

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 81 ]

#### Amendment of Rule 8.4 of the Pennsylvania Rules of Professional Conduct; No. 213 Disciplinary Rules Doc.

#### Order

*Per Curiam*

And Now, this 26th day of July, 2021, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania, the proposal having been submitted without publication in the interests of justice and efficient administration pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 8.4 of the Rules of Professional Conduct is amended in the following form.

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

Justice Mundy files a dissenting statement.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

##### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

\* \* \* \* \*

#### MAINTAINING THE INTEGRITY OF THE PROFESSION

#### Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

\* \* \* \* \*

(g) in the practice of law, [ **by words or conduct, knowingly manifest bias or prejudice, or engage in** ] **knowingly engage in conduct constituting harassment or discrimination**[ , as those terms are defined in applicable federal, state or local statutes or ordinances, including but not limited to bias, prejudice, harassment or discrimination ] based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude advice or advocacy consistent with these Rules.

#### Comment:

\* \* \* \* \*

(3) For the purposes of paragraph (g), conduct in the practice of law includes [ **participation in activities that are required for a lawyer to practice law, including but not limited to continuing legal education seminars, bench bar conferences and bar association activities where legal education credits are offered** ] (1) **interacting with witnesses, coworkers, court personnel, lawyers, or others, while appearing in proceedings before a tribunal or in connection with the representation of a client;** (2) **operating or managing a law firm or law practice;** or (3) **participation in judicial boards, conferences, or committees; continuing legal education seminars; bench bar conferences; and bar association activities where legal education credits are offered. The term “the practice of law” does not include speeches, communications, debates, presentations, or publications given or published outside the contexts described in (1)—(3).**

(4) [ **The substantive law of antidiscrimination and anti-harassment statutes and case law guide application of paragraph (g) and clarify the scope of the prohibited conduct.** ] **“Harassment” means conduct that is intended to intimidate, denigrate or show hostility or aversion toward a person on any of the bases listed in paragraph (g). “Harassment” includes sexual harassment, which includes but is not limited to sexual advances, requests for sexual favors, and other conduct of a sexual nature that is unwelcome.**

(5) **“Discrimination” means conduct that a lawyer knows manifests an intention: to treat a person as inferior based on one or more of the characteristics listed in listed in paragraph (g); to disregard relevant considerations of individual characteristics or merit because of one or more of the listed characteristics; or to cause or attempt to cause interference with the fair administration of justice based on one or more of the listed characteristics.**

[ (5) ] (6) A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[ (6) ] (7) Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer’s abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

#### Dissenting Statement

#### Justice Mundy

I dissent from the adoption of Rule of Professional Conduct 8.4(g) in its current form and scope. In my view, the proposed amendments fail to cure the Rule’s unconstitutional nature as articulated by Judge Kenney in *Greenberg v. Haggerty*, 491 F.Supp.3d 12 (E.D. Pa. 2020).

[Pa.B. Doc. No. 21-1227. Filed for public inspection August 6, 2021, 9:00 a.m.]

## Title 207—JUDICIAL CONDUCT

### PART II. CONDUCT STANDARDS

[ 207 PA. CODE CH. 33 ]

#### Formal Advisory Opinion 2021-1

Notice is hereby given that the Ethics Committee of the Pennsylvania Conference of State Trial Judges has adopted its Formal Advisory Opinion 2021-1 which is set forth as follows.

LINDA ROVDER FLEMING,  
*Chairperson*  
*Ethics Committee of the*

*Pennsylvania Conference of State Trial Judges*

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART II. CONDUCT STANDARDS

#### CHAPTER 33. CODE OF JUDICIAL CONDUCT

##### Subchapter B. FORMAL OPINIONS

##### § 21-1. Reference Letters.

The Ethics Committee of the Pennsylvania Conference of State Trial Judges (“the Committee”) regularly receives inquiries regarding the propriety of sending reference letters and similar communications. Because these inquiries are frequent, the Committee previously issued Formal Advisory Opinions 93-1, 98-1, and 2015-1<sup>1</sup> to provide guidance to judicial officers subject to the Code of Judicial Conduct (“the Code”).<sup>2</sup> This Formal Advisory Opinion supersedes Formal Advisory Opinions 93-1, 98-1, and 2015-1.

##### *Applicable Provisions of the Code of Judicial Conduct*

The subject of reference letters<sup>3</sup> primarily implicates the principle set forth in Canon 1:

##### **Canon 1.**

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Specifically, Rule 1.3 is relevant to these inquiries:

##### **Rule 1.3. Avoiding Abuse of the Prestige of Judicial Office.**

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

The Code does not consider writing a reference letter to be an “abuse” of judicial office in all circumstances. Rather, Comment (2)<sup>4</sup> of the Rule specifically authorizes writing such a letter in certain circumstances:

##### **Comment (2)**

A judge may provide a reference or recommendation for an individual based upon the judge’s personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and

if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reasons of the judicial office.

##### *General Guidelines*

To provide further clarity, the Committee has adopted the following guidelines:

1. A judge should never write a reference letter for someone the judge does not personally know.

2. A judge may write a reference letter if it is the type of letter that would be written in the ordinary course of business (*e.g.*, a court employee seeking a reference regarding the employee’s work history) or a judge’s personal relationship. The letter should include a statement of the source and extent of the judge’s personal knowledge.

3. The letter ordinarily should be addressed directly to the person or entity for whose information it is being written. The “blank check” letter addressed “To Whom It May Concern” is discouraged because it is subject to indiscriminate circulation beyond the judge’s knowledge or control. In order to reduce the potential for the abuse of the prestige of office, the letter should describe the intended recipient with particularity (*e.g.*, “Managing Partner”, “Director of Operations”, *etc.*).

4. However, if the judge is concerned that a letter addressed to a particular person or entity might be construed as an attempt to exert pressure by reason of the judicial office, the more general salutation “To Whom It May Concern” may be used. For example, if the judge is writing a reference letter for a law clerk who seeks employment with a firm that regularly appears before the court, the general greeting may be more appropriate.

5. When a law clerk employed by the court seeks employment with an attorney or firm appearing before the court, the law clerk must comply with Rules of Professional Conduct 1.11(d) and 1.12(b) by advising the judge. The judge must determine whether it is advisable to write a reference letter under those circumstances, although the better course is to wait until the pending matter concludes.

6. Reference letters may be written by a judge for someone whom the judge knows personally and not professionally, such as a relative, close friend, neighbor, or student if the letters are the type that the judge would normally be requested to write as a result of the judge’s personal relationship. The relationship should be such that the judge ordinarily would be disqualified from hearing that person’s case. *See* RULE 2.11(A); FORMAL ADVISORY OPINION 2015-4 (DISQUALIFICATION AND RECUSAL).

7. Any letter that may be written by a judge may be written on official stationery as permitted by Rule 1.3, Comment (2).

8. The reference letter may not be written if the judge has reason to believe the letter may be used for purposes of litigation.

9. A judge writing a reference letter for someone who is the subject of a legal, investigative, or adjudicative proceeding must recognize that the mere writing of such a letter may be perceived as the judge abusing the prestige of judicial office by attempting to influence the process or result in violation of Rules 1.2, 1.3 and 3.1(D) of the Code. On the other hand, those legal, investigative, adjudicative or disciplinary entities may benefit from the judge’s knowledge about or experience with the subject of such

<sup>1</sup> The Committee issued Formal Advisory Opinions 93-1 and 98-1 under a prior version of the Code. The Committee issued Formal Advisory Opinion 2015-1 under the current version of the Code, effective July 1, 2014.

<sup>2</sup> CODE OF JUDICIAL CONDUCT, 42 PA.C.S.A. (enacted on January 8, 2014, and effective July 1, 2014).

<sup>3</sup> For purposes of this Formal Advisory Opinion, the term “reference letters” means and includes letters of recommendation.

