the subject of a contract with the same force and effect as if it were a mere chattel has long been established law.

Com. ex rel. Veihdeffer v. Veihdeffer, 344 A.2d 613, 614 (Pa. Super. 1975).

(Editor's Note: Pa.R.Civ.P. 1915.10 as printed in 231 Pa. Code reads "Official Note" rather than "Note." Explanatory Comments 2019 and 2021 are not codified in the *Code*.)

Rule 1915.10. Decision. Order.

[(a) The court may make the decision before the testimony has been transcribed. The court shall state the reasons for its decision on the record in open court or in a written opinion or order.

Note: See 23 Pa.C.S. § 5323(d).

(b) The court shall enter a custody order as a separate written order or in a separate section of a written opinion.

(1) The court's order shall state sufficiently specific terms to enforce the order.

(2) If the court has made a finding that a party or child is at risk of harm, the court's order shall include safety provisions for the endangered party's or child's protection.

(3) The court may order that the case caption use the parties' initials rather than the parties' names based on the sensitive nature of the facts in the case record and the child's best interest.

Note: See Pa.R.C.P. No. 1930.1(a).

(4) When drafting a written opinion or order in an action having the parties' initials in the case caption, the court shall:

(i) avoid using specific identifiers for people, places, or things that may indirectly reveal the child's identity; and

(ii) use generalized identifiers when describing a child's school, activities, affiliated organizations, or other similar terms.

(c) A custody order shall include a notice outlining the parties' obligations under 23 Pa.C.S. § 5337, regarding a party's intention to relocate with a minor child.

Note: See 23 Pa.C.S. § 5323(c) and Pa.R.C.P. No. 1915.17.

(d) A party may not file a motion for post-trial relief to an order of legal or physical custody.

Explanatory Comment—2019

Subdivision (b) further defines and reinforces the requirements in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to, supervised physical custody, a supervised or neutral custody exchange location, a neutral third-party present at custody exchanges, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation, and designating a secure, neutral location as repository for a child's passport.

Additionally, subdivision (b) requires a court to enter a custody order as a separate written order or in a separate section of a written opinion. The subdivision also addresses the practice of orally entering a custody order on the record without formalizing the custody order in writing. In such circumstances, the parties' only documentation of the custody order is a transcription of the oral record. In *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015), the Superior Court held that "in order to be sufficiently specific to be enforced, an order of custody must be entered as a separate written order, or as a separate section of a written opinion." *Id.* at 206. Despite the Superior Court's decision, the practice of placing custody orders on the record without subsequently entering a written order has continued, which has been problematic for enforcement and understanding of the agreement's or order's terms.

Explanatory Comment—2021

Subdivision (b)(3) allows the court discretion to initialize a custody action's case caption when the child's privacy may be compromised by the sensitive nature of the facts in the case record. When the court determines that the case caption should be initialized, additional privacy safeguards are required under subdivision (b)(4).

Subdivision (b)(4) recognizes that inadvertent disclosure of the child's identity and privacy may occur if the written custody order or opinion provides specific details of the child's life (*i.e.*, school, extracurricular activities). Subdivision (b)(4) requires that the court refrain from using specific identifiers; instead, the court should use general terms (*i.e.*, high school, not John F. Kennedy High School). In circumstances in which name specificity is required, such as school choice, the court should consider a separate order for that issue.]

(This is entirely new text.)

(Editor's Note: The following text is proposed to be added and is printed in regular type to enhance readability.)

(a) *Decision.*

(1) The court may decide custody before the testimony has been transcribed.

(2) The court shall state the reasons for its decision:

(i) on the record in open court; or

(ii) in a written opinion or order.

(b) *Order.* The court shall enter a custody order as a separate written order or in a written opinion as a separate section.

(1) The court's order shall sufficiently state specific terms to enforce the order.

(2) If the court finds that a party or child is at risk of harm, the court's order shall include safety provisions for the endangered party's or the child's protection.

(3) The court may order that the case caption use the parties' initials rather than the parties' names based on the sensitive nature of the facts in the case record and the child's best interest.

(4) When drafting a written opinion or order in an action having the parties' initials in the case caption, the court shall:

- (i) avoid using specific identifiers for people, places, or things that may indirectly reveal the child's identity; and
- (ii) use generalized identifiers when describing a child's school, activities, affiliated organizations, or other similar terms.

(c) *Party Obligations.* A custody order shall include a notice outlining the parties' obligations under:

- (1) 23 Pa.C.S. § 5337, regarding a party's intention to relocate with a minor child; and
- (2) Pa.R.Civ.P. 1915.3-2(a)(4)(ii), regarding a party's ongoing obligation to complete, file, and serve the Criminal Record/Abuse History Verification form.

(d) *No Post-Trial Relief.* A party shall not file a motion for post-trial relief to an order of legal or physical custody.

Comment:

See 23 Pa.C.S. § 5323(d) (requiring the court to delineate the reasons for its decision on the record in open court or in a written opinion or order).

See Pa.R.Civ.P. 1930.1(a)(2) (permitting the court to order that the case caption contain the parties' initials rather than their names in custody actions).

See 23 Pa.C.S. § 5323(c) (requiring that an order include notice of a party's obligations under § 5337, relating to relocation) and Pa.R.Civ.P. 1915.17 (outlining the requirements for the proposed relocation of a child's residence).

Subdivision (b) further defines and reinforces the requirements in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to, supervised physical custody, a supervised or neutral custody exchange location, a neutral third-party present at custody exchanges, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation, and designating a secure, neutral location as repository for a child's passport.

Additionally, subdivision (b) requires a court to enter a custody order as a separate written order or in a separate section of a written opinion. The subdivision also addresses the practice of orally entering a custody order on the record without formalizing the custody order in writing. In such circumstances, the parties' only documentation of the custody order is a transcription of the oral record. In *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015), the Superior Court held that "in order to be sufficiently specific to be enforced, an order of custody must be entered as a separate written order, or as a separate section of a written opinion." *Id.* at 206. Despite the Superior Court's decision, the practice of placing custody orders on the record without subsequently entering a written order has continued, which has been problematic for enforcement and understanding of the agreement's or order's terms.

Pursuant to subdivision (b)(3), the court may initialize a custody action's case caption if the child's privacy may be compromised by the sensitive nature of the facts in the case record. If the court determines that the case caption should be initialized, additional privacy safeguards are required under subdivision (b)(4).

Subdivision (b)(4) recognizes that inadvertent disclosure of the child's identity and privacy may occur if the written custody order or opinion provides specific details of the child's life, *i.e.*, school, extracurricular activities. Subdivision (b)(4) requires that the court refrain from using specific identifiers; instead, the court should use general terms, *e.g.*, "high school," not "John F. Kennedy High School." In circumstances in which name specificity is required, such as school choice, the court should consider a separate order for that issue.

