

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 414 Judicial Administration Doc.

Order

Per Curiam:

And now, this 17th day of October, 2013, it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The costs outlined in the Financial Regulations are effective as of January 1, 2014.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

§ 29.401. Scope.

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized by Administrative Order, the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, and judges and staff of all divisions of the Philadelphia Municipal Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under 42 Pa.C.S. § 3502(a) of the Judicial Code, the following regulations are adopted to implement Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

§ 29.402. 42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2014, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

- (1) Actions involving \$500 or less \$50.00
- (2) Actions involving more than \$500 but not more than \$2,000 \$67.00
- (3) Actions involving more than \$2,000 but not more than \$4,000 \$83.50
- (4) Actions involving between \$4,001 and \$12,000 \$125.00
- (5) Landlord-tenant actions involving less than \$2,000 \$75.00
- (6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 \$92.00
- (7) Landlord-tenant actions involving more than \$4,000 but not more than \$12,000 \$125.00
- (8) Order of execution \$37.50
- (9) Objection to levy \$17.00
- (10) Reinstatement of complaint \$8.50
- (11) Entering Transcript on Appeal or Certiorari \$4.50

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2014, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

- (1) Custody cases, except as provided in section 1725(c)(2)(v) \$7.50

(b) *Criminal cases.*—In calendar year 2014, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) Summary conviction, except motor vehicle cases \$47.50
- (2) Summary conviction, motor vehicle cases, other than paragraph (3) \$37.50
- (3) Summary conviction, motor vehicle cases, hearing demanded \$45.50
- (4) Misdemeanor \$54.50
- (5) Felony \$62.50

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2014, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- (1) Entering transcript of judgment from another member of the minor judiciary \$8.50
- (2) Marrying each couple, making record thereof, and certificate to the parties \$42.00
- (3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) \$17.00
- (4) Issuing a search warrant (except as provided in subsection (d)) \$17.00
- (5) Any other issuance not otherwise provided in this subsection \$17.00

§ 29.403. 42 Pa.C.S. § 3571.

In calendar year 2014, Commonwealth portion of fines, etc.

* * * * *

(c) *Costs in magisterial district judge proceedings.*

(2) Amounts payable to the Commonwealth:

(i) Summary conviction, except motor vehicle cases \$16.70

(ii) Summary conviction, motor vehicle cases other than subparagraph (iii) \$16.70

(iii) Summary conviction, motor vehicle cases, hearing demanded \$16.70

(iv) Misdemeanor \$21.80

(v) Felony \$33.35

(vi) Assumpsit or trespass involving:

(A) \$500 or less \$20.80

(B) More than \$500 but not more than \$2,000 \$33.50

(C) More than \$2,000 but not more than \$4,000 \$50.10

(D) Between \$4,001 and \$12,000 \$83.35

(vii) Landlord-tenant proceeding involving:

(A) \$2,000 or less \$33.30

(B) More than \$2,000 but not more than \$4,000 \$41.85

(C) More than \$4,000 but not more than \$12,000 \$58.35

(viii) Objection to levy \$8.50

(ix) Order of execution \$25.00

(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)) ... \$11.90

(xi) Order of possession \$15.00

(xii) Custody cases (except as provided in section 1725(c)(2)(v)) \$6.00

[Pa.B. Doc. No. 13-2037. Filed for public inspection November 1, 2013, 9:00 a.m.]

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 413 Judicial Administration Doc.

Order

Per Curiam:

And now, this 17th day of October, 2013, it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2012 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

§ 29.401a. Consumer Price Index—costs and fines.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2012 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 413 Judicial Administration Docket.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2012 was 1.7% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, February 21, 2013.)

[Pa.B. Doc. No. 13-2038. Filed for public inspection November 1, 2013, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 6]

Proposed Amendment to Pa.R.Crim.P. 648

The Criminal Procedural Rules Committee is considering recommending that the Supreme Court of Pennsylvania amend Rule 648 (Verdicts) to standardize the practice of requiring juries to make specific verdicts as to essential facts as required under *United States v. Alleyne*, ___ U.S. ___, 133 S.Ct. 2151 (2013). This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendments to the rules precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

Jeffrey M. Wasileski, Counsel
 Supreme Court of Pennsylvania
 Criminal Procedural Rules Committee
 601 Commonwealth Avenue, Suite 6200
 Harrisburg, PA 17106-2635
 fax: (717) 231-9521
 e-mail: criminalrules@pacourts.us

no later than Friday, December 6, 2013.

By the Criminal Procedural Rules Committee

NANCY L. BUTTS,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(2). Conduct of Jury Trial

Rule 648. Verdicts.

* * * * *

(F) If there is a sentencing fact that must be found by the jury, the jury shall be instructed to render a specific verdict as to that fact, separate from its verdict or verdicts on the charged criminal offenses. If the jury cannot agree with respect to the specific verdict, its failure to agree shall have no effect on the other verdict or verdicts it has reached.

(G) If there is a summary offense joined with the misdemeanor, felony, or murder charge that was tried before the jury, the trial judge shall not remand the summary offense to the issuing authority. The summary offense shall be disposed of in the court of common pleas, and the verdict with respect to the summary offense shall be recorded in the same manner as the verdict with respect to the other charges.

[(G)] (H) Before a verdict, whether oral or sealed, is recorded, the jury shall be polled at the request of any party. Except where the verdict is sealed, if upon such poll there is no concurrence, the jury shall be directed to retire for further deliberations.

Comment

Paragraph (A) of the rule replaces the practice of automatically appointing the first juror chosen as foreman of the jury. Paragraphs (C), (D), and (E) serve only to codify the procedure where conviction or acquittal of one offense operates as a bar to a later trial on a necessarily included offense. Similarly, the rule applies to situations of merger and *autrefois* convict or acquit. No attempt is made to change the substantive law that would operate to determine when merger or any of the other situations arise. See, e.g., *Commonwealth v. Comber*, 374 Pa. 570, 97 A.2d 343 (1953).