<sup>4</sup> The Ethics Committee acknowledges that the effect of the Comments is unclear. The Pennsylvania Supreme Court adopted Canons 1 through 4 and the corresponding Rules by Order dated January 8, 2014; the Court made no mention of the Comments, although they are published with the Code. Nonetheless, the Ethics Committee uses the Comments to determine the purpose, meaning, and proper application of the Canons and Rules. This is consistent with the ABA’s Revised Model Code of Judicial Conduct (2007).

proceedings. For these reasons, the recommended practice is to respond to a request for information from such authorities, not to initiate a reference letter to them. The subject of such inquiries is able to notify the appropriate authorities of the judge's knowledge and ability, upon their request, to furnish a reference letter. Significantly, and as discussed below, in these circumstances, a judge must not comment on the character of the subject. See RULE 3.3, citing RULE OF JUDICIAL ADMINISTRATION, 1701(e).

#### Character "Testimony"

In pertinent part, Rule of Judicial Administration 1701(e) states: "No judge or magisterial district judge shall testify voluntarily as a character witness." See RULE OF JUDICIAL ADMINISTRATION, 1701(e). Rule 3.3 of the Code specifically incorporates Rule 1701(e) as "a canon of ethics for the purposes of Section 17 of the Judiciary Article." *Id.* Moreover, Rule 1.1 of the Code requires judges to comply with the law, including the Rules of Judicial Administration.

The Ethics Committee has interpreted the phrase "testify voluntarily as a character witness" in Rule 1701(e) to include writing a reference letter on behalf of an individual involved in legal, investigatory, or adjudicative proceedings—whether administrative, civil, criminal, or otherwise. If a judge is asked to write such a reference letter, it is inconsequential that the judge is not under oath. In these circumstances, which would include, but not be limited to, writing a reference letter on behalf of an individual in connection with sentencing, parole,<sup>5</sup> pardon, clemency, or discipline, a judge may not offer character evidence in any form without fully complying with Rule of Judicial Administration 1701, which requires and sets forth the procedure for obtaining a subpoena allowed by the Supreme Court. See RULE OF JUDICIAL ADMINISTRATION, 1701(b) ("No subpoena to compel a judge or magisterial district judge to testify as a character witness shall be issued or enforced unless the issuance of the subpoena shall have been specially allowed by the Supreme Court pursuant to this rule.").

This interpretation does not forbid a judge from commenting on character in other circumstances outside of legal, investigatory, or adjudicative proceedings, such as where the person is well-known by the judge and is seeking, for example, employment, education, appointment, admission, or award. The Ethics Committee does not consider the judge's comments in those situations to be "testi[mony]. . . as a character witness." For example, judges may be well-suited to comment on a law clerk's character when the law clerk is applying for employment, or on the character of a family friend who is applying to college; and it may be perfectly reasonable and appropriate to do so when the judge follows the General Guidelines above.

This approach, which either prohibits or conditionally permits statements of character depending in part on the purpose and target of the letter, recognizes the difficulty in drawing clear and meaningful distinctions between statements of character and similar statements regarding a person's abilities, qualities, personality, and demeanor, all of which may be extremely helpful to the recipient of the letter. Nonetheless, when writing any reference letter, a judge should be cautious and consider limiting the comments to facts and observations that avoid the complexities of a person's character.

<sup>5</sup> For example, a sentencing judge may, without addressing character, make a recommendation regarding parole, as specifically permitted by Section 6134(b) of the Prisons and Parole Act. See 61 PA.C.S.A. § 6134.

#### Conclusion

To summarize, reference letters may be written by a judge if they are of the type that would be written in the ordinary course of business or personal relationships. A judge must take care, however, to be sure that a person with an insubstantial relationship to the judge is not attempting to use the judge's office to advance personal interests. Significantly, a judge may not voluntarily provide character testimony—even in the form of a letter—on behalf of an individual involved in legal, investigatory, or adjudicative proceedings. Conversely, the Code does not forbid a judge from commenting on the character of certain persons in certain contexts, including those where the subject person is well-known by the judge and is seeking employment, education, appointment, admission, or award.

This Formal Advisory Opinion is intended to provide judicial officers subject to the Code of Judicial Conduct with broad guidance regarding one of the Committee's most frequent areas of inquiry. If a judicial officer subject to the Code has a question concerning the application of these guidelines, the judicial officer should make a specific, written request for advice from a member of the Committee. The Code provides that, although such opinions are not *per se* binding on the Judicial Conduct Board, the Court of Judicial Discipline, or the Supreme Court of Pennsylvania, action taken in reliance thereon shall be considered in determining whether discipline should be recommended or imposed. Judicial officers are reminded that they will not be subject to this "rule of reliance" based solely on their reading of this Formal Advisory Opinion.

[Pa.B. Doc. No. 21-1228. Filed for public inspection August 6, 2021, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CHS. 200 AND 1500 ]

#### Proposed Amendment of Pa.R.C.P. Nos. 216, 227.1, 234.6, 1558, 1559, 1565, 1569, 1571, 1572, 1573 and 1574

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rules 216, 227.1, 234.6, 1558, 1559, 1565, 1569, 1571, 1572, 1573, and 1574 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

Karla M. Shultz, Counsel  
 Civil Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9526  
 civilrules@pacourts.us

All communications in reference to the proposal should be received by September 24, 2021. 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 Civil Procedural  
 Rules Committee*

JOHN J. HARE,  
*Chair*

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

##### Rule 216. Grounds for Continuance.

[ (A) ] (a) The following are grounds for continuance:

(1) Agreement of all parties or their attorneys, if approved by the Court;

(2) Illness of counsel of record, a material witness, or a party. If requested a certificate of a physician shall be furnished, stating that such illness will probably be of sufficient duration to prevent the ill person from participating in the trial;

(3) Inability to subpoena or to take testimony by deposition, commission, or letters rogatory, of any material witness, shown by affidavit which shall state:

[ (a) ] (i) The facts to which the witness would testify if present or if deposed;

[ (b) ] (ii) The grounds for believing that the absent witness would so testify;

[ (c) ] (iii) The efforts made to procure the attendance or deposition of such absent witness; and

[ (d) ] (iv) The reasons for believing that the witness will attend the trial at a subsequent date, or that the deposition of the witness can and will be obtained.

(4) Such special ground as may be allowed in the discretion of the court;

(5) The scheduling of counsel to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether:

[ (a) ] (i) as counsel for a respondent-attorney before a hearing committee, [ **special master** ] **hearing officer**, the Disciplinary Board or the Supreme Court;

[ (b) ] (ii) as a [ **special master** ] **hearing officer** or member of a hearing committee; or

[ (c) ] (iii) as a member of the Disciplinary Board;

(6) The scheduling of counsel to appear at any proceeding involving the discipline of a justice, judge or magisterial district judge under Section 18 of Article V of the Constitution of Pennsylvania, whether:

[ (a) ] (i) as counsel for a justice, judge, or magisterial district judge before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board; or

[ (b) ] (ii) as a member of the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board.

[ (B) ] (b) Except for cause shown in special cases, no reason above enumerated for the continuance of a case shall be of effect beyond one application made in behalf of one party or group of parties having similar interests.

[ (C) ] (c) No application for a continuance shall be granted if based on a cause existing and known at the time of publication or prior call of the trial list unless the same is presented to the court at a time fixed by the court, which shall be at least one week before the first day of the trial period. Applications for continuances shall be made to the court, or filed in writing with the officer in charge of the trial list, after giving notice of such application by mail, or otherwise, to all parties or their attorneys. Each court may, by local rule, designate the time of publication of the trial list for the purposes of this rule.

[ (D) ] (d) No continuance shall be granted due to the absence from court of a witness duly subpoenaed, unless:

(1) Such witness will be absent because of facts arising subsequent to the service of the subpoena and which would be a proper ground for continuance under the provisions of Rule [ **216(A)** ] **216(a)**; or

(2) On the day when the presence of such witness is required a prompt application is made for the attachment of such absent witness; or

(3) The witness, having attended at court has departed without leave, and an application for attachment is made promptly after the discovery of the absence of such witness; or the court is satisfied that the witness has left court for reasons which would be a proper ground for continuance under Rule [ **216(A)** ] **216(a)**.

[ (E) ] (e) Each Court may adopt local rules providing for the temporary passing of cases or governing applications for continuance because of the absence of a witness, not a party, who has not been served with a subpoena.

[ (F) ] (f) Rule [ **216(B)—(E)** ] **216(b)—(e)** and Rule 217 shall not be applicable to a continuance granted for any of the reasons set forth in Rule [ **216(A)(5)** or **(6)** ] **216(a)(5)** or **(6)**.