Under no circumstance does a party filing an updated Criminal Record/Abuse History Verification form impose a duty on the court to review, respond, or react to a newly revealed criminal record or abuse history unless a party petitions the court for relief.

(*Editor's Note:* Pa.R.Civ.P. 1915.15 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

(a) **Complaint.** The complaint in a custody action shall be substantially in the following form:

(Caption)

COMPLAINT FOR CUSTODY

1. The plaintiff is _____, residing at (Street) _____ (City) _____
(Zip Code) _____ (County) _____.
2. The defendant is _____, residing at (Street) _____ (City) _____
(Zip Code) _____ (County) _____.
3. Plaintiff seeks (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the following child(ren):

THE COURTS

Name

Present Residence

Age

The child (was) (was not) born out of wedlock.

The child is presently in the custody of _____, (Name) who resides at

(Street)

(City)

(State)

During the past five years, the child has resided with the following persons and at the following addresses:

(List All Persons)

(List All Addresses)

(Dates)

A parent of the child is _____, currently residing at _____.

This parent is (married) (divorced) (single).

A parent of the child is _____, currently residing at _____.

This parent is (married) (divorced) (single).

4. Plaintiff's relationship to the child is that of _____.

Plaintiff currently resides with the following persons:

Name

Relationship

5. Defendant's relationship to the child is that of _____.

Defendant currently resides with the following persons:

Name

Relationship

6. Plaintiff (has not) participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child in this or another court. The court, term and number, and its relationship to this action is:

Plaintiff (has) (has no) information of a custody proceeding concerning the child pending in a court of this Commonwealth or any other state. The court, term and number, and its relationship to this action is: _____.

Plaintiff (knows) (does not know) of a person not a party to the proceedings who has physical custody of the child or claims to have custodial rights with respect to the child. The name and address of such person is: _____.

7. The child's best interest and permanent welfare will be served by granting the relief requested because (set forth facts showing that the granting of the relief requested will be in the child's best interest and permanent welfare):

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child have been named as parties to this action. All other persons, named below, who are known to have or claim a right to custody of the child will be given notice of the pendency of this action and the right to intervene:

Name

Address

Basis of Claim

9. **Standing.**

(a) If the plaintiff is seeking physical or legal custody of a child and is *in loco parentis* to the child, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5324(2).

(b) If the plaintiff is a grandparent seeking physical or legal custody of a grandchild and is not *in loco parentis* to the child, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5324(3).

(c) If the plaintiff is seeking physical or legal custody of a child and is not *in loco parentis* to the child, the plaintiff shall plead facts establishing standing pursuant to 23 Pa.C.S. § 5324(4) and (5).

(d) If the plaintiff is a grandparent or great-grandparent seeking partial physical custody or supervised physical custody of a grandchild or great-grandchild, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5325.

10. Plaintiff has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.Civ.P. 1915.3-2.

Wherefore, Plaintiff requests the court to grant (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child.

Plaintiff/Attorney for Plaintiff

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

Plaintiff

[Note: The form of complaint is appropriate if there is one plaintiff and one defendant and the custody of one child is sought or the custody of several children is sought and the information required by Paragraphs 3 to 7 is identical for all of the children. If there are more than two parties, the complaint should be appropriately adapted to accommodate them. If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.]

See Pa.R.Civ.P. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.]

(b) ***Petition for Modification.*** A petition for modification of a custody order shall be substantially in the following form:

(Caption)

PETITION FOR MODIFICATION OF A CUSTODY ORDER

1. Petitioner is _____ and resides at _____ .
2. Respondent is _____ and resides at _____ .
3. Petitioner respectfully represents that on _____, 20____, an Order of Court was entered for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody). A true and correct copy of the Order is attached.
4. This Order should be modified because: _____

5. Petitioner has attached the Criminal Record/ Abuse History Verification form required pursuant to Pa.R.Civ.P. 1915.3-2.

WHEREFORE, Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child(ren).

(Attorney for Petitioner) (Petitioner)

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

Date

Petitioner

[Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.]

(c) ***Order.*** The order to be attached at the front of the complaint or petition for modification shall be substantially in the following form:

(Caption)

ORDER OF COURT

You, _____, (defendant) (respondent), have been sued in court to (OBTAIN) (MODIFY) (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child(ren): _____ .

You are ordered to appear in person at _____, on _____,
(Address) (Day and Date)

at _____, ____ .M., for
(Time)

- a conciliation or mediation conference.
a pretrial conference.
a hearing before the court.

If you fail to appear as provided by this order, an order for custody may be entered against you or the court may issue a warrant for your arrest.

You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household [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) [but not later than] or within 30 days [after] of service of the [complaint or petition] initiating pleading, whichever occurs first.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.Civ.P. 1915.17 regarding relocation.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)
(Address)
(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT:

_____ J.

Date: _____

[EXPLANATORY COMMENT—2008

In an effort to promote uniformity of practice throughout the Commonwealth, several forms are included in the rules. Two aspects of these forms are worthy of mention. First, much of the information which must be set forth in the complaint is required by the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § 5429. Second, the complaint is verified by use of a statement that it is subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

EXPLANATORY COMMENT—2020

Act of May 4, 2018, P.L. 112, No. 21, amended 23 Pa.C.S. § 5324 by adding a new class of third-party standing for individuals seeking custody of a child whose parents do not have care and control of the child. The individual seeking custody may or may not be related to the child. Subject to the limitations in 23 Pa.C.S. § 5324(5), the newly added standing provision requires that: (1) the individual has assumed or is willing to assume responsibility for the child; (2) the individual has a sustained, substantial, and sincere interest in the child’s welfare; and (3) the child’s parents do not have care and control of the child. A plaintiff proceeding under Section 5324(4) shall satisfy the requirements of that provision by clear and convincing evidence. Additionally, if a juvenile dependency proceeding has been initiated, or is ongoing, or if there is an order for permanent legal custody, Section 5324(5) provides that an individual cannot assert standing under Section 5324(4).

Consistent with the Act’s statutory change, the Complaint for Custody Paragraph 9 has been revised to include a third party seeking custody of a child under 23 Pa.C.S. § 5324(4) and has been reorganized to sequentially follow the statutory provisions in 23 Pa.C.S. §§ 5324(2)—(4) and 5325. Similarly, Pa.R.C.P. No. 1915.3(e) has been reorganized to sequentially follow the statutory provision sequence. See Pa.R.C.P. No. 1915.3(e).]

Comment:

The form of complaint is appropriate if there is one plaintiff, one defendant, and the custody of one child is sought or the custody of several children is sought and the information required by Paragraphs 3 to 7 is identical for all of the children. If there are more than two parties, the complaint should be appropriately adapted to accommodate them. If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.