New paragraph (F) was added in 2013 to conform procedure with the requirement enunciated by the U.S. Supreme Court in *Alleyne v. U.S.*, ___ U.S. ___ 133 S.Ct. 2151 (2013), that any fact, other than a prior conviction, that increases a mandatory minimum sentence, must be submitted to the jury. The separate verdict should be required on the verdict slip with the charged offense(s), and the jury should deliberate on the separate fact at the same time it deliberates on the charged offense(s).

Paragraph [(F)] (G) provides for the disposition in the court of common pleas of any summary offense that is joined with the misdemeanor, felony, or murder charges that were tried before the jury. Under no circumstances may the trial judge remand the summary offense to the issuing authority, even in cases in which the defendant is found not guilty by the jury. See also Rule 543 (Disposition of Case at Preliminary Hearing).

Paragraph [(G)] (H) provides for the polling of the jury and requires the judge to send the jury back for deliberations in accordance with *Commonwealth v. Martin*, 379 Pa. 587, 109 A.2d 325 (1954). With respect to the procedure upon non-concurrence with a sealed verdict, see Rule 649(C).

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 because the indicting grand jury was abolished in all counties, see PA. CONST. art. I, § 10 and 42 Pa.C.S. § 8931(b), the reference was retained in paragraphs (D) and (E) of this rule because there may be some cases still pending that were instituted under the former indicting grand jury rules prior to the abolition of the indicting grand jury in 1993. These references to "indictment" do not apply in the context of an indicting grand jury convened pursuant to the new indicting grand jury procedures adopted in 2012 in which an information would be filed after a grand jury indicts a defendant. See Rules 103 and 556.11.

Official Note: Rule 1120 adopted January 24, 1968, effective August 1, 1968; amended February 13, 1974, effective immediately; paragraph (E) amended to correct printing error June 28, 1976, effective immediately; paragraph (F) amended April 26, 1979, effective July 1, 1979; amended August 12, 1993, effective September 1, 1993; renumbered Rule 648 and amended March 1, 2000, effective April 1, 2001; amended March 9, 2006, effective September 1, 2006; Comment revised June 21, 2012, effective in 180 days; **amended** , 2013, effective , 2013.

Committee Explanatory Reports:

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Report explaining the proposed amendment concerning specific verdicts published for comment at 43 Pa.B. 6491 (November 2, 2013).

REPORT

Proposed amendment to Pa.R.Crim.P. 648

Specific Verdicts

On June 17, 2013, the United States Supreme Court issued its opinion in *Alleyne v. United States*, ___ U.S. ___, 133 S.Ct. 2151 (2013). In *Alleyne*, the defendant was convicted of using a firearm in the commission of a violent crime. The offense carried a mandatory minimum sentence of five years' incarceration but the mandatory minimum would be increased to seven years if it was found that the firearm was brandished or to ten years if the firearm was discharged during the commission of the crime. The jury found that the defendant had "used or carried a firearm" but the verdict slip did not contain a specific finding that the defendant had brandished it. During sentencing, the trial judge determined that the defendant had likely brandished the firearm during the offense and imposed the seven year mandatory minimum sentence.

Relying on *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the Court concluded that any facts that increase the prescribed range of penalties to which a criminal defendant is exposed are not merely sentencing factors that the trial judge could decide, but are elements of the crime and the Sixth Amendment provides defendants with the right to have a jury find those facts beyond a reasonable doubt. The Court overruled the earlier case of *Harris v. United States*, 536 U.S. 545 (2002) which had

held that judicial fact-finding that increased the mandatory minimum sentence for a crime is permissible under the Sixth Amendment.

Recently, the Committee has been receiving reports that there is some confusion about the requirements imposed by *Alleynes* and the method by which facts that increase mandatory minimum sentences must be submitted to the jury. The Committee concluded that it would be helpful to the bench and bar if the rules provided guidance in this area.

The Committee examined current practice and concluded that, especially since *Apprendi, supra.*, it has become commonplace to add specific findings to a verdict slip when the case is given to the jury in cases in which a particular fact will affect the sentence. Since such a finding is considered one element of the offense, it is logical for that specific fact to be determined as part of the general deliberations of the jury.

The Committee considered the holding in *Commonwealth v. Samuel*, 599 Pa. 166, 961 A.2d 57 (2008), a case that stated that, in contrast to civil cases, where there is specific authority for special verdicts, there is no such provision in criminal trials. However, the Committee concluded that *Samuels* arose in a situation different from that in *Alleynes* and was of limited application.

The proposed amendments would add a new paragraph (F) to Rule 648 (Verdicts) that would state the requirement for a specific verdict when there is a sentencing fact that is required to be found by the jury. A proposed revision to the Rule 648 Comment would cite to *Alleynes* and elaborate that the specific verdict be included in the verdict slip to be deliberated as part of the general deliberation of the offense. Current paragraphs (F) and (G) would be re-lettered accordingly.

[Pa.B. Doc. No. 13-2039. Filed for public inspection November 1, 2013, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11—16]

Proposed Amendments to Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608 and 1609 and Proposed Rule 1149

The Juvenile Court Procedural Rules Committee is eliciting public comment on proposed modifications to Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609 and adoption of new Rule 1149 before it considers any recommendations to the Supreme Court of Pennsylvania. These proposed modifications and additions address family finding.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq.
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than Monday, December 2, 2013.

By the Juvenile Court
Procedural Rules Committee

HONORABLE TODD A. HOOVER,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

* * * * *

COURT is the Court of Common Pleas, a court of record, which is assigned to hear dependency matters. Court shall include masters when they are permitted to hear cases under these rules. Juvenile court shall have the same meaning as court.