##### Rule 227.1. Post-Trial Relief.

(a) After trial and upon the written Motion for Post-Trial Relief filed by any party, the court may

(1) order a new trial as to all or any of the issues; or  
 (2) direct the entry of judgment in favor of any party;  
 or

(3) remove a nonsuit; or

(4) affirm, modify or change the decision; or

(5) enter any other appropriate order.

**Official Note:** The motion for post-trial relief replaces the following motions and exceptions: motion for new trial, motion for judgment notwithstanding the verdict, motion upon the whole record after disagreement of a

jury, motion in arrest of judgment, motion to remove a nonsuit and exceptions following the decision of the judge in a trial without jury.

The following rules provide for the filing of exceptions, e.g., Equity Rule 1534 (exceptions to a fiduciary's account), Partition Rule 1569 (exceptions to a [ **master's** ] **hearing officer's** report) and Divorce Rule 1920.55-2 (exceptions to a [ **master's** ] **hearing officer's** report), Support Rule 1910.12(e) (exceptions to a hearing officer's report) and Execution Rule 3136(d) (exceptions to sheriff's schedule of proposed distribution).

\* \* \* \* \*  
**EXPLANATORY COMMENT—1983**  
\* \* \* \* \*

The term "exceptions" is used in the rules in contexts other than post-trial practice. No amendment is made to rules using the term in such other contexts. Thus under Rule 227, a party need not take "exception" to any ruling of the trial judge. A party must still file "exceptions" to an auditor's report under Rule 1530, a [ **master's** ] **hearing officer's** report under Partition Rule 1569, a hearing officer's report under Support Rule 1910.12, a [ **master's** ] **hearing officer's** report under Divorce Rule 1920.55 and a schedule of distribution under Execution Rule 3136.

\* \* \* \* \*

**Rule 234.6. Form of Subpoena.**

A subpoena issued pursuant to Rule 234.1 shall be substantially in the following form:

Commonwealth of Pennsylvania  
County of \_\_\_\_\_  
(Caption)

SUBPOENA TO ATTEND AND TESTIFY  
\* \* \* \* \*

**Official Note:** This form of subpoena shall be used whenever a subpoena is issuable under Rule 234.1, including hearings in connection with depositions and before arbitrators, [ **masters** ] **hearing officers**, commissioners, etc.

To require the production of documents or things in addition to testimony, complete paragraph 2.

\* \* \* \* \*

**CHAPTER 1500. EQUITABLE RELIEF**

**Subchapter B. PARTITION OF REAL PROPERTY**

Rule 1558. Preliminary Conference. Appointment of [ **Master** ] **Hearing Officer.**

(a) The court, after the entry of the order directing partition, shall direct the parties or their attorneys to appear for a preliminary conference to consider

- (1) whether the parties can agree upon a plan of partition or sale;
- (2) the simplification of the issues;
- (3) whether any issues or matters relating to the carrying out of the order of partition shall be referred to a [ **master** ] **hearing officer**; and
- (4) such other matters as may aid in the disposition of the action.

(b) The court, at any time after the preliminary conference, may appoint a [ **master** ] **hearing officer** to hear

the entire matter or to conduct any sale, or to act upon only specified issues or matters relating to the carrying out of the order of partition.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

Rule 1559. [ **Master** ] **Hearing Officer.** Hearing.

A [ **master** ] **hearing officer** who is appointed by the court shall make such examinations and hold such hearings as may be necessary, giving reasonable notice thereof. The [ **master** ] **hearing officer** may employ appraisers and, with the authorization of the court, such other experts as are necessary to enable the [ **master** ] **hearing officer** to perform [ **his or her** ] the duties of the appointment.

**Rule 1565. Retention of Undivided Interests. Election. Parties not Appearing.**

(a) The court shall permit the shares of any two or more co-tenants to remain undivided between them if they so elect by writing filed within such time as the court or [ **master** ] **hearing officer** shall direct.

(b) The court may permit the shares of any two or more co-tenants who do not appear in the action to remain undivided between them.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

Rule 1569. [ **Master's** ] **Hearing Officer's** Report. Exceptions.

(a) A [ **master** ] **hearing officer** who is appointed by the court shall file a report with respect to the matters submitted. The report shall follow the form of decision in Rule 1570, insofar as the scope of the reference to the [ **master** ] **hearing officer** permits.

(b) The [ **master** ] **hearing officer** shall give all persons in interest written notice of the date on which [ **he or she** ] the hearing officer intends to file the report and proposed order and shall specify an address within the county where they may be examined. The [ **master** ] **hearing officer** may change the report and proposed order as [ **he or she** ] the hearing officer deems proper before filing them, but if any changes are made written notice thereof shall be given to all parties.

(c) Within ten days after notice of the filing of the report exceptions may be filed by any party to rulings on evidence, to findings of fact, to conclusions of law and to the proposed order. The court may, with or without taking testimony, remand the report, or enter a decision in accordance with Rule 1570 which may incorporate by reference the findings and conclusions of the [ **master** ] **hearing officer** in whole or in part.

**Rule 1571. Trustees to Satisfy Liens and Charges.**

(a) The court, upon motion of any party or person in interest, or upon recommendation of the [ **master** ] **hearing officer**, may appoint a trustee to receive payment of

- (1) any sum due any party or person in whose favor a lien exists and who is unknown or cannot be found;
- (2) a principal sum necessary to secure the payment of any amount charged upon property to be partitioned;
- (3) the purchase price of any property sold in partition which is subject to a life estate and remainder.

(b) The trustee shall, upon entry of such security as the court shall direct and upon payment of the sums decreed, be authorized to satisfy of record any lien, whereupon the property shall be freed and discharged from such lien.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1572. Sale not Confined to Parties.**

(a) A sale not confined to the parties shall be conducted in such manner and upon such terms as the court shall direct by local rule or in the order of sale. It shall be subject to the power of the court to order a resale because of inadequacy of price.

(b) A public sale shall be held at such time and place as the court may direct. It shall be advertised in each county where any part of the property lies.

(c) A purchaser who is a party or a lien holder whose lien is discharged by the sale shall be allowed a credit equal to the amount of his or her distributive interest in the purchase price, less any charges assessed against him or her. The excess of the bid shall be paid in cash.

(d) If the court directs a [ **master** ] **hearing officer** to conduct the sale, the [ **master** ] **hearing officer** before accepting payment for the property shall file a bond in double the amount of the payment or in such lesser amount as shall be fixed by the court.

**Rule 1573. Return of Sale and Schedule of Distribution.**

(a) Where the sale has been conducted by a [ **master** ] **hearing officer**, the [ **master** ] **hearing officer** shall promptly file with the prothonotary a return of sale together with a proposed order which shall

- (1) confirm the sale;
- (2) authorize the [ **master** ] **hearing officer** to execute and deliver to the purchaser all necessary deeds and other instruments of title;
- (3) contain appropriate provisions for the protection of life tenants, unborn and unascertained remaindermen, persons whose whereabouts are unknown, or other persons in interest and for the release or discharge of such interests;
- (4) direct distribution of the proceeds to the persons or parties entitled; and
- (5) provide for the payment of costs.

(b) The [ **master** ] **hearing officer** shall give all persons in interest written notice of the date on which [ **he or she** ] **the hearing officer** intends to file the return of sale and proposed order and shall specify an address within the county where they may be examined. The [ **master** ] **hearing officer** may change the return of sale and proposed order as [ **he or she** ] **the hearing officer** deems proper before filing them, but if any changes are made written notice thereof shall be given to all parties.

(c) If the court approves the return of sale in whole or in part, the court shall enter an appropriate order. Any part of the order as to which a motion for post-trial relief is not filed within ten days shall become final.

**Rule 1574. Costs and Counsel Fees.**

Costs shall be paid by the parties in proportion to their interests in the property. The compensation of appraisers,

the [ **master's** ] **hearing officer's** fee and compensation of experts authorized by the court shall be taxed as part of the costs. Reasonable counsel fees may be charged against the property or fund resulting therefrom, and apportioned among the parties and their counsel in such amount and manner as the court shall deem equitable.