Rule 1930.1(b) may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

(Editor's Note: Pa.R.Civ.P. 1915.25 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1915.25. Suspension of Acts of Assembly.

(a) **23 Pa.C.S. § 5351.** Section 5351 of the Domestic Relations Code, 23 Pa.C.S. § 5351, of the Uniform Child Custody Jurisdiction Act, relating to additional parties, is suspended insofar as it provides for the joinder of a person not a party who claims to have custody or visitation rights with respect to the child.

(b) **23 Pa.C.S. § 5334.** 23 Pa.C.S. § 5334 is suspended insofar as it (1) requires that a guardian [**ad litem**] **ad litem** be an attorney, (2) permits the guardian [**ad litem**] **ad litem** to represent both the best interests and legal interests of the child, (3) provides the guardian [**ad litem**] **ad litem** the right to examine, cross-examine, present witnesses and present evidence on behalf of the child, and (4) prohibits the guardian [**ad litem**] **ad litem** from testifying.

[**Note: Rule 1915.6(b) provides that a person not a party who claims to have custody or visitation rights with respect to the child shall be given notice of the pendency of the proceedings and of the right to intervene.]**

(c) **23 Pa.C.S. § 6339.** **23 Pa.C.S. § 6339 is suspended insofar as it is inconsistent with Pa.R.Civ.P. 1915.3-3 and 1915.3-4 which provides for the disclosure of such reports by the court to the parties.**

Comment:

Rule 1915.6(b) provides that a person not a party who claims to have custody or visitation rights with respect to the child shall be given notice of the pendency of the proceedings and of the right to intervene.

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
PUBLICATION REPORT**

The Domestic Relations Procedural Rules Committee (Committee) is proposing the adoption of Pennsylvania Rules of Civil Procedure 1915.3-3 and 1915.3-4, and the amendment of Pennsylvania Rules of Civil Procedure 1915.3-2, 1915.4-4, 1915.7, 1915.10, 1915.15, and 1915.25.

As background, Act 107 of 2013, effective January 1, 2014, prompted the Committee to discuss rule amendments to further those legislative changes, which included directing 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. Act 107 amended not only Title 23 as it relates to child custody, but also the Child Protective Services Law (CPSL), 23 Pa.C.S. §§ 6301—6375, and the Juvenile Act, 42 Pa.C.S. §§ 6301—6375. The Act directed the Department of Public Welfare, now the Pennsylvania Department of Human Services (DHS), the local county children and youth social services agency and the court of common pleas to cooperate with the exchange of information necessary for a court to determine child custody. See 23 Pa.C.S. § 5329.1(b). DHS and county agencies were directed to provide custody courts with greater access to confidential records and files for proceedings under the CPSL and the Juvenile Act. The information sharing was necessary for the custody court to determine the amended factors in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329.1(a).

These statutory changes raised several procedural and evidentiary issues. First, child custody proceedings are adversarial, and the parties are required to present evidence in support of a claim for custody, including addressing the Section 5328 factors. The parties to a custody proceeding, as well as the custody court, may not have knowledge of all participants' prior or ongoing involvement with a county agency. Further, the parties to a custody proceeding may not have access to juvenile court records or county agency files, which may contain relevant information for the custody proceeding. Moreover, some dependency and county agency information or reports are confidential and, as such, a custody litigant may be precluded from obtaining evidence relevant to the custody action.

Second, the Act amends the CPSL and Juvenile Act by granting courts of common pleas access to reports, files, and court records to assist the court in determining custody. The Committee observes that this access is only provided to the court and not to the parties. As raised in comments to prior proposals, requiring the custody judge to access county agency information and files places the judge in an investigative, rather than an adjudicative, role. Respondents to prior proposals objected to this judicial investigative role.

Complicating matters are varying local procedures and practices for custody cases and juvenile dependency cases. In judicial districts in which a judge may hear both custody and dependency cases or the judicial district is "one family one judge," the issues are less problematic since the custody court often would have knowledge of the parties' or child's involvement with a county agency and dependency court. Additionally, the court would already have access to the dependency case records and may have conducted hearings in which this information had been entered as evidence.

However, even in these judicial districts, the issue of how county agency and dependency court information will be entered into evidence in the custody action is still problematic in many circumstances, as is third-party litigants accessing confidential county agency reports and information.

Indicative of the complexity of these issues, the Committee previously published four proposals for public comment on this topic. See 46 Pa.B. 3932 (July 23, 2016), 47 Pa.B. 3333 (June 17, 2017), 49 Pa.B. 3469 (July 6, 2019), and 50 Pa.B. 3826 (August 1, 2020). After reviewing comments from the most recent publication and additional Committee deliberations, the Committee proposes revisions to the previous rule proposal, revisions to other relevant rules and proposes two new rules.

Proposed Adoption of Pa.R.Civ.P. 1915.3-3 (Report of Child Abuse and Protective Services) and Pa.R.Civ.P. 1915.3-4 (Form for Report of Child Abuse and Protective Services).

The Committee proposes a new Pa.R.Civ.P. 1915.3-3 to provide a procedure for a custody court to request information from the local county agency, as well as the return and dissemination of that information. This rule, as well as Pa.R.Civ.P. 1915.3-4, which provides the form for the request of information, will promote uniformity of procedure for each local court.

Subdivision (a) confirms the purpose for the rule, which is in accordance with 23 Pa.C.S. § 5329.1(a). Subdivision (b) provides definitions for both Pa.R.Civ.P. 1915.3-3 and 1915.3-4.

Subdivision (c) outlines the minimum circumstances under which the court should request information from the local county agency. The Committee wanted to provide a general guideline for submission of the court's request, while allowing each court discretion in deciding whether to request a report in other circumstances.

Subdivision (d) provides a timeline for the county agency to return the report to the court. The decision to specify "no later than five days" for the return of the report was selected considering the court's need for information as quickly as possible, while being mindful of the administrative burden on county agencies. The proposed subdivision provides the court with the option of designating a different timing if there is a pressing need for the information to be returned sooner.

Subdivision (e) requires the report to be filed with the court and disseminated to the parties. This is to make the report a part of the record and to allow the parties the opportunity to subpoena the county agency, if additional information is needed in a custody proceeding.

Subdivision (f) was deemed necessary due to the Committee's decision that the report should be filed and disseminated to the parties. The intention of this subdivision is to maintain the confidentiality associated with county agency investigations, for the protection of the subject children, parties, and any interested third parties.

Subdivision (g) establishes the right of the parties and the court to subpoena the county agency to provide witnesses to attend any custody proceedings. The Committee believed that this subdivision was necessary due to the elimination of requests for any narrative explanation from the county agency in the report.