DILIGENT EFFORTS are the comprehensive and ongoing efforts made to identify and locate adult relatives and kin for a child until the permanency goal is achieved.

EDUCATIONAL DECISION MAKER is a responsible adult appointed by the court to make decisions regarding a child's education when the child has no guardian or the court has limited the guardian's right to make such decisions for the child. The educational decision maker acts as the child's representative concerning all matters regarding education unless the court specifically limits the authority of the educational decision maker.

FAMILY FINDING is the ongoing diligent efforts of the county agency, or its contracted providers, to search for and identify adult relatives and kin, and engage them in the county agency's social service planning and delivery of services, including gaining commitment from relatives and kin to support a child or guardian receiving county agency services.

FAMILY SERVICE PLAN is the document in which the county agency sets forth the service objectives for a family and services to be provided to a family by the county agency.

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JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

KIN is a relative of the child through blood or marriage, godparent of the child as recognized through an organized church, a member of the

child’s tribe or clan, or someone who has a significant positive relationship with the child or the child’s family.

KINSHIP CARE is the full-time nurturing and protection of a child who is separated from the child’s guardian and placed in the home of a caregiver who has an existing relationship with the child and/or the child’s family.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person’s employment.

* * * * *

Comment

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An “educational decision maker” is to be appointed by court order. The scope of the appointment is limited to decisions regarding the child’s education. The educational decision maker acts as the child’s spokesperson on all matters regarding education unless the court specifically limits the authority of the educational decision maker. The educational decision maker holds educational and privacy rights as the child’s guardian for purposes of 20 U.S.C. § 1232g and 34 C.F.R. § 99.3. See also Rule 1147(C) for the duties and responsibilities of an educational decision maker.

The definition of “family finding” is derived from 62 P. S. § 1302.

Diligence is to include utilizing reasonable resources available when engaging in family finding, never ceasing efforts until multiple relatives and kin are identified, and going beyond basic searching tools by exploring alternative tools and methodologies. “Diligent efforts” is to include, but not limited to, interviews with immediate and extended family and kin, genograms, eco-mapping, case mining, cold calls, and specialized computer searches.

It is insufficient to complete only a basic computer search or attempt to contact known relatives at last known address or phone number.

For multiple resources efforts that may be utilized, see Commonwealth of Pennsylvania, Department of Public Welfare, Office of Children, Youth and Families Bulletin, No. 3130-12-03, issued May 11, 2012, effective July 1, 2013; Senaca Family Finding, which may be found at www.findingfamily.org, or Legal Search Initiative, diligent search packet (March 2013), Statewide Adoption and Permanency Network, which may be found at www.diakin-swan.org.

Supporting a child under the definition of “family finding” means any type of aid, including but not limited to emotional, financial, physical, or psychological help.

See also 62 Pa.C.S. § 1301 et seq. and 42 U.S.C. § 675 (Fostering Connections) to comply with state and federal regulations.

For the family service plan, see 55 Pa. Code § 3130.61

* * * * *

PART B(1). EDUCATION [AND], HEALTH, AND WELFARE OF CHILD

(Editor’s Note: The following rule is new and printed in regular type to enhance readability.)

Rule 1149. Family Finding.

A. *Court’s inquiry.* The court shall inquire as to the efforts made by the county agency to comply with family finding requirements pursuant to 62 P. S. § 1301 et seq.

B. *Court’s determination.* At each hearing, the court shall place findings on the record indicating whether the county agency has reasonably engaged in family finding.

C. *Discontinued family finding.* Family finding may be discontinued only if, after a hearing, the court has made a specific determination that:

- 1) continued family finding no longer serves the best interests of the child;
- 2) continued family finding is a threat to the child’s safety; or
- 3) the child is in a preadoptive placement and the court proceedings to adopt the child have been commenced pursuant to 23 Pa.C.S. Part III (relating to adoption).

D. *Resuming family finding.* The county agency shall resume family finding when the court determines that resuming family finding:

- 1) is best suited to the safety, protection and physical, mental and moral welfare of the child; and
- 2) does not pose a threat to the child’s safety.

Comment

Pursuant to paragraph (A), efforts by the county agency may include, but are not limited to whether the county agency is or will be: a) searching and finding adult relatives and kin; b) identifying and building positive connections between the child and the child’s relatives and kin; c) when appropriate: i) supporting the engagement of relatives and kin in social service planning and delivery of services; and ii) creating a network of extended family support to assist in remedying the concerns that lead the child to be involved with the county agency; d) when possible, maintaining family connections; and e) when in the best interests of the child and when possible, keeping siblings together in care.

The extent to which the county agency is involved in the case when a child is still in the home is dependent on several variables and specific to each case. In some instances, the county agency will be more involved and actively engaged in family finding because the child needs support services or could be removed from the home. The search in these instances is used to find resources to help keep the child in the home by preventing removal, or to find resources if removal becomes necessary.

See 62 P. S. § 1301 for legislative intent regarding family finding and promotion of kinship care.

Family finding is required for every child when a child is accepted for services by the county agency. See 62 P. S. § 1302. It is best practice to find as many kin as possible for each child. These kin may help with care or support for the child. The county agency should ask the guardian, the child, and siblings about relatives or other adults in their life, including key supporters of the child or guardians.

Specific evidence should be provided indicating the steps taken to locate and engage relatives and kin. See Comment to Rule 1120 regarding diligent efforts considerations for locating relatives and kin. When considering the method by which relatives and kin have been engaged in service planning and delivery, courts and the parties are encouraged to be creative. Strategies of engagement

could include, but are not limited to, inviting relatives and kin to: 1) be involved in a family group decision making conference, family team conferencing, or other family meetings aimed at developing or supporting the family service plan; 2) assist with visitation; 3) to assist with transportation; 4) provide respite or child care services; or 5) provide actual kinship care.