**Official Note:** adopted April 26, 1955, effective November 1, 1955; amended September 1, 1958, effective forthwith.

**PUBLICATION REPORT**

Pursuant to multiple requests, the Civil Procedural Rules Committee is considering proposing amendments to the Rules of Civil Procedure that replace the terms "master" and "special master" with "hearing officer." They include Pa.R.C.P. Nos. 216, 227.1, 234.6, 1558, 1559, 1565, 1569, 1571, 1572, 1573, and 1574.

The purpose of the proposed amendments is to two-fold. First, while the term "master" has traditionally identified a quasi-judicial officer and is considered neutral in legal proceedings, a pejorative connotation has been ascribed to the term in modern parlance outside of court. Second, the term has been either already replaced or proposed to be replaced in other bodies of rules. *See* 47 Pa.B. 2313 (April, 22, 2017) (amendments to the Rules of Juvenile Court Procedure) and 51 Pa.B. 1006 (February 27, 2021) (proposed amendments to the Rules of Civil Procedure Governing Domestic Relations proceedings). In addition, the Committee has observed that a number of judicial districts have also changed this terminology in their local rules.

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rule-making.

[Pa.B. Doc. No. 21-1229. Filed for public inspection August 6, 2021, 9:00 a.m.]

**Title 231—RULES OF CIVIL  
PROCEDURE**

**PART I. GENERAL**

**[ 231 PA. CODE CH. 1300 ]**

**Proposed Amendment of Pa.R.C.P. No. 1311.1**

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rule 1311.1 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

Karla M. Shultz, Counsel  
 Civil Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9526  
 civilrules@pacourts.us

All communications in reference to the proposal should be received by September 24, 2021. 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 Civil Procedural  
 Rules Committee*

JOHN J. HARE,  
 Chair

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1300. ARBITRATION

#### Subchapter A. COMPULSORY ARBITRATION

#### Rule 1311.1. Procedure on Appeal. Admission of Documentary Evidence.

(a) The plaintiff may elect [ **a limit of \$25,000.00** ] **an amount equal to the jurisdictional limit for compulsory arbitration of the judicial district in which the action was filed** as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators. The election shall be filed and served upon every other party at least [ **thirty** ] **30** days from the date the appeal is first listed for trial. The election may be withdrawn at any time by agreement of the parties. If the parties cannot agree, upon plaintiff's motion to withdraw the election, the court may grant the withdrawal of the election upon good cause shown.

**Official Note: The jurisdictional limit for compulsory arbitration is set forth in Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361. Each judicial district is required pursuant to Rule 1301 to specify in a local rule the jurisdictional amount for actions that are submitted to compulsory arbitration.**

(b) If the plaintiff has filed and served an election as provided in subdivision (a), any party may offer at trial the documents set forth in Rule 1305(b)(1). The documents offered shall be admitted if the party offering them has provided written notice to every other party of the intention to offer the documents at trial at least [ **twenty** ] **20** days from the date the appeal is first listed for trial. The written notice shall be accompanied by a copy of each document to be offered.

**Official Note:** The deadline for providing notice of the intention to use the procedures of this subdivision may be altered by the court upon cause shown, provided that no party is prejudiced.

The term "plaintiff" includes a defendant who is the plaintiff in a counterclaim.

(c) A document which is received into evidence under subdivision (b) may be used for only those purposes which would be permissible if the person whose testimony is waived by this rule were present and testifying at the hearing. The court shall disregard any portion of a

document so received that would be inadmissible if the person whose testimony is waived by this rule were testifying in person.

(d) Any other party may subpoena the person whose testimony is waived by this rule to appear at or serve upon a party a notice to attend the trial and any adverse party may cross-examine the person as to the document as if the person were a witness for the party offering the document. The party issuing the subpoena shall pay the usual and customary fees and costs of the person subpoenaed to testify, including a usual and customary expert witness fee if applicable.

(1) If another party subpoenas or otherwise arranges for the attendance at trial of the person whose testimony is waived by this rule, the document may be presented to the judge or jury as direct examination as if the person has not been subpoenaed by another person, or the plaintiff may conduct a direct examination of the witness.

(2) Any party, or the person subpoenaed, may require that the testimony be given by deposition pursuant to [ **Pa.R.C.P.** ] **Rule** 4020(a)(5). The party issuing the subpoena shall pay the witness's usual and customary fee for such testimony.

(e) The election required by subdivision (a) shall be substantially in the following form:

#### (Caption)

#### Election to Limit Monetary Recovery Pursuant to Rule 1311.1

To: \_\_\_\_\_  
 (Name of Party/Parties)

\_\_\_\_\_, plaintiff, elects \$[ **25,000.00** ]  
 \_\_\_\_\_ as the maximum amount of damages recoverable upon the trial of the appeal from the award of arbitrators in the above captioned action.

\_\_\_\_\_  
 (Name of Plaintiff)

\_\_\_\_\_  
 (Attorney for Plaintiff)

\_\_\_\_\_  
 Date

**Official Note:** The term "plaintiff" includes a defendant who is the plaintiff in a counterclaim.

A plaintiff may include in a single document the election and the notice of intent to offer documents.

(f) The notice required by subdivision (b) shall be substantially in the following form:

#### (Caption)

#### Notice of Intent to Offer Documentary Evidence Pursuant to Rule 1311.1

To: \_\_\_\_\_  
 (Name of Party/Parties)

\_\_\_\_\_, (Plaintiff, Defendant, Additional Defendant), intends to offer the documents attached hereto at the trial of the appeal from the

award of arbitrators, in the manner provided by Rule of Civil Procedure 1311.1. The following documents are attached (list all documents to be offered):

1. \_\_\_\_\_ .
2. \_\_\_\_\_ .

\_\_\_\_\_  
(Name of Party)

\_\_\_\_\_  
(Attorney for Party)

\_\_\_\_\_  
Date

**PUBLICATION REPORT**

Pursuant to a request, the Civil Procedural Rules Committee is considering proposing the amendment of Pa.R.C.P. No. 1311.1 governing the limit a party may elect as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators. Rule 1311.1 currently sets the maximum amount recoverable at \$25,000. The proposed amendment would establish the maximum amount of damages recoverable equal to the jurisdictional limit of compulsory arbitration in the judicial district in which the action was brought.

Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361(b) sets the jurisdictional limit for compulsory arbitration: “No matter shall be referred [to compulsory arbitration]. . . where the amount in controversy, exclusive of interests and costs, exceeds \$50,000.” *Id.* Rule 1311.1 waives the necessity of testimony by a witness as a prerequisite to the admission of documentary evidence in an arbitration proceeding under Rule 1305(b). The rule applies to arbitration appeals in which the “plaintiff elects a limit of \$25,000.00 as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators.”

The Committee observed that not every judicial district sets its compulsory arbitration limit at \$50,000—approximately 15 judicial districts use a lower amount. In practice, the disconnect between the jurisdictional limit for arbitration and the maximum amount of damages permitted under Rule 1311.1 creates an unfair advantage to a defendant who appeals an award of arbitrators to the trial court knowing that the award on appeal will be lower than the award of the arbitrators. The proposed amendment of Rule 1311.1 is intended to eliminate this advantage by establishing that the maximum amount of damages is equal to the compulsory arbitration limit in each judicial district.

Accordingly, subdivision (a) would be amended to replace the current \$25,000 limit with “an amount equal to the jurisdictional limit for compulsory arbitration of the judicial district in which the action was filed. . .” A note would also be added to cross-refer to Section 7361(b) of the Judicial Code providing for the jurisdictional limit for compulsory arbitration and to Rule 1301 to indicate that the limit for a judicial district is set by local rule. In addition, some minor stylistic revisions are also proposed.

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rule-making.

[Pa.B. Doc. No. 21-1230. Filed for public inspection August 6, 2021, 9:00 a.m.]