The Committee also proposes a new Pa.R.Civ.P. 1915.3-4 providing a form to be used in for this procedure. The form is intended to solicit the factors set forth in 23 Pa.C.S. § 5329.1. The Committee proposes that the first page of the report in Pa.R.Civ.P. 1915.3-4 be the same as the first page of the Criminal Record or Abuse History Verification in Pa.R.Civ.P. 1915.3-2. Each party's Verification form will be filed with the court after being completed. In appropriate circumstances, the court or its designee can take the first page of each party's Verification form and submit it to the county agency to request information directly from the county agency.

The contents of the proposed form are similar to a DHS form currently in use in some counties. The DHS form, "Information Sharing in Custody Filings," was transmitted with the Office of Children Youth and Families' Bulletin # 3490-19-03 in October 2019. However, the Committee had concerns that some of the items on the DHS form invited open-ended statements and possibly opinions, which would be hearsay if admitted as evidence. Specifically, the Committee sought to eliminate soliciting any potential hearsay in the form as well as the necessity of preserving confidentiality to protect the identity of the reporter and to protect the parties involved. To eliminate potential hearsay statements, the Committee did not include the open-ended requests for "any pertinent information" in subdivisions I.(G.) and II.(I.) from the DHS form. The Committee acknowledges this may result in the increased need for a county agency representative to testify in custody proceedings but believed the Pennsylvania Rules of Evidence require it.

To preserve confidentiality, the Committee also omitted the requests for dates of referrals in the DHS form I.(A.) and II.(A.). The general timing of the alleged abuse will be evident, but specifically indicating the date of any referral might pinpoint the referral source, which is to remain confidential.

Amendment of Pa.R.Civ.P. 1915.3-2 (Criminal Record or Abuse History), Pa.R.Civ.P. 1915.4-4 (Pre-Trial Procedures), Pa.R.Civ.P. 1915.7 (Consent Order), Pa.R.Civ.P. 1915.10 (Decision. Order), Pa.R.Civ.P. 1915.15 (Form of Complaint. Caption. Order. Petition to Modify a Custody Order), and Pa.R.Civ.P. 1915.25 (Suspension of Acts of Assembly.)

The Committee proposes amending Pa.R.Civ.P. 1915.3-2, 1915.4-4, 1915.7, 1915.10, 1915.15 and 1915.25. Given the scope of these amendments to Pa.R.Civ.P. 1915.3-2, 1915.4-4, 1915.7 and 1915.10, the text following the rule number and title would be rescinded and replaced. The new text also reflects stylistic revisions such as subdividing and numbering subparts for ease of readability, relocation, and consolidation of commentary.

The Committee proposes comprehensive changes to Pa.R.Civ.P. 1915.3-2, which provides the procedures governing the parties' criminal record and abuse history, including the Verification form. The revised Pa.R.Civ.P. 1915.3-2(a)(1) requires that the Verification form remain confidential. This is to protect the parties, their household members, and the children involved.

Regarding the timing of the filing, the Committee proposes a modest revision of the requirements for the responding party. Currently, the defendant or respondent must file and serve the completed Verification form "on or before the initial

in-person contact with the court. . .but not later than 30 days after service of the complaint or petition.” As proposed, Pa.R.Civ.P. 1915.3-2(a)(3) would require, in pertinent part, that the Verification form be filed with the prothonotary “before” the initial in-person contact or within 30 days of service of the initiating pleading, whichever occurs first. This amendment would ensure the court has the responding party’s information before the initial in-person proceeding. The Committee believes it is necessary for the court to have the most current information about the parties’ and household member’s criminal record and abuse history to properly determine the best interest of the child.

In addition, the parties and court should be informed of any changes to the household membership since the previous filing. As such, subdivision (a)(4) places an obligation on the parties to update the form. This will enable the parties and the court to have current and accurate information so they can understand any potential threats of harm to the child. The parties would be required to update the form either five days after a change in circumstances or no less than one day before any proceeding, whichever occurs first. Subdivision (a)(5) addresses sanctions for a party’s failure to comply with the requirement of filing their updated Verification form.

The Committee proposes several changes to the Verification form in subdivision (c). The parties are required to complete the information on the form and the form has been revised to confirm that only a party, and not their attorney, must sign the form. As outlined in proposed Pa.R.Civ.P. 1915.3-4, the first page of the Verification form, which is to include the names of all children and parties involved with the matter, may be used by the court to submit a request to the county agency regarding any involvement by the parties with the county agency, as provided in Pa.R.Civ.P. 1915.3-3.

The form has been expanded to include any pending charges, as well any offenses that have been resolved by Accelerated Rehabilitative Disposition or another diversionary program but have not been expunged. This addition will provide the court with the most relevant and recent information to ensure the best interest of the child, while being cognizant of the limitations associated with requesting information regarding expunged crimes or offenses resolved through limited access or “Clean Slate” programs.

Statutory changes impacting Pa.R.Civ.P. 1915.3-2 are the amendments of 23 Pa.C.S. § 5329, Act 32 of 2020, effective August 4, 2020, amended Section 5329 and adds 18 Pa.C.S. § 2718 (related to strangulation) to the list of criminal offenses that the court must consider in determining the best interest of the child. Act 38 of 2021, effective August 30, 2021 amended Section 5329 and adds 18 Pa.C.S. Ch. 30 (related to human trafficking) as well as 18 Pa.C.S. § 5902(b.1) to the list of criminal offenses that the court must consider as well. To provide the court with a complete history of violent or abusive conduct, the Committee proposes the form include that statutory amendment along with adding contempt of Protection of Victims of Sexual Violence and Intimidation order or agreement to the list of offenses included on the form. A “catch-all” category of “other” is also proposed to be included for other forms of abuse or violent conduct that may not be specifically enumerated.

Concerning Pa.R.Civ.P. 1915.4-4, the proposed amendment would require the court to address the parties’ criminal record or abuse history at a pre-trial conference. In addition, the proposed amendment would require the court to address the admissibility of the county agency documents and information and other related evidentiary issues, including authentication of county agency records, during a pretrial conference. The Committee also proposes removing the explanatory comment in Pa.R.Civ.P. 1915.4-4 because it is a historical explanation of prior rulemaking and, in part, is a reiteration of the rule text.

For Pa.R.Civ.P. 1915.7, a portion of the note in the current rule, referencing Pa.R.Civ.P. 1915.10(b) regarding written custody order requirements, is proposed to be eliminated. Pa.R.Civ.P. 1915.10(b) relates to a court’s decision in custody, not an agreement by the parties. Therefore, it is irrelevant to Pa.R.Civ.P. 1915.7.

Also proposed is the removal of the 2019 explanatory comment in Pa.R.Civ.P. 1915.7 because it provides a historical explanation of prior rulemaking and, in part, is a reiteration of the rule text. A portion of the 1981 explanatory comment is proposed to be removed due to reiteration of the rule text. The remaining portion of the 1981 explanatory comment was re-styled and would be placed in the Comment.