Paragraph (C)(3) is meant to include notice of intent to adopt, petition to adopt, or voluntary relinquishment of parental rights, or consent to adopt.

CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT

PART B. EMERGENCY CUSTODY

Rule 1210. Order for Protective Custody.

* * * * *

B. *Finding of court.* A child may be taken into protective custody by court order when the court determines that removal of the child is necessary for the welfare and best interests of the child, **including family finding efforts pursuant to Rule 1149.** The order may initially be oral, provided that it is reduced to writing within twenty-four hours or the next court business day.

* * * * *

[*D. Execution of order.* The court shall specify:

- 1) the limitations of the order;
- 2) the manner in which the order is to be executed; and
- 3) who shall execute the order.

E. *Contents of order.* The court order shall include:

- 1) the name of the child sought to be protected;
- 2) the date of birth of the child, if known;
- 3) the whereabouts of the child, if known;
- 4) the names and addresses of the guardians;
- 5) the reasons for taking the child into protective custody;
- 6) a finding whether reasonable efforts were made to prevent placement of the child; and
- 7) a finding whether the reasons for keeping the child in shelter care and that remaining in the home is contrary to the welfare and best interests of the child.]

D. *Contents of order.* The court order shall include:

- 1) the name of the child sought to be protected;
- 2) the date of birth of the child, if known;
- 3) the whereabouts of the child, if known;
- 4) the names and addresses of the guardians;
- 5) the reasons for taking the child into protective custody;
- 6) a finding whether reasonable efforts were made to prevent placement of the child;
- 7) a finding whether the reasons for keeping the child in shelter care and that remaining in the home is contrary to the welfare and best interests of the child; and

8) findings and orders related to the requirements of Rule 1149 regarding family finding.

E. *Execution of order.* The court shall specify:

- 1) the limitations of the order;
- 2) the manner in which the order is to be executed; and
- 3) who shall execute the order.

Comment

* * * * *

The court is to determine whether reasonable efforts, including services and family finding efforts, were made to prevent placement or in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether this level of effort was reasonable due to the emergency nature of the situation, safety considerations and circumstances of the family. 42 Pa.C.S. § 6332.

See also *In re Petition to Compel Cooperation with Child Abuse Investigation*, 875 A.2d 365 (Pa. Super. Ct. 2005).

Pursuant to paragraph (D)(8), the county agency should be looking for family and kin as a placement prevention, as well as, a placement resource for the child to help reduce the potential trauma of removal from the home. See Rule 1149 regarding family finding requirements.

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PART C. SHELTER CARE

Rule 1240. Shelter Care Application.

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B. *Application contents.* Every shelter care application shall set forth:

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- 6) a statement detailing:
 - a) the reasonable efforts made to prevent placement, including family finding efforts; and
 - b) why there are no less restrictive alternatives available;

* * * * *

Comment

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Pursuant to paragraph (B)(6), the application is to contain a statement detailing the reasonable efforts made to prevent placement and the specific reasons why there are no less restrictive alternatives available. This statement may include information such as: 1) the circumstances of the case; 2) family finding efforts made by the county agency; 3) contact with family members or other kin; [3] 4) the child's educational, health care, and disability needs; and [4] 5) any need for emergency actions.

See Rule 1149 regarding family finding requirements.

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Rule 1242. General Conduct of Shelter Care Hearing.

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C. *Findings.* The court shall determine whether:

* * * * *

3) the county agency has reasonably engaged in family finding;

4) a person, other than the county agency, submitting a shelter care application, is a party to the proceedings; and

[4] 5) there are any special needs of the child that have been identified and that the court deems necessary to address while the child is in shelter care.

* * * * *

E. Court order. At the conclusion of the shelter care hearing, the court shall enter a written order [set] setting forth:

- 1) its findings pursuant to paragraph (C);
- 2) any conditions placed upon any party;
- 3) any orders regarding family finding pursuant to Rule 1149;

4) any orders for placement or temporary care of the child;

[4] 5) any findings or orders necessary to ensure the stability and appropriateness of the child's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 1147;

[5] 6) any findings or orders necessary to identify, monitor, and address the child's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed; and

[6] 7) any orders of visitation.

Comment

* * * * *

Pursuant to paragraph (C), the court is to make a determination that the evidence presented with the shelter care application under Rule 1240 is supported by sufficient facts. After this determination, the court is to determine whether the custody of the child is warranted by requiring a finding that: 1) remaining in the home would be contrary to the health and welfare of the child; 2) reasonable efforts were made by the county agency to prevent the placement of the child; 3) the child was placed in the least restrictive placement available; and 4) if the child was taken into emergency placement without services being offered, the lack of efforts by the county agency was reasonable. Additionally, the court is to state the reasons why there are no less restrictive alternatives available.

Pursuant to paragraph (C)(2)(b) & (c), 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 Rule 1330(B)(6) and Comment to Rules 1330, 1409, 1515, 1608, and 1609 for reasonable efforts determinations.

Pursuant to paragraph (C)(3), the court is to make a determination whether the county agency has engaged or is to engage in family finding in the case. The county agency will be required to report its diligent family finding efforts at subsequent hearings. See Rule 1149 for requirements of family finding. See also Rules 1408(2), 1512(D)(1)(h), 1514(A)(4), and 1608(D)(1)(h) and their Comment for court's findings as to the county agency's satisfaction of the family finding requirements and Rules

1409(C) and 1609(D) and Comment to Rules 1408, 1409, 1512, 1514, 1515, 1608, and 1609 on court's orders.

Pursuant to paragraph [(C)(3)] (C)(4), the court is to determine whether or not a person is a proper party to the proceedings. Regardless of the court's findings on the party status, the court is to determine if the application is supported by sufficient evidence.