**Title 231—RULES OF CIVIL PROCEDURE**

**PART II. ORPHANS’ COURT RULES**

[ 231 PA. CODE PART II ]

**Order Amending Rule 1.5 and Rescinding and Replacing Rules 15.1 through 15.9 of the Pennsylvania Orphans’ Court Rules, Pennsylvania Orphans’ Court Forms 15.6, 15.8 and 15.9, and Paragraph (F) of the Index to the Appendix of the Forms of the Pennsylvania Orphans’ Court Rules; No. 874 Supreme Court Rules Doc.**

**Order**

*Per Curiam*

And Now, this 22nd day of July, 2021, upon the recommendation of the Orphans’ Court Procedural Rules Committee; the proposal having been published for public comments at 41 Pa.B. 2932 (June 11, 2011), 43 Pa.B. 6321 (October 26, 2013), and 46 Pa.B. 332 (January 16, 2016), it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

- 1) Pennsylvania Orphans’ Court Rule 1.5 is amended; and
- 2) Pennsylvania Orphans’ Court Rules 15.1 through 15.9, Pennsylvania Orphans’ Court Forms 15.6, 15.8, and 15.9, and Paragraph (F) of the Index to the Appendix of the Forms of the Pennsylvania Orphans’ Court Rules are rescinded and replaced;

in the following form. This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective July 1, 2022.

(*Editor’s Note:* See 51 Pa.B. 4313 for an Order related to this Order.)

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART II. ORPHANS’ COURT RULES**

**CHAPTER I. PRELIMINARY RULES**

**Rule 1.5. Local Rules.**

(a) All previously promulgated local rules are hereby vacated, effective September 1, 2016, except for those local rules promulgated under Chapter XIV regarding guardianship of incapacitated persons, Chapter XV regarding adoptions, and Chapter XVI regarding proceedings pursuant to Section 3206 of the Abortion Control Act.

(b) All previously promulgated local rules under Chapter XIV regarding guardianship of incapacitated persons are hereby vacated, effective June 1, 2019.

**(c) All previously promulgated local rules under Chapter XV regarding adoptions are hereby vacated, effective July 1, 2022.**

[ (c) ] (d) The requirements for the promulgation and amendment of local procedural rules for orphans’ court proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

[ (d) ] (e) The local rules applicable to practice in the Civil or Trial Division of the local Court of Common Pleas shall not be applicable in the Orphans’ Court Division unless so directed by these Rules or by local rule adopted

by the court of the particular judicial district in accordance with Pa.R.J.A. No. 103(d).

**Note:** Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa. O.C. Rule 1.5 for the promulgation and amendment of local procedural rules for orphans' court proceedings were rescinded and replaced.

#### CHAPTER XV. Adoptions

*(Editor's Note:* Rule 15 of the Orphans' Court Rules, which appears in 231 Pa. Code pages 15-1 to 15-11, serial pages (382159) to (382160) and (366187) to (366195) are reserved and replaced with the following new rules.)

#### Rules 15.1—15.9. (Reserved).

##### Rule

- 15.1. Local Adoption Rules.
- 15.2. Definitions.
- 15.3. Prerequisites for any Petition to Terminate Parental Rights or Petition to Adopt.
- 15.4. Notice of Hearing to Terminate Parental Rights; Method and Time.
- 15.5. Certification Filed with the Clerk Maintaining the Dependency Docket.
- 15.6. Filing of Termination Petitions when an Agency is Not Involved.
- 15.7. Voluntary Relinquishment to Agency.
- 15.8. Voluntary Relinquishment to Adult Intending to Adopt Child.
- 15.9. Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption.
- 15.10. Involuntary Termination of Parental Rights.
- 15.11. Notice of Right to File Statement of Medical, Personal, or Social History Information.
- 15.12. Court Review and Approval of Contact Agreement.
- 15.13. Adoption.
- 15.14. Registration of Foreign Adoption Decree.
- 15.15. Petition for Adoption of a Foreign Born Child.
- 15.16. Notice and Service in Subsequent Petitions Regarding Contact Agreements.
- 15.17. Petition to Modify a Contact Agreement.
- 15.18. Petition to Enforce a Contact Agreement.
- 15.19. Petition to Discontinue a Contact Agreement.
- 15.20. Collection of Documents and Maintenance of Court File.
- 15.21. Privacy; Withholding the Court File from Inspection.
- 15.22. Dissemination and Release of Information in the Court File.

#### Rule 15.1. Local Adoption Rules.

The practice and procedure with respect to adoptions shall be as provided by Act of Assembly and the Rules under this Chapter XV. Local rules further regulating the practice and procedure with respect to adoptions may be promulgated in accordance with Rule 1.5, provided such local rules shall not be inconsistent with these Rules and the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.*

#### Rule 15.2. Definitions.

In addition to the terms and definitions provided in Rule 1.3, the following words and phrases when used in Chapter XV shall have the following meaning:

*“Adopted Child”* or *“Adopted Individual”*—any individual for whom a decree of adoption has been entered in accordance with 23 Pa.C.S. § 2902 after a hearing, or in accordance with the laws of another country or state of a similar import;

*“Adoptee”*—an individual as defined in 23 Pa.C.S. § 2102;

*“Agency”*—an entity or organization providing adoption services as defined in 23 Pa.C.S. § 2102 or 23 Pa.C.S. § 2732, as applicable;

*“Authorized Representative”*—an individual as defined in 23 Pa.C.S. § 2911 trained by the Department to handle certain requests for identifying information and to search for the subject of the request as necessary;

*“Birth Relative”*—an individual as identified in 23 Pa.C.S. § 2732;

*“Child”*—an adoptee or adopted individual who is a minor, or the individual whose parent's rights are the subject of a termination proceeding;

*“Clerk”*—the clerk or department as defined in 23 Pa.C.S. § 2102;

*“Contact Agreement”*—a voluntary written agreement between a Prospective Adoptive Parent and a birth relative that is executed and approved by the court in accordance with 23 Pa.C.S. §§ 2731 *et seq.* and provides for continuing post-adoption contact or communication between the adopted child and the birth relative or between the adoptive parent and the birth relative;

*“Court”*—the division of the Court of Common Pleas conducting any proceeding under the Adoption Act;

*“Department”*—the Department of Human Services of the Commonwealth;

*“Intermediary”*—any person or agency arranging an adoption placement as defined in 23 Pa.C.S. § 2102;

*“Minor”*—a person who has not attained 18 years of age;

*“Presumptive Father”*—the man married to the child's mother at any time during the one-year period prior to the child's birth;

*“Prospective Adoptive Parents”*—individuals with whom the adoptee has been placed for the purpose of adoption, or who have filed a report of intention to adopt under 23 Pa.C.S. § 2531;

*“Putative Father”*—an alleged birth father whose parental status has not been legally established and who is not a presumptive father;

*“Statement of medical, personal, or social history information”*—the information concerning an adopted individual or the birth family of an adopted individual as set forth in 23 Pa.C.S. §§ 2102, 2911. The Rules in this Chapter use the term “statement of medical, personal, or social history information” because the Adoption Act refers to these statements in varying ways. Compare 23 Pa.C.S. §§ 2503(e), 2504(d), 2511(c) with 23 Pa.C.S. §§ 2923, 2934.

**Explanatory Comment:** In Philadelphia County, jurisdiction over adoptions, terminations of parental rights, birth records, and related proceedings is exercised

through the Family Court Division of the Philadelphia Court of Common Pleas. 20 Pa.C.S. § 713. In all other counties, family court judges who have adjudicated a child dependent, conducted permanency hearings, or conducted other dependency proceedings may be assigned to the Orphans' Court Division for purposes of hearing petitions to terminate parental rights or petitions to adopt a dependent child. 42 Pa.C.S. § 6351(i).

**Rule 15.3. Prerequisites for any Petition to Terminate Parental Rights or Petition to Adopt.**

(a) *Separate Petitions for Each Child and Any Adoptee.* Separate petitions must be filed for each child or adult adoptee who is the subject of a proceeding under Rule 15.7 (Voluntary Relinquishment to Agency), Rule 15.8 (Voluntary Relinquishment to Adult Intending to Adopt Child), Rule 15.9 (Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption), Rule 15.10 (Involuntary Termination of Parental Rights), Rule 15.12 (Court Review and Approval of Contact Agreement), Rule 15.13 (Adoption), Rule 15.14 (Registration of Foreign Adoption Decree), Rule 15.15 (Petition for Adoption of a Foreign Born Child), Rule 15.17 (Petition to Modify a Contact Agreement), Rule 15.18 (Petition to Enforce a Contact Agreement), and Rule 15.19 (Petition to Discontinue a Contact Agreement).