Regarding Pa.R.Civ.P. 1915.10, subdivision (c) would be amended to require the court’s custody order to include a notice outlining the parties’ ongoing obligation to update the Verification form post-final order. This amendment is intended to inform the other party of any changes that may have a significant impact on the child and the child’s best interest. By requiring a party to update the Verification form when his or her circumstances, or those of a household member, warrant, the other party can obtain information and assess whether a modification of the order is necessary. This requirement is fashioned after the current relocation notice requirement. As proposed, subdivision (c) is subdivided so that both requirements, relocation and updating Verification forms, are in separate subdivisions. A comment was added to confirm that the filing of an updated Verification form does not impose a duty on the court to review, respond, or react unless a party petitions the court for relief. It is proposed that the explanatory comments in Pa.R.Civ.P. 1915.10 be moved to the Comment at the end of the rule.

In Pa.R.Civ.P. 1915.15, subdivision (c) would set forth the form of the order of court that must be attached to the front of the complaint or petition for modification that is served on the defendant or respondent. The change in this rule reflects the same timing as Rule 1915.3-2(a)(3). It is also proposed that the explanatory comments in Pa.R.Civ.P. 1915.15 be removed. They provide reasoning behind the amendments at the time they were drafted, but they do not aid in the application of the rule.

Finally, it is proposed that, Pa.R.Civ.P. 1915.25 be revised to suspend 23 Pa.C.S. § 6339, insofar as it is inconsistent with Pa.R.Civ.P. 1915.3-3 and 1915.3-4. The Committee agreed that the reports from DHS provide critical information for courts to consider in custody matters. If a court relies upon information in these reports, the reports must be provided to the parties to avoid a violation of the parties’ right to due process.

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

[Pa.B. Doc. No. 23-628. Filed for public inspection May 12, 2023, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 11, 14, 15 AND 16]

Proposed Amendment of Pa.R.J.C.P. 160, 1160, 1409, 1515, and 1631

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 160, 1160, 1409, 1515, and 1631 regarding access to juvenile records and the entry of custody orders for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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:

Daniel A. Durst, Chief Counsel
 Juvenile Court Procedural Rules Committee
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 P.O. Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717-231-9541
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by July 5, 2023. 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 Juvenile Court
 Procedural Rules Committee*

THE HONORABLE ALICE BECK DUBOW,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspecting, Copying, and Disseminating the Official Court Record.

[A.] (a) *Inspecting*. The official court record is only open to inspection by:

- (1) the [**judges, juvenile court hearing officers] court**, juvenile probation officers, and staff of the court;
- (2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this cat-

egory shall not be permitted to see reports revealing the names of confidential sources of information, except at the discretion of the court;

(3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;

(4) [**a court, its**] probation officers, other officials or professional staff, and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;

(5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;

(6) the Administrative Office of Pennsylvania Courts;

(7) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;

(8) officials of the Department of Corrections, a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

(9) a parole board[**, court,**] or county probation official in considering an individual's **parole or in exercising supervision over any individual** who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

(10) the State Sexual Offenders Assessment Board for use in completing assessments; [**and**]

(11) other persons presiding as a judicial officer when determining child custody;

(12) the Department of Human Services when determining whether the juvenile's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and

[11] (13) with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

[B.] (b) *Copying*. Any person, agency, or department permitted to inspect the record pursuant to [**paragraph (A)**] **subdivision (a)** may copy or be provided with a copy of the record.

[C.] (c) *Disseminating*. Unauthorized dissemination of any information contained in the official court record to a person, agency, or department not permitted to inspect or copy the record pursuant to this rule may result in a finding of contempt of court.

[D.] (d) *Public [availability] Availability*. Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

(1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:

- [a] (i) the juvenile's name;
- [b] (ii) the juvenile's age;
- [c] (iii) the juvenile's address; and
- [d] (iv) the offenses alleged in the juvenile's petition.

(2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:

- [a] (i) the juvenile's name;
- [b] (ii) the juvenile's age;
- [c] (iii) the juvenile's address;
- [d] (iv) the offenses alleged in the juvenile's petition;
- [e] (v) the adjudication on each allegation; and
- [f] (vi) the disposition of the case.

Comment:

Pursuant to subdivision (a)(11), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.

Pursuant to [paragraph (A)(11)] **subdivision (a)(13)**, the court may order that any person, agency, or department receive a copy of all or portions of the record. The court order is to state: 1) the specific information the person, agency, or department may receive; 2) that the information received shall not be disseminated to any person, agency, or department not listed in the court order; and 3) that any dissemination of the information received is a violation of the court order.

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

See Rule 120 for definition of the "official court record."

This rule is [meant] **intended** to include the contents of the official court record as described in Rule 166.

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file, which is the official court record, and the disclosure requirements of this rule apply.

[**Paragraph (C)] Subdivision (c)** protects the juvenile from dissemination of information contained in the official court record to unauthorized sources. Nothing in this rule is intended to preclude the juvenile or the juvenile's attorney from discussing the case with others, such as, local newspaper reporters. However, specific information concerning the victim should not be disseminated by the juvenile or the juvenile's attorney.

Under [**paragraph (D)] subdivision (d)**, there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks' office as the only document available for inspection by the general public. All other information contained in the official court record

is not open for public inspection but only open to inspection to the persons enumerated in [**paragraph (A)] subdivision (a)**.

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

[Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. Amended May 12, 2008, effective immediately. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012. Amended April 6, 2017, effective September 1, 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).]

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE COURT RECORDS

Rule 1160. [**Inspection of the Official Court Record] Inspecting, Copying, and Disseminating the Official Court Record.**

(a) **Inspecting.** The official court record is only open to inspection by:

(1) The [**judges, officers,] court** and [**professional**] staff of the court;

(2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

(3) A public or private agency or institution providing supervision or having custody of the child under order of the court;

(4) [**A court, its p**] Probation officers, other officials or professional staff, and the attorney for the defendant

for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*;

(5) The Administrative Office of Pennsylvania Courts;

(6) The judges, officers and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties;

(7) Officials of the Department of Corrections, a State Correctional Institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

(8) A parole board [, court] or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court [.];

(9) The State Sexual Offenders Assessment Board for use in completing assessments; [and]

(10) other persons presiding as a judicial officer when determining child custody;

(11) the Department of Human Services when determining whether the party's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and

[10] (12) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

(b) Copying. Any person, agency, or department permitted to inspect the record pursuant to subdivision (a) may copy or be provided with a copy of the record.

(c) Disseminating. Unauthorized dissemination of any information contained in the official court record to a person, agency, or department not permitted to inspect or copy the record pursuant to this rule may result in a finding of contempt of court.