* * * * *

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.

* * * * *

B. Petition contents. Every petition shall set forth plainly:

* * * * *

6) a statement detailing family finding efforts and, if the county agency is seeking placement:

- a) the reasonable efforts made to prevent placement, including family finding efforts; and
- b) why there are no less restrictive alternatives available;

7) a concise statement of facts in support of the allegations for which the petition has been filed;

- a) facts for each allegation shall be set forth separately;
- b) the relevant statute or code section shall be set forth specifically for each allegation;

[7] 8) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

[8] 9) the signature of the petitioner and the date of the execution of the petition; and

[9] 10) the whereabouts of the child unless disclosure is prohibited by court order and if taken into custody, the date and time thereof.

* * * * *

Comment

* * * * *

For the safety or welfare of a child or a guardian, the court may order that the addresses of the child or a guardian not be disclosed to specified individuals.

Pursuant to paragraph (B)(6), when the county agency is seeking placement, the petition is to include the reasonable efforts made to prevent placement, including efforts for family finding, and why there are no less restrictive alternatives available. See Rule 1149 for family finding requirements. See also Rule 1242(C)(2)(b) & (c) and Comment to Rules 1242, 1409, 1515, 1608, and 1609 for reasonable efforts determinations.

If a petition is filed after the county agency has discontinued family finding for non-court cases, the county agency is to aver reasons for the discontinuance in the petition. See 62 P. S. § 1302.2(a).

A motion for finding of aggravated circumstances may be brought in a dependency petition. See Rule 1701(A). If aggravated circumstances are determined to exist after the filing of a petition, a written motion is to be filed pursuant to Rules 1701 and 1344.

* * * * *

CHAPTER 14. ADJUDICATORY HEARING

Rule 1408. Findings on Petition.

[After] The court shall enter findings, within seven days of hearing the evidence on the petition or accepting stipulated facts by the parties [but no later than seven days, the court shall enter a finding]:

1) by specifying which, if any, allegations in the petition were proved by clear and convincing evidence[.]; and

2) when appropriate, its findings as to whether the county agency has reasonably engaged in family finding as required pursuant to Rule 1149.

Comment

The court is to specify which allegations in the petition are the bases for the finding of dependency.

Pursuant to paragraph (2), the court is to make a determination whether the county agency has reasonably engaged in family finding in the case. The county agency will be required to report its diligent family finding efforts at subsequent hearings. See Rule 1149 for requirements of family finding. See also Rules 1242(E)(3), 1512(D)(1)(h), 1514(A)(4), and 1608(D)(1)(h) and their Comment for court's findings as to the county agency's satisfaction of the family finding requirements and Rules 1242(E)(3), 1409(C), and 1609(D) and Comment to Rules 1242, 1409, 1512, 1514, 1515, 1608, and 1609 on court's orders.

* * * * *

Rule 1409. Adjudication of Dependency and Court Order.

* * * * *

C. Court order. The court shall include the following in its court order:

* * * * *

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

* * * * *

See also 42 Pa.C.S. §§ 6341 & 6302.

Pursuant to paragraph (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 1242(C)(2)(b) & (c) and 1330(B)(6) and Comment to Rules 1242, 1330, 1515, 1608, and 1609 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 62 P. S. 1301 et seq. See

also Rules 1242(E)(3) and 1609(D) and Comment to Rules 1242, 1408, 1512, 1514, 1515, 1608, and 1609.

* * * * *

CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1512. Dispositional Hearing.

* * * * *

C. Duties of the court. The court shall determine on the record [that] whether the parties have been advised of the following:

* * * * *

D. Court's findings. The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1515.

1) On the record in open court, the court shall state:

* * * * *

h) whether the county agency has reasonably satisfied the requirement of Rule 1149 regarding family finding, and if not, the findings and conclusions of the court on why the requirements have not been met by the county agency;

i) any findings necessary to ensure the stability and appropriateness of the child's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 1147;

[i] j) any findings necessary to identify, monitor, and address the child's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed; and

[j] k) a visitation schedule, including any limitations.

2) The court shall state on the record in open court or enter into the record through the dispositional order, [a finding] findings pursuant to Rule 1514, if the child is placed[, that;].

[a] remaining in the home would be contrary to the welfare, safety, or health of the child;

b) reasonable efforts were made by the county agency to prevent the child's placement;

c) the child's placement is the least restrictive placement that meets the needs of the child, supported by reasons why there are no less restrictive alternatives available; and

d) if preventive services were not offered due to the necessity of an emergency placement, that such lack of services was reasonable under the circumstances.]

Comment

* * * * *

Rule 1608 mandates permanency hearings at least every six months. It is best practice to have three-month hearings to ensure permanency is achieved in a timely fashion and the court is informed of the progress of the case. See Comment to Rule 1608.

Pursuant to paragraph (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed

to meet the diligent family finding efforts requirements of Rule 1149, the court may utilize its powers to enforce this legislative mandate. See 62 P. S. 1301 et seq. See also Rules 1242(E)(3) and 1609(D) and Comment to Rules 1242, 1408, 1409, 1514, 1515, 1608, and 1609.

Pursuant to paragraph [(D)(1)(h)] (D)(1)(i), the court is to address the child’s educational stability, including the right to an educational decision maker, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519. The court’s findings should address the child’s right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child’s best interest; b) immediate enrollment when a school change is in the child’s best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 et seq.; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P. S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. § 1400 et seq.; 4) the educational services necessary to support the child’s transition to independent living pursuant to 42 Pa.C.S. § 6351 if the child is sixteen or older; and 5) a transition plan that addresses the child’s educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days.

