

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 1]

Amendment of Rule 103 of the Rules of Judicial Administration Governing the Procedure for Adoption, Filing and Publishing Rules; No. 403 Judicial Administration Doc.

Order

Per Curiam

And Now, this 14th day of May, 2013, the proposal having been submitted without publication in the interests of justice and efficient administration, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 103 of the Pennsylvania Rules of Judicial Administration is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 1. GENERAL PROVISIONS

Rule 103. Procedure for adoption, filing and publishing rules.

(a) *Notice of proposed rulemaking.*

(1) Except as provided in subdivision (3), the initial recommendation of a proposed Rule, or proposed Rule amendment (including the explanatory note that is to accompany the Rule) shall be distributed by the proposing Rules Committee to the *Pennsylvania Bulletin* for publication therein[, and shall be recorded in the Administrative Office]. The publication notification shall contain a statement to the effect that comments regarding the proposed Rule are invited and should be sent directly to the proposing Rules Committee within a specified period of time.

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(c) *Rules adopted by other courts and by agencies of the system.*

[(1) After an order adopting a rule has been filed with the prothonotary or clerk of the adopting court or with the secretary of the adopting council, committee, board, commission or other agency of the unified judicial system, the prothonotary, clerk or secretary shall forward ten certified copies of the order and rule to the Administrative Office.

(2) The Administrative Office shall distribute such certified copies as follows:

(i) One copy shall be filed in the Administrative Office, which shall assign thereto and indicate thereon a distinctive serial number and indicate thereon the date and time of filing. Upon such filing the copy shall be immediately available for public inspection and copying.

(ii) Two copies shall be filed in the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(iii) One copy shall be distributed to each of the following committees:

(A) The Advisory Committee on Appellate Court Rules.

(B) Civil Procedural Rules Committee.

(C) Criminal Procedural Rules Committee.

(D) Minor Court Civil Procedural Rules Committee.

(E) Orphans' Court Rules Committee.

(3) A rule or change therein required to be filed in the Administrative Office by this subdivision shall not be valid for any purpose until filed in the Administrative Office, as provided by paragraph (2)(i) of this subdivision.

(4) Any rule which was adopted by a court or agency (other than the Supreme Court, the Superior Court or the Commonwealth Court) prior to May 10, 1973, and which was not filed in the Administrative Office under this subdivision prior to October 1, 1973, is invalid.

(5) As used in this subdivision "rule" means any rule or regulation, or order in the nature of a rule or regulation, regulating practice or procedure before the adopting court of agency or otherwise having the effect of law but shall not include a rule of civil or criminal procedure regulating practice or procedure in a court of common pleas.

Official Note: The procedure for adopting, filing and publishing local rules of civil and criminal procedure is governed by Rule of Civil Procedure 239 and Rule of Criminal Procedure 105. Whenever local rules are forwarded to the Administrative Office the adopting court should indicate whether the rules have been distributed to the Legislative Reference Bureau and filed with the Civil or Criminal Procedural Rules Committee under Civil Procedural Rule 239 or Criminal Procedural Rule 105.]

(1) As used in this subdivision, "rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by a court, council, committee, board, commission or other agency of the unified judicial system to govern practice or procedure but shall not include a rule of civil, domestic relations, criminal, or juvenile procedure.

(2) Rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(3) When rule under this subdivision corresponds to a statewide rule, the rule shall be given a number that is keyed to the number of the statewide rule.

(4) All rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(i) The adopting court or agency shall distribute two certified paper copies of the rule and a copy of the rule on a computer diskette or on a CD-ROM that complies with the requirements of 1 Pa. Code

§ 13.11(b) to the Legislative Reference Bureau, or agreed upon alternate format, for publication in the *Pennsylvania Bulletin*.

(ii) The effective date of the rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

(5) Contemporaneously with publishing the rule in the *Pennsylvania Bulletin*, the adopting court or agency shall file one certified copy of the rule with the Administrative Office of Pennsylvania Courts. The Administrative Office shall assign a serial number to the rule, and shall note on the rule the serial number and the date of filing. A copy of the rule shall be available for public inspection and copying immediately upon filing.

(6) The rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts of the adopting court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any rule.

(7) No pleading or other legal paper shall be refused for filing by the prothonotary or clerk of courts based on a requirement of a rule. No case shall be dismissed nor request for relief granted or denied because of failure to comply with a rule. In any case of noncompliance with a rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the rule.

Official Note: The caption or other words used as a label or designation shall not determine whether something is or establishes a rule; if the definition in paragraph (c)(1) of this rule is satisfied, the matter is a rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a rule. Nothing in this rule is intended to apply to case-specific orders.

Pursuant to paragraph (c)(1), local rules of civil, domestic relations, criminal, and juvenile procedure are not included within the scope of this rule. The procedures for adopting, filing, and publishing local rules of criminal, juvenile, domestic relations and civil procedure are governed by Rule of Criminal Procedure 105, Rules of Juvenile Court Procedure 121 and 1121, and Rules of Civil Procedure 239, 239.8 and 239.9.

