

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendment of Pa.R.C.P. No. 1915.4-3

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 1915.4-3 governing non-record proceedings in custody cases, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

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

All communications in reference to the proposal should be received by November 13, 2015. 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 J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.4-3. Non-Record Proceedings. Trials.

(a) *Non-Record Proceedings.* In [**those jurisdictions that utilize**] **judicial districts utilizing** an initial non-record proceeding, such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial. [**Any**] **A** lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a **conference officer** or conciliator

[**or mediator**] or to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

(b) *Trial.* The trial before the court shall be de novo. The court shall hear the case and render a decision within the time periods set forth in [**Rule**] **Pa.R.C.P. No. 1915.4.**

PUBLICATION REPORT

The Domestic Relations Procedural Rules Committee (“Committee”) proposes amendment of Pa.R.C.P. No. 1915.4-3 (Non-Record Proceedings. Trial), as the rule relates to the use of attorney-mediators in custody cases. This rule has recently been amended to preclude attorneys serving as conciliators, mediators, or presiding over a non-record custody proceeding from practicing family law before conference officers, hearings officers and judges in the judicial district in which the attorney had been appointed or employed.

When the prior amendment was being considered, the Committee recognized that the judicial districts utilized various terms or titles to identify the person presiding over non-record proceedings. Therefore, “mediator” was added to the rule text to include those judicial districts where the term described the person presiding over non-record proceedings pursuant to Pa.R.C.P. No. 1915.4-3.

After the effective date of the most recent amendment, the Committee received input from members of the judiciary that Pa.R.C.P. No. 1915.4-3 operated to preclude attorneys who serve as mediators pursuant to Chapter 1940 from practicing family. The comments from the judiciary suggested mediators, unlike persons presiding over non-record proceedings, had no contact with the court and did not make recommendations to the court. The comments further contended that court-established mediation programs successfully resolve a significant number of custody cases that would otherwise proceed through an already overburdened custody docket.

The Committee recognizes the benefit that mediation provides to the courts and custody litigants in the amicable resolution of child custody cases. As set forth in Chapter 1940, mediation is a process for alternate dispute resolution of child custody cases; it is not a non-record proceeding as contemplated by Pa.R.C.P. No. 1915.4-3. Therefore, based upon this feedback, the Committee proposes amending the rule to eliminate “mediator” from the rule entirely.

This proposed amendment is not intended to encourage the use of “mediators” in this capacity as a means of circumventing the proscription. Rather, the amendment is intended to eliminate any endorsement that “mediators” serving pursuant to Chapter 1940 should be presiding over a non-record proceeding pursuant to Pa.R.C.P. No. 1915.4-3. The Committee’s proposed amendment provides for exclusion from practicing family law in the judicial district based solely on whether the attorney is presiding over the initial non-record proceeding, irrespective of the title held by the attorney in that capacity.

[Pa.B. Doc. No. 15-1681. Filed for public inspection September 18, 2015, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Administrative Judge Administrative Order; No. 01 of 2015

Order

And now, this 27th day of August, 2015, it appearing that the Administrative Orders and General Court Regulations identified in "Attachment A" have been supplanted, or are no longer effective or relevant, in order to avoid confusion and undue reliance on their provisions, *It Is Hereby Ordered and Decreed* that they are no longer in effect, and that as soon as practicable they be removed from the website of the First Judicial District of Pennsylvania and not be published in upcoming editions of the "Philadelphia County Court Rules" published by ALM Media Properties, LLC.:

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1; and with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended. This Order shall be filed with the Office of Judicial Records in a docket maintained for Orders issued by the First Judicial District of Pennsylvania, and one certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two certified copies of this Order, and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, shall be published in *The Legal Intelligencer*, and will be posted on the First Judicial District's website at <http://courts.phila.gov>. Copies shall be submitted to American Lawyer Media, the Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania.

By the Court

HONORABLE KEVIN M. DOUGHERTY,
*Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County*

Attachment A

General Court Regulations

- 93-3 Procedure for Continuing Compulsory Arbitration Hearings Pursuant to Pa.R.C.P. 216 and Phila.Civ. *1303.1
- 93-4 Procedure for Entry/Withdrawal of Appearance of Parties and/or Attorneys and for Change of Address for purpose of Giving Notice Pursuant to Pa.R.C.P. 236
- 93-5 Uninsured/Underinsured Savings Action
- 94-3 Mediation Program of Compulsory Arbitration Cases
- 95-1 Day Forward Program: Judicial Team Leader; Trial Division
- 96-1 Procedure for Assignment of Motions for Disposition in Day Backward Cases
- 96-2 Final Day Backward Program: Procedure for Disposition of Major Jury Cases Filed On And After July 5, 1993 And Before January 2, 1995