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of all files and records of the court in a proceeding.

Persons specified in 23 Pa.C.S. § 6340 as having access to reports may qualify as persons having a legitimate interest in the proceedings under [paragraph (10)] **subdivision (a)(12).** See 23 Pa.C.S. § 6340. **Additionally, pursuant to subdivision (a)(10), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.**

This rule is [meant] **intended** to include the contents of the official court record as described in Rule 1166, which does not include **county** agency records.

[***Official Note:*** Rule 1160 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1160 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).]

CHAPTER 14. ADJUDICATORY HEARING

Rule 1409. Adjudication of Dependency and Court Order.

[**A.**] **(a) *Adjudicating [the child dependent] Child Dependent.*** Once the court has made its findings under Rule 1408, the court shall enter an order whether the child is dependent.

(1) *Dependency.* If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed to a dispositional hearing under Rule 1512.

(2) **No [dependency] Dependency. The court shall dismiss a petition:**

(i) [If] if the court finds the child not to be dependent [or the court finds a parent ready, willing, and able to provide proper parental care or control, the court shall:

a) dismiss the petition;

b) because of a lack of clear and convincing evidence, and order the child to be discharged from custody and vacate any restrictions ordered in the proceedings; [and] or

(ii) if the court finds a parent ready, willing, and able to provide proper parental care or control, the court shall:

(A) prepare a separate order awarding custody, together with any conditions and limitations as is necessary for the protection of the child, using the terminology set forth in 23 Pa.C.S. § 5322;

(B) include within the custody order the dependency court docket number and set forth separate findings of fact necessary to determine the best interest of the child or state that such findings may be located on the dependency docket; and

(C) file the custody order on the custody docket in accordance with local rule.

[(c) enter an order identifying individual(s) who will have the legal and physical custody until such order is modified by further order of the court.]

[**B.**] **(b) *Timing.***

(1) *Child in [custody] Custody.* If a child is removed from the home, the court shall enter an adjudication of dependency within seven days of the adjudicatory hearing and enter its findings pursuant to Rule 1408.

(2) *Child [not in custody] Not in Custody.* If a child is not removed from the home and if the court fails to enter an order of dependency, the court shall hold a status hearing every [thirty] **30** days.

[C.] (c) *Court [order] Order.* The court shall include the following in its court order:

(1) A statement pursuant to [paragraph (A)] **subdivision (a)**:

[a] (i) as to whether the court finds the child to be dependent from clear and convincing evidence;

[b] (ii) including the specific factual findings that form the bases of the court's decision;

[c] (iii) including any legal determinations made; and

(2) Any orders directing the removal of a child from the home or change in the current residential status, including:

[a] (i) orders as to placement; or

[b] (ii) visitation; or

[c] (iii) change in custody; and

(3) Any orders as to any aids in disposition that may assist in the preparation of the dispositional hearing, including orders regarding family finding.

Comment:

Before the court can find a child to be dependent, there must be clear and convincing evidence in support of the petition. The burden of proof is on the petitioner. The court's inquiry is to be comprehensive and its findings are to be supported by specific findings of fact and a full discussion of the evidence. *In re LaRue*, [244 Pa. Super. 218,] 366 A.2d 1271 (Pa. Super. 1976). *See also In re Frank W.D., Jr.*, [315 Pa. Super. 510,] 462 A.2d 708 (Pa. Super. 1983); *In re Clouse*, [244 Pa. Super. 396,] 368 A.2d 780 (Pa. Super. 1976). The evidence must support that the child is dependent. *In the Matter of DeSavage*, [241 Pa. Super. 174,] 360 A.2d 237 (Pa. Super. 1976). The court is not free to apply the best interest of the child standard as the requirements of the Juvenile Act, 42 Pa.C.S. § 6341(c), require clear and convincing evidence that the child is dependent is the proper standard. *In re Haynes*, [326 Pa. Super. 311,] 473 A.2d 1365 (Pa. Super. 1983). [**A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). A trial court has the authority to transfer custody or modify custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. *In re Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).**]

The court is to specify which allegations in the petition are the bases for the finding of dependency pursuant to Rule 1408. The court is to make an adjudication of dependency based upon the allegations in the petition, not on alternative grounds. Due process and fundamental fairness require adequate notice of the allegations to afford a reasonable opportunity to prepare a defense. *In re R.M.*, [567 Pa. 646,] 790 A.2d 300 (Pa. 2002).

A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. *In re*

M.L., 757 A.2d 849 (Pa. 2000). A trial court has the authority to award custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. *In re Justin S.*, 543 A.2d 1192 (Pa. Super. 1988).

An order entered pursuant to subdivision (a)(2)(ii) may award custody to the non-custodial parent with the filing of a new custody order or through modification of an existing custody order. Requirements for the initiation of a custody action and the waiver of any filing fees are matters reserved for local rule or order.

[Under paragraph (B), if a child is removed from the home, a finding of dependency is to be made within seven days.]

Under [paragraph (C)(3)] **subdivision (c)(3)**, aids in disposition may include, but are not limited to, any services, investigations, evaluations, studies, treatment plans, and any other appropriate reports that may aid the court in making its determination at the dispositional hearing. See 42 Pa.C.S. § 6339 for orders of a social study or physical and mental examinations and treatment.

See also 42 Pa.C.S. §§ 6341 [&] and 6302.

Pursuant to [paragraph (C)(3)] **subdivision (c)(3)**, when making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. *See also* [Rules] Pa.R.J.C.P. 1242(C)(2) [& (3)(b) & (c)], (C)(3)(b)-(C)(3)(c), and 1330(B)(6), and Comments to [Rules] Pa.R.J.C.P. 1242, 1330, 1515, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. *See* 67 Pa.C.S. §§ 7501 *et seq.* *See also* Pa.R.J.C.P. 1242(E)(3) and 1609(D), and Comments to Pa.R.J.C.P. 1242, 1408, 1512, 1514, 1515, and 1608—1611.

CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1515. Dispositional Order.

[A.] (a) *Generally.* When the court enters a disposition, the court shall issue a written order, which provides that the disposition is best suited to the safety, protection, and physical, mental, and moral welfare of the child. The order shall include:

- (1) any findings pursuant to Rules 1512(D) and 1514;
- (2) the date of the order; and
- (3) the signature and printed name of the judge entering the order.

[B.] (b) *Transfer of [custody] Custody.* If the court [decides to transfer] **transfers legal or physical** custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, **then** the dispositional order shall include:

(1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;

(2) the **conditions and** limitations [of the order, including the type of custody granted] on custody; and

(3) any visitation rights.

[C.] (c) *Guardian.* [The] **If the court permits the child to remain with the parents or guardian, then the dispositional order shall include any [conditions, limitations, restrictions, and obligations imposed upon the guardian] conditions and limitations on the child's legal or physical custody as is necessary for the protection of the child.**

Comment:

See 42 Pa.C.S. §§ 6310, 6351.