(b) *Filing of Original Birth Certificate.* Unless previously filed, the child's original birth certificate or certification of registration of birth shall be filed when the petition to terminate parental rights is filed, and the clerk shall make the original birth certificate or certification of registration of birth part of the court file pertaining to that child.

**Explanatory Comment:** For the following reasons, a separate petition must be filed for each child and any adult adoptee who is the subject of any one of the enumerated proceedings: (i) privacy concerns; (ii) better and more accurate data collection, especially if siblings do not share the same birth parents; and (iii) facilitating appellate proceedings if an appeal from an order terminating parental rights is taken as to only one of the involved children. The court in its discretion may consolidate separate petitions for any hearing.

A county agency unduly burdened by the costs of filing separate petitions for a group of siblings may petition the court for relief from such filing costs. It is anticipated that such petitions for relief would be made only when the costs are burdensome.

**Rule 15.4. Notice of Hearing to Terminate Parental Rights; Method and Time.**

(a) *Contents of Notice; Service of Notice and Copies to Others.*

(1) For a petition filed under Rule 15.7 (relating to Voluntary Relinquishment to Agency) or Rule 15.8 (relating to Voluntary Relinquishment to Adult Intending to Adopt Child), notice shall be in the form and served upon the individuals as provided in 23 Pa.C.S. § 2503(b).

(2) For a petition filed under Rule 15.9 (relating to Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption), notice shall be in the form provided in 23 Pa.C.S. § 2513(b) and served upon the individuals as provided in 23 Pa.C.S. § 2504(b).

(3) For a petition filed under Rule 15.10 (relating to Involuntary Termination of Parental Rights), notice shall be in the form and served upon the individuals as provided in 23 Pa.C.S. § 2513(b).

(b) *Method of Notice.*

(1) For a proceeding under Rule 15.7 (relating to Voluntary Relinquishment to Agency) or Rule 15.8 (relating to Voluntary Relinquishment to Adult Intending to Adopt Child), every person whose parental rights are sought to be terminated in the proceeding and any other person entitled to notice under 23 Pa.C.S. § 2503(b) shall be provided with notice of the hearing by one of the following means:

(A) personal service;

(B) registered or certified mail with delivery restricted to the addressee only and a return receipt requested, or first-class United States mail postage prepaid, mailed to the person's residence, location where he or she is known to be staying, or business where he or she is known to be currently employed;

(C) electronic transmission provided such person has signed a writing consenting that notice be sent by electronic transmission, providing an electronic mail address or social media account to which such notice shall be sent, and verifying that he or she regularly accesses and reviews such electronic mail address or social media account; or

(D) such other means including electronic transmission as the court may require under the facts of the individual case. Any person entitled to notice of the hearing may waive in writing such notice.

(2) For a proceeding under Rule 15.9 (relating to confirming consent as an Alternative Procedure for Relinquishment), every person whose parental rights are sought to be terminated in the proceeding and any other person entitled to notice under 23 Pa.C.S. § 2504(b) shall be provided with notice of the hearing by one of the following means:

(A) personal service;

(B) registered or certified mail with delivery restricted to the addressee only and a return receipt requested mailed to the person's residence, location where he or she is known to be staying, or business where he or she is known to be currently employed;

(C) electronic transmission provided such person has signed a writing consenting that notice be sent by electronic transmission, providing an electronic mail address or social media account to which such notice shall be sent, and verifying that he or she regularly accesses and reviews such electronic mail address or social media account; or

(D) such other means including electronic transmission as the court may require under the facts of the individual case.

Any person entitled to notice of the hearing may waive in writing such notice.

(3)(A) For a proceeding under Rule 15.10 (relating to Involuntary Termination of Parental Rights), every person entitled to notice as provided in 23 Pa.C.S. § 2513(b) shall be provided with notice of the hearing by one of the following means:

(i) personal service;

(ii) registered or certified mail with delivery restricted to the addressee only and a return receipt requested mailed to the person's residence, location where he or she is known to be staying, or business where he or she is known to be currently employed; or

(iii) such other means including electronic transmission as the court may require under the facts of the individual case.

(B) If the identity and location of the person whose parental rights are sought to be involuntarily terminated are known or can be determined after reasonable investigation, a copy of the petition for involuntary termination of parental rights shall be attached to the notice required by 23 Pa.C.S. § 2513(b).

(C) A person who is not the subject of the proceeding and whose parental rights are not sought to be terminated in the proceeding but who is entitled to receive notice of the hearing under 23 Pa.C.S. § 2513(b) may waive in writing such notice.

(4) If service cannot be obtained upon the person whose parental rights are sought to be terminated either because service is refused or unsuccessful and no alternative service is directed by the court or because the person's identity or whereabouts are unknown after reasonable investigation, then notice by publication shall be given as directed by the court, after a motion in accordance with Pa.R.C.P. No. 430(a) and upon a finding by the court that a reasonable investigation was made.

(A) In addition to any other requirements that may be imposed by the court, the publication notice shall include the last name of the birth mother, the date of the child's birth, the place of the child's birth and the child's gender. The publication notice shall include the contents of the notice required by 23 Pa.C.S. § 2503(b) or 23 Pa.C.S. § 2513(b), as applicable, but shall not include notice of the opportunity for a birth relative of the child to enter into a Contact Agreement.

(B) The publication notice shall direct the person whose parental rights are sought to be terminated to contact the petitioner or counsel for the petitioner as set forth in the notice to obtain a copy of the petition prior to the hearing.

(C) Publication shall occur once in a newspaper of general circulation for the county where the birth parent whose rights are sought to be terminated resides, or if not known, the place where the child was conceived.

(5) If service cannot be obtained upon a person who is not the subject of the proceeding and whose parental rights are not sought to be terminated in the proceeding but who is entitled to receive notice of the hearing under 23 Pa.C.S. § 2503(b), § 2504(b), or § 2513(b), and service could not be obtained either because service is refused or unsuccessful or because the person's identity or whereabouts are unknown after reasonable investigation, no further service of the notice shall be required.

(6) Once service has been obtained in a manner as provided upon the person whose parental rights are sought to be terminated, all persons entitled to receive any subsequent legal paper or notice may be served by hand delivery, by first-class United States mail, postage prepaid, to the person's last known residence, location where he or she is known to be staying or business where he or she is known to be currently employed, by electronic transmission provided such person has signed a writing consenting that notice be sent by electronic transmission, providing an electronic mail address or social media account to which such notice shall be sent, and verifying that he or she regularly accesses and reviews such electronic mail address or social media account, or to the person's counsel of record, if represented.

(c) *Timing of Notice.* Notice of the hearing shall be provided at least 10 days prior to the date of the hearing.

**Explanatory Comment:** The notice required by subparagraph (a)(3) advises a parent whose rights are subject to termination in an involuntary termination proceeding that he or she has the right to be represented at the hearing by a lawyer. The notice includes the contact information for the person or agency in the judicial district from whom information as to the availability of legal help may be obtained. The court shall appoint counsel for a parent whose rights are subject to termination in an involuntary termination proceeding, if upon petition of the parent, the court determines that the parent is unable to pay for counsel or that payment would result in substantial financial hardship. *See* 23 Pa.C.S. § 2313(a.1); Rule 15.10(d)(2).

Personal service in the context of this Rule means service by handing a copy to the person entitled to notice.

*See* Pa.R.C.P. No. 76 that certified mail is the equivalent of registered mail.

*See also* Pa.R.C.P. No. 430(a) regarding the averments necessary in a motion for alternative service if service cannot otherwise be accomplished. If the motion under Pa.R.C.P. No. 430(a) avers sufficient facts and includes sufficient supporting exhibits to establish that a reasonable investigation was made to ascertain the identity or whereabouts of the subject birth parent, the court need not conduct a hearing on the motion, but shall issue an order directing alternative service, including service by electronic transmission or publication.

The PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, does not provide notice of the hearing that is compliant with the requirements of (b)(1)(C) and (b)(2)(C), unless a person consents in writing to notices being sent by electronic transmission. In the alternative, a court may, per subparagraphs (b)(1)(D), (b)(2)(D), and (b)(3)(A)(iii) and dependent upon the facts of an individual case, permit notification of the hearing by PACFile without requiring consent in writing that the notice be sent by electronic transmission.