Administrative Orders

- 04 of 1993 Miscellaneous Docket/MC Appeals/Stat Appeals
- 05 of 1994 Procedure for Disposition of Municipal Court Appeals
- 08 of 1994 Day Backward Expert Discovery Cut-Off Dates for Cases Captioned January Term 1992 Through June Term, 1992
- 01 of 1995 Day Backward Expert Discovery and Motion Cut-Off Dates for Cases Captioned July Term, 1992 Through December Term, 1992
- 03 of 1995 Day Backward Discovery, Motion and Expert Discovery Cut-Off Dates for Cases Captioned January Term 1993 Through June Term 1993
- 1 of 1996 In re: Pennsylvania Rule of Civil Procedure No. 227.4(h)
- 04 of 1998 Alternative Procedure for Disposition of Uncontested or By Agreement Discovery Motions
- 06 of 1998 Scheduling Civil Trials Involving State Prisoners
- Notice to Bar In re: Notes of Testimony
- Notice to Bar In re: Arbitration/Arbitration Appeal on Jury Programs
- Notice to Bar Announcement that Dockets available on FJD Website
- 01 of 2001 In re: Appointment of Supervising Judges—Trial Division
- 02 of 2001 In re: Reactivation of Allegheny Hospital Medical Malpractice Cases which had been in Deferred Status
- 04 of 2001 In re: Septa Strike

11 of 2001	Vacated 94-01
02 of 2002	Deferment of PHICO Insurance Company Cases by reason of Order of Liquidation
03 of 2002	Deferment of Legion Insurance Company Cases by Reason of Order of Rehabilitation
04 of 2002	In re: Deferment of Villanova Insurance Company Cases by Reason of Order of Rehabilitation
05 of 2002	In re: Deferment of Legion Indemnity Company Cases by Reason of Order of Rehabilitation
01 of 2003	Deferment of White Hall Insurance Company and Its Insured by Reason of Order of Liquidation
01 of 2007	In re: Appointment of Supervising and Coordinating Judges Trial Division-Civil Section
2008-01	Order Implementing Electronic Filing as provided in Philadelphia Civil Rule *205.4

[Pa.B. Doc. No. 15-1682. Filed for public inspection September 18, 2015, 9:00 a.m.]

Title 25—LOCAL COURT RULES

HUNTINGDON COUNTY

Adoption of Local Central Court Rules: Hunt.Co.R.Crim.P. 106, 117, 131(b), 510, 540 and 543; CP-31-MD-158-2015; AO-5-2015

Administrative Order of Court

And Now, this 27th day of August, 2015, Local Central Court Rules, Hunt.Co.R.Crim.P. 106, 117, 131(b), 510, 540, and 543 as follows, are hereby *Adopted* and it is *Ordered* that:

1. The Huntingdon County District Court Administrator shall file one certified copy of each Rule with the Administrative Office of Pennsylvania Courts;
2. The Huntingdon County District Court Administrator shall distribute two certified copies of each Rule and a CD-ROM containing the text of the Rules to the Legislative Reference for publication in the *Pennsylvania Bulletin*.
3. The Huntingdon County District Court Administrator shall publish a copy of each Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.
4. The Huntingdon County Prothonotary shall ensure that the Rules are continuously available for public inspection in the office of Prothonotary.
5. These Rules shall become effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

GEORGE N. ZANIC,
President Judge

Hunt.Co.R.Crim.P. 106. Central Court Continuances.

1. Except as provided in subparagraph 2, all continuance requests shall be submitted in writing on the Central Court Continuance form and shall be submitted to the Office of Court Administration. Continuance forms will be made available through the Office of Court Administration.
2. The Court of Common Pleas shall grant or deny all Central Court continuance requests.
3. If a continuance request is granted by the presiding Magisterial District Judge in open Court:
 - a. The Magisterial District Judge shall (i) inform the Central Court Coordinator of the continuance and (ii)

inform the Central Court Coordinator which party is to be assigned responsibility for requesting the continuance.

b. The Central Court coordinator shall prepare and serve all parties with notice (Rescheduling Notice) of the new hearing date, time and place.

Hunt.Co.R.Crim.P. 117. Scheduling Procedures.

- A. The scheduling of Central Court proceedings shall be overseen by the District Court Administrator.
- B. The Office of Court Administration shall coordinate the scheduling of all cases assigned to Central Court for each Magisterial District Judge.