Pursuant to paragraph [(D)(1)(i)] (D)(1)(j), the court is to address the child’s needs concerning health care and disability. The court’s findings should address the right of: 1) a child to receive timely and medically appropriate screenings and health care services pursuant to 55 Pa. Code §§ 3700.51 and 3800.32, and 42 U.S.C. § 1396d(r); 2) a child to a transition plan that addresses the child’s health care needs, and includes specific options for how the child can obtain health insurance after leaving care pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within 90 days; and 3) a child with disabilities to receive necessary accommodations pursuant to 42 U.S.C. § 12132; 28 C.F.R. § 35.101 et seq., Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 et seq. In addition, the court is to ensure progress and compliance with the child’s case plan for the ongoing oversight and coordination of health care services under 42 U.S.C. § 622(b)(15).

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a child and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

Pursuant to paragraph [(D)(1)(j)] (D)(1)(k), the court is to include siblings in its visitation schedule. See 42 U.S.C. § 671(a)(31), which requires reasonable efforts be made to place siblings together unless it is contrary to the safety or well-being of either sibling and that frequent visitation be assured if joint placement cannot be made.

* * * * *

Rule 1514. Dispositional Finding Before Removal from Home.

A. *Required findings.* Prior to entering a dispositional order removing a child from the home, the court shall state on the record in open court the following specific findings:

- 1) Continuation of the child in the home would be contrary to the welfare, safety, or health of the child;
- 2) The child’s placement is the least restrictive placement that meets the needs of the child, supported by reasons why there is no less restrictive alternative available; [and]
- 3) **If the child has a sibling who is subject to removal from the home, whether reasonable efforts were made prior to the placement of child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling;**
- 4) **the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding; and**
- 5) One of the following:
 - a) Reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from the home, if the child has remained in the home pending such disposition; or
 - b) If preventive services were not offered due to the necessity for emergency placement, whether such lack of services was reasonable under the circumstances; or
 - c) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home.

* * * * *

Comment

See 42 Pa.C.S. § 6351(b).

Pursuant to paragraph (A)(4), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court may utilize its powers to enforce this legislative mandate. See 62 P. S. 1301 et seq. See also Rules 1242(E)(3) and 1609(D) and Comment to Rules 1242, 1408, 1409, 1512, 1515, 1608, and 1609.

* * * * *

Rule 1515. Dispositional Order.

* * * * *

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 (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 1242(C)(2)(b) & (c) and 1330(B)(6) and Comment to Rules 1242, 1330, 1409, 1608, and 1609 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 62 P. S. 1301 et seq. See also Rules 1242(E)(3) and 1609(D) and Comment to Rules 1242, 1408, 1409, 1512, 1514, 1608, and 1609. 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.

Dispositional orders should comport in substantial form and content to the [Juvenile Court Judges' Commission] 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.jcjc.state.pa.us or http://www.dpw.state.pa.us or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120] http://www.pacourts.us/forms/dependency-forms.

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

* * * * *

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

* * * * *

D. Court's findings.

1) Findings at all six-month hearings. At the permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

* * * * *

h) whether the county agency has satisfied the requirements of Rule 1149 regarding family finding, and if not, the findings and conclusions of the court on why the requirements have not been met by the county agency;

i) whether the child is safe;

[i] j) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child;

[j] k) the services needed to assist a child who is sixteen years of age or older to make the transition to independent living, including:

* * * * *

[k] l) any educational, health care, and disability needs of the child and the plan to ensure those needs are met[.];

m) if a sibling of a child has been removed from the home and is in a different setting than the child, whether reasonable efforts have been made to place the child and sibling of the child together or whether such joint placement is contrary to the safety or well-being of the child or sibling; and

n) if the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

* * * * *

F. Family Service Plan or Permanency Plan.

1) The county agency shall review the family service plan or permanency plan at least every six months, including all family finding efforts pursuant to Rule 1149.

2) The family service plan or permanency plan shall identify which relatives and kin were included in its development and the method of that inclusion.

3) If the plan is modified, the county agency shall follow the filing and service requirements pursuant to Rule 1345.

4) The parties and when requested, the court, shall be provided with the modified plan at least fifteen days prior to the permanency hearing.

Comment

* * * * *

Every child should have a concurrent plan, which is a secondary plan to be pursued if the primary permanency plan for the child cannot be achieved. See Comment to Rule 1512. For example, the primary plan may be reunification with the guardian. If the guardian does not substantially comply with the requirements of the court-ordered services, subsidized legal guardianship may be utilized as the concurrent plan. Because of time requirements, the concurrent plan is to be in place so that permanency may be achieved in a timely manner.

Pursuant to paragraph (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court may utilize its powers to enforce this legislative mandate. See 62 P. S. 1301 et seq. See also Rules 1242(E)(3), 1409(C), and 1609(D) and Comment to Rules 1242, 1408, 1409, 1512, 1514, 1515, and 1609.

When making its determination for reasonable efforts made by the county agency, the court is to consider family finding. See also Rules 1242(C)(2)(b) & (C) and 1330(B)(6) and Comment to

Rules 1242, 1330, 1409, 1515, and 1609 for reasonable efforts determinations.

Pursuant to paragraph (D)(2), a “petition to terminate parental rights” is a term of art used pursuant to 23 Pa.C.S. § 2511 and Pa.R.O.C. Rule 15.4 to describe the motion terminating parental rights. This does not refer to the “petition” as defined in Pa.R.J.C.P. 1120.

* * * * *

Rule 1609. Permanency Hearing Orders.

* * * * *

D. Orders on family finding.

1) The court order shall determine whether family finding efforts made by the county agency were reasonable;

2) If the family finding efforts were not reasonable, the court shall order the county agency to engage in family finding prior to the next permanency hearing;

E. Orders concerning education.

* * * * *

[E.] F. Orders concerning health care and disability.