**Rule 15.5. Certification Filed with the Clerk Maintaining the Dependency Docket.**

(a) Within seven days of the filing of a petition to terminate parental rights under Rules 15.7, 15.8, 15.9, or 15.10, or a petition to adopt under Rule 15.13, the county agency shall file a *praecipe* with the clerk of the court where the child was declared dependent using the caption of the dependency proceeding, notifying that clerk of the name of the petition filed and the date of its filing in substantially the form approved by the Supreme Court.

(b) Within seven days of receiving the court's disposition of the petitions described in paragraph (a), the county agency shall file a *praecipe* with the clerk of the court where the child was declared dependent using the caption of the dependency proceeding, notifying that clerk of the disposition of the petition and the date of the order in substantially the form approved by the Supreme Court.

(c) If a notice of appeal from an order described in paragraph (b) is filed, then within seven days of service of the notice of appeal, the county agency shall file a *praecipe* with the clerk of the court where the child was declared dependent using the caption of the dependency proceeding, notifying that clerk of the appeal and the date of its filing in substantially the form approved by the Supreme Court.

(d) Within seven days of receiving the appellate court's disposition of the appeal described in paragraph (c), the

county agency shall file a *praecipe* with the clerk of the court where the child was declared dependent using the caption of the dependency proceeding, notifying that clerk of the disposition of the appeal and the date of the decision in substantially the form approved by the Supreme Court.

**Explanatory Comment:** The purpose of the Rule is to provide a procedure for collecting data concerning children who have been declared dependent under the Juvenile Act and placed in the custody of the county agency. The information is entered into the Common Pleas Case Management System-Dependency Module to comply with reporting requirements and to monitor dependent children in the foster care system. Unlike a “notice,” as used in Rule 15.4, the county agency is not required to serve the *praecipe* upon the parties to the dependency, termination, or adoption proceeding. The definition of “county agency” as used in this Rule is that contained in Pa.R.J.C.P. 1120.

Pursuant to Rule 1.8 (Forms), the Supreme Court has approved forms for statewide practice to comply with the requirements of this Rule. These forms can be found in the Appendix to these Rules.

**Rule 15.6. Filing of Termination Petitions when an Agency is Not Involved.**

Except in cases involving an agency or as otherwise provided by law, a petition to terminate parental rights shall not be granted unless a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under Rule 15.13 has been filed.

**Explanatory Comment:** This Rule implements long-standing Pennsylvania Supreme Court precedent that a parent can petition to terminate the parental rights of the other parent only where there is evidence of a present plan for the child to be adopted by a stepparent or other person. *In re Adoption of M.R.D.*, 145 A.3d 1117, 1120 (Pa. 2016); *In re T.R.*, 465 A.2d 642 (Pa. 1983); *In re B.E.*, 377 A.2d 153 (Pa. 1977). See also *In re E.M.I.*, 57 A.3d 1278 (Pa. Super. 2012); *In re Adoption of J.F.*, 572 A.2d 223 (Pa. Super. 1990). A mere averment in the petition or testimony by the petitioning birth parent is insufficient; instead, evidence must be presented to the court considering the parental rights termination petition that the child’s adoption is intended and foreseeable. However, neither such averments nor evidence are required when a petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). See 23 Pa.C.S. § 2514.

A Report of Intention to Adopt is required to be filed with the clerk within 30 days of when the child is placed with the non-relative individuals. 23 Pa.C.S. § 2532. In the case of an adoption by one not required to file such a report, see 23 Pa.C.S. § 2531(c), this Rule requires the adoption petition to be filed. If the adoption proceeding will occur in the same judicial district as the hearing on the parental rights termination petition, the court will be able to review the Report of Intention to Adopt or the adoption petition to determine if there are any possible impediments to completing the adoption, which then can be explored and investigated as part of the hearing on the parental rights termination petition.

**Rule 15.7. Voluntary Relinquishment to Agency.**

(a) *Petition.* A petition under 23 Pa.C.S. § 2501 to relinquish parental rights and duties with respect to a child who has been in the care of an agency shall contain the following averments:

(1) the name, address, age, and racial background of each petitioner;

(2) the information required in subparagraph (1) as to any parent who is not a petitioner, including the birth father, presumptive father and putative father, or the reasons why the court should find such information is not necessary;

(3) the marital status of the mother as of the time of the child’s birth and during one year prior thereto, and her maiden name;

(4) the name, age, date of birth, place of birth, racial background, and gender of the child;

(5) the name and address of the agency having care of the child;

(6) the date when the child was placed with the agency;

(7) the reasons for seeking relinquishment;

(8) whether each petitioner has been informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;

(9) whether each petitioner has received any counseling concerning the termination of parental rights and the alternatives thereto and, if so, the name of the organization or qualified counselor providing such counseling services;

(10) whether each petitioner has been informed of the opportunity for a birth relative of the child, including the petitioner, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified;

(11) whether the agency’s consent to accept custody of the child until such time as the child is adopted is attached to the petition; and

(12) that each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily.

(b) *Exhibits.* The following exhibits shall be attached to the petition:

(1) Documentation signed by each petitioner as required by 23 Pa.C.S. § 2501(a).

(2) A verified statement from a representative of the agency, counsel for the agency, or counsel representing any other party that written notice was provided to the petitioner birth parent regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given. A copy of the notice shall accompany this verified statement.

(3) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition’s filing, a verified statement from a representative of the agency, counsel for the agency, or counsel

representing any other party that written notice was provided to the putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given, or the reasons why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

(4) The joinder or consent of the agency having care of the child, including its consent to accept custody of the child until such time as the child is adopted.

(c) *Hearing and Decree.*

(1) Notice of the hearing on the petition shall be provided in accordance with 23 Pa.C.S. § 2503(b), and in accordance with 23 Pa.C.S. § 2503(d) if the rights of a putative father are to be terminated as part of the same proceeding, and shall be served in accordance with Rule 15.4(b)(1).

(2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2503 and Rule 15.4(b)(1).

(3) The petitioner birth parent voluntarily relinquishing his or her parental rights shall be present at the hearing and available to be examined under oath.

(4) If as part of hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency, counsel for the agency, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given or the reasons why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

**Explanatory Comment:** Section 2733(c) of the Adoption Act requires the agency, the intermediary or an attorney for a party to provide notice of the opportunity to enter into a Contact Agreement to the Prospective Adoptive Parents, a birth parent, and, in some instances, a child. Notice to a birth relative who is not a birth parent is not statutorily required, although birth relatives may enter into and become parties to a Contact Agreement.

An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b).

**Rule 15.8. Voluntary Relinquishment to Adult Intending to Adopt Child.**

(a) *Petition.* A petition under 23 Pa.C.S. § 2502 to relinquish parental rights with respect to a child who has

been in the exclusive care of Prospective Adoptive Parents shall contain the following averments:

(1) the name, address, age, and racial background of each petitioner;

(2) the information required in subparagraph (1) as to any parent who is not a petitioner, including the birth father, presumptive father, and putative father, or the reasons why the court should find such information is not necessary;

(3) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;

(4) the name, age, date of birth, place of birth, racial background, and gender of the child;

(5) the date when the child was placed with the Prospective Adoptive Parents;

(6) the date when the Report of Intention to Adopt was filed;

(7) the reasons for seeking relinquishment;

(8) whether each petitioner has been informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;

(9) whether each petitioner has received any counseling concerning the termination of parental rights and the alternatives thereto and, if so, the name of the organization or qualified counselor providing such counseling services;

(10) whether each petitioner has been informed of the opportunity for a birth relative of the child, including the petitioner, to enter into a Contact Agreement with the Prospective Adoptive Parents;

(11) whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under Rule 15.13 has been filed;

(12) whether the Prospective Adoptive Parents' consent to accept custody of the child until such time as the child is adopted is attached to the petition; and

(13) that each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily.

(b) *Exhibits.* The following exhibits shall be attached to the petition:

(1) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the petitioner birth parent regarding the opportunity to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given. A copy of the notice shall accompany this verified statement.