C. After docketing and processing criminal complaints, the staff of the issuing authority (MDJ Staff) will contact the Court Administrator's office to obtain dates and times for the scheduling of Central Court proceedings.

D. Unless otherwise directed by the President Judge, Preliminary Hearings shall be scheduled and held weekly on Wednesdays in Courtroom No. 1 of the Huntingdon County Courthouse, commencing at 8:45 a.m.

E. Unless otherwise directed by the President Judge, hearings to set bail and to provide defendants an opportunity to waive their preliminary hearings shall be scheduled and held every other week on Wednesdays in Courtroom No. 1 of the Huntingdon County Courthouse, commencing at 12:30 p.m.

F. Central Court is intended to be a forum to make preliminary disposition of criminal cases. It is not to be an informal meeting place to initiate settlement discussions.

1. Prosecuting attorneys and defense attorneys are urged to make contact with each other to discuss their cases prior to Central Court.
2. Magisterial District Judges are directed to conduct Central Court in an orderly and efficient manner.

Hunt.Co.R.Crim.P. 131(b). Central Court Overview.

A. Pursuant to Pa.R.Crim.P. 130(6) all proceedings in criminal cases, with the exception of preliminary arraignments, shall be heard in Magisterial District 20-0-00, regardless of the magisterial district in which the offense(s) are alleged to have occurred.

B. Magisterial District Judges will be assigned by the President Judge to preside at Central Court on a rotating basis. A list outlining the rotation will be prepared by the District Court Administrator and approved by the President Judge with an Assignment Order pursuant to Pa.R.Crim.P. 132.

1. Every effort should be made by the Magisterial District Judges to schedule vacation, personal time and other commitments at times when they are not scheduled for Central Court.

2. In the event of illness or other emergencies, a written request to appoint another Magisterial District Judge for Central Court shall be made to the District Court Administrator as soon as possible by hand delivery, fax or email.

C. The Magisterial District Judge in whose magisterial district a criminal case is assigned a criminal docket number and processed for Central Court is hereinafter referred to as the “issuing authority.”

D. The District Attorney and/or Assistant District Attorney and a representative from the Public Defender’s office shall be present at all sessions of Central Court.

E. The Central Court Coordinator shall be responsible for the day-to-day business of Central Court and shall be present in the courtroom for the processing of cases.

F. The prosecuting police agency shall be responsible for arranging transportation of incarcerated defendants to and from the courthouse for any required appearances in Central Court. In addition, the prosecuting police officer shall remain with the defendant(s) throughout all Central Court proceedings and shall escort the defendant(s) to and from the courtroom from a holding cell.

Hunt.Co.R.Crim.P. 510. Notice of Preliminary Hearing.

Upon the filing of a criminal complaint at the office of a Magisterial District Judge where there is neither an arrest warrant issued nor a preliminary arraignment conducted, the MDJ Staff shall contact the Office of Court Administration to obtain a date for the defendant to report for a hearing in Central Court.

a. The hearing shall be scheduled for not less than 20 days from the date of the mailing of the summons unless the issuing authority fixes an earlier date upon the request of the defendant or the defendant’s attorney with the consent of the affiant.

b. When a hearing date has been obtained by the MDJ Staff, the Magisterial District Judge shall issue an “Order to Appear for Central Court” and a “Hearing Notice” to the defendant.

c. The Order to Appear for Central Court shall be printed on the Magisterial District Judge’s letterhead, shall be signed by the Magisterial District Judge and shall have the seal of the Magisterial District Court affixed.

d. A copy of the Order to Appear for Central Court shall be retained in the MDJ case file. MDJ Staff shall date and initial this copy in the “Office Use Only” block as verification that they included the Order to Appear for Central Court with the Complaint and other documents which are mailed to the defendant.

e. The MDJ Staff shall send the defendant, by both certified mail and first class mail, the following:

i. The signed and sealed Order to Appear for Central Court.

ii. The Hearing Notice.

iii. An Informational or Instructions.

iv. The Complaint and Affidavit of Probable Cause.

v. A fingerprint order if applicable.

vi. An application for a public defender.

f. The MDJ Staff shall fax a copy of the criminal complaint, the affidavit of the probable cause and the

Hearing Notice to the Office of Court Administration, the Office of the District Attorney and the Office of the Public Defender.

Hunt.Co.R.Crim.P. 540. Procedure When a Criminal Complaint Is Filed.