To simplify the use of rules, paragraph (c)(3) requires rules to be given numbers that are keyed to the number of the general rules to which the rules correspond. This requirement is not intended to apply to rules that govern general business of the court or agency and which do not correspond to a statewide rule.

To further facilitate the statewide practice of law and accessibility by the public, the adopting court or agency should post and update its rules on its website.

Paragraph (c)(4) requires the rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled with the court's

or agency's name and address and the rule's computer file name. Section 13.11(e) provides that documents may be accepted in an alternate format if it is requested by the court or agency and agreed upon by the Legislative Reference Bureau.

Although under paragraph (c)(4)(ii) a rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the court or agency may act by specific orders governing particular matters in the interim before an applicable rule becomes effective.

Paragraph (c)(5) requires one copy of the rule to be filed with the Administrative Office of Pennsylvania Courts. When rules are forwarded to the Administrative Office, the adopting court or agency should indicate whether the rules have been distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and, if appropriate, submitted to the Criminal, Juvenile, Domestic Relations or Civil Procedural Rules Committees pursuant to their respective rules.

The Administrative Office of the Pennsylvania Courts maintains a website containing local court rules at: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/local-rules-for-common-pleas-and-magisterial-district-courts/>

The Administrative Office of the Pennsylvania Courts also maintains a website containing all local criminal rules adopted or amended after February 1, 2009, local juvenile rules, and local civil rules adopted pursuant to Pa.R.C.P. 239.8 and 239.9 at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>

[Pa.B. Doc. No. 13-985. Filed for public inspection May 31, 2013, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LYCOMING COUNTY

Amendments to the Rules of Civil Procedure; Doc.
No. 13 01152

Order

And Now, this 30th day of April, 2013, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Rule of Civil Procedure L1915.13-1 shall be amended as set forth as follows. (Deleted text is bold and in brackets and new text is bold.)

2. The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Forward two (2) certified copies of this order and a computer disk containing the text of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. Forward one (1) certified copy of this order to the Pennsylvania Civil Procedural Rules Committee.

d. Forward one (1) copy of this order to the chairman of the Lycoming County Customs and Rules Committee.

3. The revisions shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

By the Court

NANCY L. BUTTS,
President Judge

L1915.13-1. Petition for Emergency Custody Relief. Ex Parte Hearing and Temporary Order.

A. Where a party believes there is an **immediate** clear and present danger to the child(ren), that party may file a petition for emergency relief. The petition for emergency relief must be presented as a separate document headed "Petition for Emergency Custody Relief." The petition shall conform to the requirements of Pa.R.C.P. No. 1915.15, as may be applicable, and must allege facts which clearly specify the clear and present danger to the welfare of the child(ren).

B. Upon filing, the petitioning party or counsel must present the petition to the court administrator, who shall immediately present the petition for emergency custody relief to a judge for consideration of the allegations. The judge shall either:

1. refer the petition to a hearing officer for an immediate ex parte hearing, which shall be held within two (2) business days of the presentation of the petition to the family court office; or,

2. direct that an initial conference be scheduled before a hearing officer pursuant to Rule L1915.3-1; or,

3. if it is ascertained that an initial conference has already been held and an interim order already issued under Rule L1915.3-3:

a. direct that the hearing officer consider the petition for emergency custody relief as a reconsideration request under Rule L1915.3-2; or

b. direct that the issues raised be disposed of at the pre-trial conference or trial.

C. If an ex parte hearing is ordered, the petitioning party or counsel shall present the order to the family court office for scheduling of the ex parte hearing. The party seeking emergency relief must appear before the hearing officer at the time scheduled for the ex parte hearing **to present testimony. [Testimony will be to whether relief is warranted because of] The hearing officer shall determine if probable cause exists to believe there is an immediate [a]** clear and present danger to the welfare of the child(ren) involved.

D. Upon making a determination that ex parte relief is warranted, the hearing officer shall forward to the court for approval a recommended temporary emergency order, which will include a provision scheduling a full hearing before the court, to be held within **[five (5)] ten (10)** business days of the ex parte hearing. Prior to the full hearing before the court, the petition for emergency custody relief and the temporary emergency order containing notice of the **[5-day] 10-day** hearing shall be served on the opposing party by the petitioning party in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable efforts to provide a copy of the documents to any attorney whom the petitioning party reasonably believes may be representing the interests of the other party.

E. Upon making a determination that ex parte relief is not warranted, the hearing officer shall forward to the court for approval a recommended order denying the petition for emergency custody relief. Such order may schedule the matter for disposition at: an initial conference under Rule L1915.3-1; as a reconsideration request under Rule L1915.3-2; or, if already scheduled for a pre-trial conference or trial on other issues, direct that the emergency issues be determined with all other issues at the pre-trial conference or trial.

[Pa.B. Doc. No. 13-986. Filed for public inspection May 31, 2013, 9:00 a.m.]