When issuing a dispositional order, the court should issue an order that is “best suited to the safety, protection, and physical, mental, and moral welfare of the child.” 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. [Ct.] 2006) (citing *In re Tameka M.*, [525 Pa. 348,] 580 A.2d 750 (Pa. 1990)), for issues addressing a child’s mental and moral welfare.

When making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. See also [Rules] Pa.R.J.C.P. 1240(B)(6), 1242(C)(2) [& (3)(b) & (c)], (C)(3)(b)-(C)(3)(c), and 1330(B)(6), and Comments to [Rules] Pa.R.J.C.P. 1242, 1330, 1409, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ 7501 *et seq.* See also Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, and 1608—1611. [45 C.F.R. § 1356.21 provides a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.]

Funding through the Federal Financial Participation is not available when a court orders placement with a specific foster provider. See 45 C.F.R. § 1356.21(g)(3).

Dispositional orders should comport in substantial form and content to the model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.pacourts.us/forms/dependency-forms>.

See *In re Tameka M.*, [525 Pa. 348,] 580 A.2d 750 (Pa. 1990).

The custody order should set forth any conditions and limitations using the terminology set forth in 23 Pa.C.S. § 5322. The transfer of legal custody vests the custodian with the authority to determine the nature and treatment of the child for ordinary medical care. See 42 Pa.C.S. § 6357. For pre-dispositional examination and treatment of a child,

see Rule 1145. For non-emergent, non-routine care not already included in an approved treatment plan, the custodian should seek parental consent or receive prior court authorization when consent cannot be obtained.

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART D. CESSATION OR RESUMPTION OF COURT SUPERVISION OR JURISDICTION

Rule 1631. Termination of Court Supervision.

(a) *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

(1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;

(2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;

(3) the child is under 18 years of age and has been placed with a ready, willing, and able parent who was not previously identified by the county agency;

(4) the child has been adopted and services from the county agency are no longer needed;

(5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;

(6) the child has been placed in the physical and legal custody of a fit and willing relative and services from the county agency are no longer needed;

(7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed and a hearing has been held pursuant to subdivision (e) for a child who is age eighteen or older;

(8) the child has been adjudicated delinquent and services from the county agency are no longer needed because all dependency issues have been resolved;

(9) the child has been emancipated by the court;

(10) the child is 18 years of age or older and a hearing has been held pursuant to subdivision (e);

(11) the child has died;

(12) a court in another county of this Commonwealth has accepted jurisdiction; or

(13) a court in another state has accepted jurisdiction.

(b) [*Ready, Willing, and Able Parent.* When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to subdivision (a)(3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to the Pennsylvania Rules of Civil Procedure.]

Order Transferring or Affecting Custody.

(1) **Mandatory.** When the court terminates supervision pursuant to subdivision (a)(3), (a)(5), or (a)(6), the court shall:

(i) prepare a separate order awarding custody, together with any conditions and limitations as is necessary for the protection of the child, using the terminology set forth in 23 Pa.C.S. § 5322;

(ii) include within the custody order the dependency court docket number and set forth separate findings of fact necessary to determine the best interest of the child or state that such findings may be located on the dependency docket;

(iii) file the custody order on the custody docket in accordance with local rule; and

(iv) order the termination of court supervision.

(2) Discretionary. When the court terminates supervision pursuant to subdivision (a)(2), the court may prepare and have filed an order in accordance with subdivision (b)(1) governing partial custody of the child.

(c) *Objection.* Any party may object to a motion under subdivision (a) and request a hearing.

(d) *Hearing.* If objections have been made under subdivision (c), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

(e) *Children 18 Years of Age or Older.*

(1) Before the court can terminate its supervision of a child who is 18 years of age or older, a hearing shall be held at least 90 days prior to the child turning 18 years of age.

(2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:

- (i) the specific plans for housing;
- (ii) a description of the child's source of income;
- (iii) the specific plans for pursuing educational or vocational training goals;
- (iv) the child's employment goals and whether the child is employed;
- (v) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;
- (vi) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;
- (vii) verification that all vital identification documents and records have been provided to the child;
- (viii) a description of any other needed support services;
- (ix) a list, with contact information, of supportive adults and family members; and
- (x) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns 21 years of age if specific conditions are met.

(3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of subdivision (e)(2) have been met, a subsequent hearing shall be scheduled.

(4) The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has

been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

(f) *Cessation of Services.* When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

Comment:

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under subdivision (a), see 42 Pa.C.S. §§ 6301(b) and 6351(f.1).

A child under eighteen years of age whose non-custodial parent is ready, willing, and able to provide adequate care for the child may no longer be deemed dependent. In re M.L., 757 A.2d 849 (Pa. 2000). When services from the county agency are no longer necessary pursuant to subdivision (a)(3) because the court has determined that the child is not dependent because a non-custodial parent has been found by the court to be able and available, the court should enter an order awarding custody to that parent pursuant to subdivision (b)(1). For children 18 years of age and older, see subdivision (e).

Pursuant to subdivision (a)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 619 A.2d 758 (Pa. Super. 1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

If dependency issues have not been resolved, the case should be kept open and services ordered. The court should ensure that services are not discontinued solely because the child was adjudicated delinquent. The county agency and the juvenile probation are to collaborate on the case and resolve all outstanding issues. If a child is in a delinquency placement, the court is to ensure that the county agency and the juvenile probation office have collaborated to ensure appropriate services are in place.

For procedures on emancipation pursuant to subdivision (a)(9), see *Berks County Children and Youth Services v. Rowan*, 631 A.2d 615 (Pa. Super. 1993). See also 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to subdivision (a)(10), a child who was adjudicated dependent prior to reaching the age of 18 and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of 21. 42 Pa.C.S. § 6302. See also 55 Pa. Code §§ 3103.5 and 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 619 A.2d 758 (Pa. Super. 1993).

[Pursuant to subdivision (b), a child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. See *In re M.L.*, 757 A.2d 849 (Pa. 2000). Subdivision (b) does not apply to resumption of jurisdiction cases.]

A court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. See 42 Pa.C.S. § 6351(a)(2.1). [See also *Justin S.*, 543 A.2d 1192 (Pa. Super. 1988).]

An order entered pursuant to subdivision (b)(1) when terminating supervision pursuant to subdivision (a)(3), (a)(5), or (a)(7) shall award custody with the filing of a new custody order or through modification of an existing custody order. Requirements for the initiation of a custody action and the waiver of any filing fees are matters reserved for local rule or order.

Subdivision (b)(2) is intended to permit the court to establish any necessary conditions and limitations for the protection of the child on “visitation” by others.