When a criminal complaint is filed with a Magisterial District Judge, the case will be scheduled for Central Court as follows:

For a case in which the defendant was either (i) arrested by a warrant and given a preliminary arraignment before a Magisterial District Judge, or (ii) arrested on-site by police officers and brought before a Magisterial District Judge for a preliminary arraignment: The Magisterial District Judge will schedule a preliminary hearing in Central Court pursuant to Pa. Rule of Criminal Procedure 540(G)(1), i.e., the Magisterial District Judge shall “. . . fix a day and hour for a preliminary hearing which shall not be later than 14 days after the preliminary arraignment if the defendant is in custody and no later than 21 days if not in custody unless: (a) extended for cause shown; or (b) the issuing authority fixes an earlier date upon request of the defendant or defense counsel with the consent of the complainant and the attorney for the Commonwealth. . . .”

A. At the preliminary arraignment the defendant shall be provided with a Notice of Preliminary Arraignment, a Notice of Preliminary Hearing, a Public Defender Application and a copy of the complaint and affidavit of probable cause.

B. At the preliminary arraignment the police officer (affiant) shall be given a Notice of Preliminary Hearing.

C. The MDJ Staff shall fax a copy of the criminal complaint, the affidavit of probable cause, the Preliminary Hearing Notice and Commitment (if the defendant is incarcerated) to the Office of Court Administration, the Office of the District Attorney and the Office of the Public Defender.

Hunt.Co.R.Crim.P. 543. Procedure at Central Court.

A. The Office of Court Administration shall process all waivers of preliminary hearings and bail bonds in Central Court. Subsequently, the docket transcript, criminal complaint and other pertinent documents shall be forwarded to the Clerk of Courts for filing after disposition in Central Court.

B. In the event that the prosecution agrees to settle a case by withdrawing all felony and misdemeanor charges and allowing the defendant to plead guilty to a summary offense, the presiding Magisterial District Judge shall approve or disapprove the settlement in Central Court, subject to the terms set forth below in this paragraph.

1. If approved, the presiding Magisterial District Judge shall inform the defendant of the conditions set forth in subsection (2) below and instruct the defendant that he/she must comply with all of the settlement terms or the settlement will be automatically void with no further notice given, in which event the Central Court Administrator shall forthwith schedule or reschedule a preliminary hearing for the defendant.

2. The terms of settlement shall be that (i) the defendant pay a fine, plus the costs of prosecution and any restitution at the office of the issuing authority not later than 3:45 p.m. of the same day, and (ii) payment must be made in full with cash, certified check or money order only.

3. Following approval of the settlement in Central Court, the Central Court Administrator shall promptly notify the MDJ Staff at the office of the issuing authority of the settlement.

4. If the defendant appears at the office of the issuing authority by 3:45 p.m. and pays the fine, costs and restitution in full, as required, the MDJ Staff at the office of the issuing authority shall enter the disposition, accept payment and notify the Central Court Administrator of full compliance with the terms of settlement.

5. If the defendant fails to appear at the office of the issuing authority by 3:45 p.m., or if the defendant fails to pay the fine, costs and restitution in full as required, the MDJ Staff at the office of the issuing authority shall notify the Central Court Coordinator, whereupon the Central Court Coordinator shall promptly schedule or reschedule a preliminary hearing for that defendant.

6. In any case in which the defendant fails to appear for the preliminary hearing, if the issuing authority finds the defendant did not receive notice of the preliminary hearing by a summons served pursuant to Rule 511, a warrant of arrest shall be issued pursuant to Rule 509(2)(d).

a. If the issuing authority finds that there was cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a

specific date and time, giving notice of the new date, time, and place as provided in Rule 542(G)(2). In this scenario, the issuing authority shall not issue a bench warrant.

b. If the issuing authority finds the defendant was absent without cause but received notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority. In cases such as these, the issuing authority shall proceed with the case in the same manner as if the defendant was present. Following such cases, the issuing authority shall give the defendant notice by first class mail of the results of the preliminary hearing.

7. When the most serious offense charged against a defendant is a misdemeanor, the issuing authority, pursuant to Pa.R.Crim.P. 546, may dismiss the case upon a showing that (i) the public interest will not be adversely affected; (ii) the attorney for the Commonwealth, or in cases in which there is no attorney for the Commonwealth present, the affiant, consents to the dismissal; (iii) satisfaction has been made to the aggrieved person or there is an agreement that satisfaction will be made to the aggrieved person; and (iv) there is an agreement as to who shall pay the costs.

[Pa.B. Doc. No. 15-1683. Filed for public inspection September 18, 2015, 9:00 a.m.]