* * * * *

[F.] G. Guardians. The permanency order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

Comment

When issuing a permanency 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 (1990)), for issues addressing a child’s mental and moral welfare.

Pursuant to paragraph (D), 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 1242(C)(2)(b) & (C) and 1330(B)(6) and Comment to Rules 1242, 1330, 1409, 1515, and 1609 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 62 P. S. 1301 et seq. See also Rules 1242(E)(3) and 1409(C) and Comment to Rules 1242, 1408, 1409, 1512, 1514, 1515, and 1608.

Pursuant to paragraph [(D)] (E), the court’s order is to address the child’s educational stability, including the right to an educational decision maker. The order should address the child’s right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child’s best interest; b) immediate enrollment when a school change is in the child’s best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 et seq.; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code

§ 3130.87, and 20 U.S.C. § 1400 et seq.; 4) the educational services necessary to support the child’s transition to independent living pursuant to 42 Pa.C.S. § 6351 if the child is sixteen or older; and 5) a transition plan that addresses the child’s educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days.

Pursuant to paragraph [(E)] (F), the court’s order is to address the child’s needs concerning health care and disability. The order should address the right of: 1) a child to receive timely and medically appropriate screenings and health care services pursuant to 55 Pa. Code §§ 3700.51 and 3800.32 and 42 U.S.C. § 1396d(r); 2) a child to a transition plan that addresses the child’s health care needs, and includes specific options for how the child can obtain health insurance after leaving care pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days; and 3) a child with disabilities to receive necessary accommodations pursuant to 42 U.S.C. § 12132; 28 C.F.R. § 35.101 et seq., Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 et seq. In addition, the court is to ensure progress and compliance with the child’s case plan for the ongoing oversight and coordination of health care services under 42 U.S.C. § 622(b)(15).

* * * * *

EXPLANATORY REPORT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on amendments to Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609 and adoption of new Rule 1149.

With the adoption of Act 55 of 2013 (P. L. 169, No. 25), the county agency is required to perform family finding on an ongoing basis in every case. These rule modifications and additions reflect these requirements and ensure the court is inquiring about family finding at each proceeding and making necessary orders to ensure compliance.

Rule 1120

Diligent Efforts, Family Finding, Kin, and Kinship Care have been defined to add the practitioner in understanding their usage throughout the Rules.

The definition of “Family Finding,” is derived from 62 P. S. § 1302.

The Comment to the rule gives examples of resources that may be utilized when performing diligent family finding searches. Counties should be creative when performing searches. Basis computer searches and attempting to contact relatives at last known addresses are insufficient as diligent family finding searches.

Rule 1149

This new rule sets forth the basic requirements of family finding. The court must inquire at each hearing whether the county agency has complied with the family finding requirements and whether it has been reasonably engaged in family finding. *See* paragraphs (A) & (B).

Efforts made by the county agency should include whether it has or is currently searching and finding adult relatives and kin; identifying and building positive connections between the child and the child’s relatives and kin; when appropriate, supporting the engagement of relatives and kin in social service planning and delivery of services, and creating a network of extended family

support to assist in remedying the concerns that lead the child to be involved with the county agency; when possible, maintaining family connections; and when in the best interests of the child and when possible, keeping siblings together in care.

Paragraph (C) sets forth the requirements for discontinuing family finding and paragraph (D) provides when family finding should be resumed. *See* 62 P. S. § 1301 *et seq.*

Rule 1210

Prior to the initial removal of the child from the home, it is important to ask whether the county agency has engaged in family finding. Reducing the initial trauma of removal from the home can be alleviated if there is an opportunity to place with family or kin when removal is necessary.

The county agency should be prepared to make a showing of its initial family findings efforts before the child is taken into protective custody.

Pursuant to paragraph (D), the court must place its findings and orders as to family finding in its court order for protective custody.

Rules 1242, 1408, 1409, 1512, 1514, 1515, 1608 & 1609

The county agency is required to report its diligent family findings efforts at each hearing. The court must make findings as to the county agency's reports to ensure family finding is occurring. If family finding efforts are not reasonable, the court must make necessary orders to ensure compliance.

Rule 1330

The petition must include an averment specifically detailing the efforts made by the county agency regarding family findings. Paragraphs (B)(6)(a) & (b) require averments addressing reasonable efforts made to prevent placement, including family finding efforts, and why there are no less restrictive alternatives available.

Rule 1514 & 1608

With Act 115 of 2010 (P. L. 1140, No. 115), the court is required to make a determination that if a sibling of a child has been removed from the home and is in a different setting than the child, whether reasonable efforts have been made to place the child and the sibling of the child together or whether such joint placement is contrary to the safety and well-being of the child or sibling.

If the siblings are not placed together, the court is to order visitation no less than twice a month unless a finding is made that visitation is contrary to the safety of well-being of the child or sibling.

[Pa.B. Doc. No. 13-2040. Filed for public inspection November 1, 2013, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated September 13, 2013, pursuant to Pennsylvania Rules of Disciplinary Enforce-

ment 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$200.00. The Order became effective October 18, 2013.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Andrews, Katherine Palmer
Atlanta, GA