Pursuant to subdivision (e)(2), the county agency is to assist the child and provide all the support necessary in developing a transition plan. *See* 42 U.S.C. § 675(5)(A)—(H); 67 Pa.C.S. § 7505.

Pursuant to subdivision (e)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of subdivision (e) are to be followed. In no case is a juvenile over 21 to remain under juvenile court supervision. *See* Pa.R.J.C.P. 1635(E). *See* also Rule 1635(E) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

PUBLICATION REPORT

**Proposed Amendment of Pa.R.J.C.P. 160, 1160, 1409,
1515, and 1631**

The Juvenile Court Procedural Rules Committee (“Committee”) proposes to amend Rules 160 and 1160 to reflect the amendment of the Juvenile Act regarding access to juvenile court records. The Committee further proposes to amend Rules 1409, 1515, and 1631 to establish procedures for orders affecting or transferring custody.

Concerning the proposed amendments to Pa.R.J.C.P. 160 and 1160, they are primarily intended to reflect statutorily expanded access to juvenile court records for courts determining child custody and the Department of Human Services determining expungement of an indicated or founded report of child abuse. *See also* 42 Pa.C.S. § 6307(a)(4.1), (a)(6.5). Further, subdivisions (b) and (c) are proposed to be added to Pa.R.J.C.P. 1160 to maintain a parallel structure with Pa.R.J.C.P. 160.

Concerning the custody order procedures, the Committee acknowledges the long-standing use of custody order in dependency matters. However, there appears to be a varied state practice concerning the docketing of those custody orders. The Committee previously proposed amendments that would require the filing of a separate custody order on the custody docket. *See* 46 Pa.B. 3951 (July 23, 2016); 47 Pa.B. 3333 (June 17, 2017). Ultimately, rulemaking was discontinued in favor of perpetuating practices more responsive to local conditions. However, after continued monitoring of local practices, the Committee now proposes new amendments intended to establish a degree of uniformity through statewide procedures.

The proposed amendments contained in Pa.R.J.C.P. 1409 and 1631 would require the filing of a dependency court custody order on the custody docket when the

dependency court awards custody in lieu of dependency or when terminating supervision. The custody order must be separate from the dependency order to prevent the unnecessary dissemination of confidential information that may be contained within the dependency order and findings. Yet, a custody order simply setting forth present conditions and limitations would not assist a judge in deciding whether a subsequent modification is in the best interest of the child. Therefore, the custody order is to contain the dependency court docket number and either set forth necessary facts or state where such findings may be found on the dependency docket. Finally, the custody order shall be filed on the custody docket. Left to local rule are the procedures governing further filings and the waiver of filing fees.

Additionally, Pa.R.J.C.P. 1409(a)(2) was revised to clarify that a petition may be dismissed due to: 1) a lack of evidence; or 2) a ready, willing, and able parent. Pa.R.J.C.P. 1515 was revised to differentiate the types of custody, *i.e.*, physical and legal custody, so that any conditions and limitations will be specific to the type of custody.

Moreover, in Pa.R.J.C.P. 1631, subdivision (b) would be further subdivided to address custody orders when supervision is terminated. Subdivision (b)(1) would require a custody order when supervision is terminated pursuant to subdivisions (a)(3), (a)(5), or (a)(6). However, there are circumstances when a child’s parents are separated and the child is reunified with one parent who has been, and continues to be, the primary caregiver. After supervision has been terminated, the other parent may file a custody action but there would be nothing on the custody docket regarding the prior dependency case. The subcommittee thought it would be in the child’s best interest for the dependency court to be able to enter a custody order addressing any “visitation” or partial custody of the child involving the other parent. The dependency court could then ensure that any conditions or limitations would be protective of the child. Accordingly, the Committee proposes subdivision (b)(2) authorizing, but not mandating, the creation and entry of a custody order.

This proposal does not require a dependency court entering a custody order to address all the custody factors in Title 23. *See* 23 Pa.C.S. § 5328. The Committee was not inclined to make such a proposal primarily because dependency proceedings are subject to the Juvenile Act in Title 42, not Title 23. Further, there did not appear a generally accepted practice of the dependency court addressing the Title 23 custody factors. Yet, the Committee recognizes that not addressing the custody factors may render a custody order more readily subject to modification. Comments are specifically invited on this topic.

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

[Pa.B. Doc. No. 23-629. Filed for public inspection May 12, 2023, 9:00 a.m.]

**DISCIPLINARY BOARD
OF THE SUPREME COURT**

**Notice of Collection Fee and Late Payment Penalty;
2023-2024 Registration Year**

Notice is hereby given that in accordance with Pennsylvania Rules of Disciplinary Enforcement 219(d)(2) and 219(f), The Disciplinary Board of the Supreme Court of

Pennsylvania has established the collection fee for payments returned as unpaid and the late payment penalty for the 2023-2024 Registration Year as follows:

Where a payment of the annual registration fee for attorneys has been returned to the Board unpaid, the collection fee will be \$25.00 per returned item.

Any attorney who fails to complete registration by July 16 shall be automatically assessed a non-waivable late payment penalty of \$200.00. A second non-waivable late payment penalty of \$200.00 shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 1.

SUZANNE E. PRICE,
Attorney Registrar

[Pa.B. Doc. No. 23-630. Filed for public inspection May 12, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated May 3, 2023, Ralph A. Gonzalez (# 48757), whose registered address is in Voorhees, NJ, is suspended from the practice of law in this Commonwealth for a period of one year, effective June 2, 2023. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-633. Filed for public inspection May 12, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Barry Jay Beran having been suspended from the practice of law in the State of New Jersey; the Supreme Court of Pennsylvania issued an Order dated May 3, 2023 suspending Barry Jay Beran from the practice of law in this Commonwealth for a period of five years, consecutive to the three-year term of suspension ordered by this Court on October 5, 2022. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-631. Filed for public inspection May 12, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Edward Harrington Heyburn having been suspended from the practice of law in the Supreme Court of New Jersey; the Supreme Court of Pennsylvania issued an Order dated May 3, 2023 suspending Edward Harrington Heyburn (# 80472) from the practice of law in this Commonwealth for a period of two years, consecutive to the 18-month term of suspension ordered by this Court on October 5, 2022.

In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-634. Filed for public inspection May 12, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated May 3, 2023, Mark William Ford (# 45963), whose registered address is in Gloucester City, NJ, is suspended from the practice of law in this Commonwealth for a period of one year, effective June 2, 2023. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-632. Filed for public inspection May 12, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated May 3, 2023, Michael David Lindner, Jr. (# 79320), whose registered address is in Woodbury, NJ, is suspended from the practice of law in this Commonwealth for a period of three months, effective June 2, 2023. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-635. Filed for public inspection May 12, 2023, 9:00 a.m.]