Anwar, Ovais
Brookeville, MD

Arena, Jean Marlene
Lexington, KY

Barlow, Rebekah Marie
Delaware, OH

Battaglia, Lauren
San Rafael, CA

Bell, Eleanor Lorraine
Lorton, VA

Birmingham, Maureen E.
Alpharetta, GA

Blit, Matthew J.
New York, NY

Blough, Toni Marie
Ocean City, NJ

Bressman, Marc I.
Cherry Hill, NJ

Brown, Dylan Dean
Linwood, NJ

Brown, Robert
Oklahoma City, OK

Brown, Scott Franklin
Menomonee Falls, WI

Calcaterra, Regina Marie
New Suffolk, NY

Cappuccilli, Timothy John
Syracuse, NY

Carter, Kristin Hope
Lake Forest, IL

Carter, Leslie Nicole
Lake Forest, IL

Charles, Valerie Corene
Brooklyn, NY

Chiacchio, Michael P.
Hillsboro, OR

Chuey-Cosca, Mary Kay
Cincinnati, OH

Danziger, John Falzer
Flemington, NJ

De Mont, Ellen Hughes
McKinney, TX

DiCenso, Happy Melissa
Pepper Pike, OH

Downes, Lynne G.
Pawleys Island, SC

Egger, Mary H.
Fairfax, VA

Elias, Mazin Issam
Arlington, VA

Emandi, Rani
New York, NY

Espaillet, Joseph Gustavo
White Plains, NY

Finkelston, Timothy Jon
Columbia, MD

Fisher, Hugh William Patrick
Haddonfield, NJ

Fleming, Jeffrey E.
Wilmington, DE

Fodor, Christine Anne
Haddonfield, NJ

Garber, Adrienne Ann
New York, NY

Garrison, Christopher Walter
New York, NY

Garzio, Ronald Samuel
Hamilton, NJ

Gathany, Eleonora S.
Manteca, CA

Girgis, Sophie
Mount Laurel, NJ

Graves, Lisa Rachelle
Cross Plains, WI

Guzzi, Mark Earl
Forsyth, GA

Hatti, Aruna Kiran
Fullerton, CA

Heck, Andrew James
Cherry Hill, NJ

Helmrich, Ryan Frank
Skillman, NJ

Hoffman, Nicholas Pieter
Mequon, WI

Holmes, William George
Laurel Springs, NJ

Ippolito, Carl M.
Lambertville, NJ

Isaacson, Marcia Ruth
New York, NY

Johnson, Nancy
Fairfax, VA

Judge, Patrick, Jr.
Toms River, NJ

Kaiser, James Patrick, Jr.
Alameda, CA

Kaleda, David Christopher
Washington, DC

Katz, Steven Eric
Iselin, NJ

Keating, Maureen Katherine
Dunkirk, MD

Kim, Byungkuk
North Bergen, NJ

Kolli, HimaBindu
Newark, DE

Kolodner, Deborah E.
Cherry Hill, NJ

Kosmowski, Edward Joseph
Wilmington, DE

Lagay, Christopher P.
Cinnaminson, NJ

Lam, Ilana
Quincy, MA

Larin, Genevieve Sarah
Wilmington, DE

Leder, Debra Michelle
Fort Lauderdale, FL

Lee, Benedict
Annandale, VA

Lee, Tamara L.
Ithaca, NY

Levy, Jonathan Deitz
Princeton, NJ

Li, Feng
Parsippany, NJ

Macaluso, Adam Vincent
Reston, VA

Manion, William Louis
Medford, NJ

Manning, Dennis J., III
The Netherlands

Manton, Katie Nicole
Barrington, NJ

Maroccia, John Philip
Medford, NJ

Masciocchi, Thomas G.
Clementon, NJ

McCarren, Brian Patrick
Swampscott, MA

McCarty, William H., Jr.
Bristow, VA

McGinnis, Mary L.
North Cape May, NJ

McGowan, Joseph F., Jr.
Cherry Hill, NJ

McWilliams, Thomas John
Wilmington, DE

Medina, Victor Juan
Pennington, NJ

Millar, Fredrick Lloyd
Sacramento, CA

Miller, Michael D.
Haddonfield, NJ

Mitchell, Jerome David
Port Orange, FL

Mogul, Rubin
Collingswood, NJ

Morgan, Diana
Willingboro, NJ

Morris, Stefanie LaDawn
Newark, DE

Nelson, Larry N.
Dublin, OH

O'Handly, Colleen Lynn
Cinnaminson, NJ

O'Malley, Michael John
Somerset, NJ

Odabashian, Stephen A.
Hoboken, NJ

Oller, Richard S.
Delray Beach, FL

Omotalade, Kia-Jacquelyn N. R. O.
San Francisco, CA

Passaportis, Michael Stephen
Charlottesville, VA

Payton, Leslie Levi
St. Thomas, Virgin Islands

Perry, Alison Marie
Milford, CT

Picariello, Pasquale
Vineland, NJ

Pletcher, Caitlin
Cherry Hill, NJ

Potash, Vella R.
Pompano Beach, FL

Rasor, Michael Charles
Largo, FL

Raut, Anant Premanand
Washington, DC

Ray, Sumita
Cambridge, MA

Reid, Scott Edward
Baltimore, MD

Reinhard, Alicia Nancy
Pinecrest, FL

Riley, Matthew Barker
Alexandria, VA

Rooney, Rita Marie
Milton, MA

Ruggles, Meredith Christine
Washington, DC

Sahl, Brad Scott
Cary, NC

Segesdy, Scott Allen
Lexington Park, MD

Shaw, Kimberly Nicole
Washington, DC

Spence, Gregory Keith
New York, NY

Tamen, Emmanuel N.
Washington, DC

Terrell, Lori Elizabeth
Washington, DC

Thompson, Jason Fletcher
Palo Alto, CA

Torres, Janyd R.
Millsboro, DE

Ulbrick, Josef Trevor
Lawrence, KS

Vassallo, Carol L.
Clarksboro, NJ

Velez, Linda
Danbury, CT

Wade, Harry Calvin, III
Garfield Heights, OH

Weeks, Rachael Leah
Tuckahoe, NJ

Weiner, Richard J.
Juno Beach, FL

Wolseley, Lorianne Melissa
Brooklyn, NY

Yampell, Sandra Ellen
Washington, DC

Zabokritsky, Florence Daniela
Brooklyn, NY

Zerbee, David Edward
Fairfax, VA

Zucker, Scott Robert
Annandale, VA

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

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