(2) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition's filing, a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the putative father

regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given, or the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

(3) The signed consents of the Prospective Adoptive Parents to accept custody of the child until such time as the adoption is completed.

(c) *Hearing and Decree.*

(1) Notice of the hearing on the petition shall be provided in accordance with 23 Pa.C.S. § 2503(b), and in accordance with 23 Pa.C.S. § 2503(d) if the rights of a putative father are to be terminated as part of the same proceeding, and shall be served in accordance with Rule 15.4(b)(1).

(2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2503 and Rule 15.4(b)(1).

(3) The petitioner birth parent voluntarily relinquishing his or her parental rights shall be present at the hearing and available to be examined under oath.

(4) If as part of hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was given or the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

**Explanatory Comment:** An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b). For additional information about notice of the opportunity to enter into a Contact Agreement, see the Explanatory Comment to Rule 15.7.

**Rule 15.9. Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption.**

(a) *Petition.* A petition under 23 Pa.C.S. § 2504 to confirm the consent to adoption given by a birth parent, presumptive father, or putative father relinquishing parental rights and agreeing to have the child placed for adoption shall contain the following averments:

(1) the name, address, age, and racial background of the consenter;

(2) the information required in subparagraph (1) as to any parent who has not signed a consent to adoption,

including the birth father, presumptive father, and putative father, or the reasons why the court should find such information is not necessary;

(3) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;

(4) the name, age, date of birth, place of birth, racial background, and gender of the child;

(5) the date when the consent to adoption was executed by the consenter and that the consent was executed in accordance with 23 Pa.C.S. §§ 2711 and 2712;

(6) the number of days that have elapsed since the consent to adoption was executed by the consenter;

(7) whether the petitioner, counsel for the petitioner, or the agency or intermediary in those cases where the agency or intermediary is not the petitioner, has received any writing from the consenter revoking or attempting to revoke the previously executed consent to adoption;

(8) whether the consenter was informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;

(9) whether the consenter received counseling concerning the termination of parental rights and the alternatives thereto and, if so, the name of the organization or qualified counselor providing such counseling services;

(10) whether the consenter has been informed of the opportunity for a birth relative of the child, including the consenter, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified; and

(11) whether a consent by the Prospective Adoptive Parents or by the agency to accept custody of the child until such time as the child is adopted is attached to the petition, and if custody is to an individual, whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under Rule 15.13 has been filed.

(b) *Exhibits.* The following exhibits shall be attached to the petition:

(1) The original consent(s) to adoption.

(2) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the consenter regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(2)(C), and the date(s) that such notice was given. A copy of the notice shall accompany this verified statement.

(3) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2504(c), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition's filing, a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(2)(C), and the date(s) on which such notice was given, or the reasons

why such notice cannot be given, including efforts made to identify or locate the subject person. If a notice was given, a copy of the notice shall accompany this verified statement.

(4) The signed consents of the Prospective Adoptive Parents or agency to accept custody of the child until such time as the adoption is completed.

(c) *Hearing and Decree.*

(1) Notice of the hearing on the petition shall be in the form specified in 23 Pa.C.S. § 2513(b) and shall be provided and served in accordance with 23 Pa.C.S. § 2504(b) and Rule 15.4(b)(2).

(2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was provided in the form specified in 23 Pa.C.S. § 2513(b) and given to the consenter and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2504(b) and Rule 15.4(b)(2).

(3) If as part of hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2504(c), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(2)(C), and the date(s) that such notice was given, or the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

**Explanatory Comment:** An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. *See* Rule 15.3(b). For additional information about notice of the opportunity to enter into a Contact Agreement, *see* the Explanatory Comment to Rule 15.7.

**Rule 15.10. Involuntary Termination of Parental Rights.**

(a) *Petition.* A petition for involuntary termination of parental rights under 23 Pa.C.S. §§ 2511-2512 shall contain the following averments:

- (1) the name and address of the petitioner(s);
- (2) the basis for the standing asserted by the petitioner(s);
- (3) the name, age, date of birth, place of birth, racial background, and gender of the child;
- (4) the name, address, age, and racial background of the birth parents, including the birth father, presumptive father, and putative father;
- (5) if a birth father, presumptive father or putative father is not identified in subparagraph, whether a claim for paternity has been filed under 23 Pa.C.S. § 5103 (relating to claim of paternity);
- (6) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;

(7) the date when the child was placed in the care of the petitioner;

(8) the date when the child was removed from the parent who is the subject of the petition, if different than the date of placement with the petitioner;

(9) specific facts setting forth why the child was voluntarily placed in the custody of an entity or individual or involuntarily removed from the parent who is the subject of the petition;

(10) a reference to the applicable subsection(s) of 23 Pa.C.S. § 2511(a) providing the ground(s) for termination and specific facts to support terminating the parental rights of the subject birth parent pursuant to the subsection(s) referenced;

(11) whether either parent of the child is entitled to benefits under the Servicemembers Civil Relief Act of 1940, as amended (50 U.S.C. §§ 3901 *et seq.*);

(12) one of the following:

(A) that the parent who is the subject of the petition has been provided with written notice regarding the opportunity for a birth relative of the child, including the subject birth parent, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified;

(B) that such written notice will be given to the subject birth parent prior to the hearing by the agency, intermediary or counsel representing a party; or

(C) the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person.

(13) whether a consent by the petitioner, the Prospective Adoptive Parents, or the agency to accept custody of the child until such time as the child is adopted is attached to the petition, and if custody is to an individual, whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under Rule 15.13 has been filed or the reason why such consent or filing is not required by law; and

(14) that each petitioner understands the petition and believes its filing to best serve the developmental, physical and emotional needs and welfare of the child.

(b) *Exhibits.* The following exhibits shall be attached to the petition:

(1) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject birth parent regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by such other means as provided in Rule 15.4(b)(3)(A)(iii), and the date(s) that such notice was given, or the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

(2) Except as otherwise provided by law, the signed consent of the petitioner, the Prospective Adoptive Parents, or the agency to accept custody of the child until such time as the adoption is completed.

(c) *Hearing and Decree.*

(1) Notice of the hearing on the petition shall be provided and served in accordance with 23 Pa.C.S. § 2513(b) and Rule 15.4(b)(3).

(2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2503 and Rule 15.4(b)(3).

(3) If notice of the opportunity to enter into a Contact Agreement was not provided to the subject birth parent prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject birth parent regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by such other means as provided in Rule 15.4(b)(3)(A)(iii), and the date(s) that such notice was given or the reason(s) why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

(d) *Appointment of Counsel.*

(1) *Child.* In accordance with 23 Pa.C.S. § 2313(a), the court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is contested by one or both parents. If the court determines that the child requires counsel to represent both the best interests and legal interests of the child, the court shall determine on the record whether counsel can represent both interests without conflict before appointing an individual to serve as both guardian *ad litem* and counsel for the child.

(2) *Parent.* In accordance with 23 Pa.C.S. § 2313(a.1), the court shall appoint counsel for a parent whose rights are subject to termination in an involuntary termination proceeding if, upon petition of the parent, the court determines that the parent is unable to pay for counsel or that payment would result in a substantial financial hardship.

**Explanatory Comment:** An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. *See* Rule 15.3(b).

If the petitioner is an agency, Prospective Adoptive Parents need not have been identified prior to the agency's filing of a petition to involuntarily terminate parental rights. Also, an averment of a present intent to adopt the child is not required if the petitioner is an agency. Where petitioner is an individual, *see* Rule 15.6. Neither the averments nor evidence set forth in subdivisions (a)(13) and (b)(2) are required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). *See* 23 Pa.C.S. § 2514.

Section 2733(c) of the Adoption Act requires the agency or intermediary, counsel representing the agency or intermediary, or counsel representing any other party to provide notice to the Prospective Adoptive Parents, birth parents, and, in some instances, a child of the opportunity to enter into a Contact Agreement. The statute does not require notice to birth relatives who are not the birth parents, although birth relatives may enter into and become parties to a Contact Agreement.

It is understood that County Agencies may be encouraged early in the process, even during dependency pro-

ceedings, to give notice to a birth parent of the opportunity to enter into a Contact Agreement. Requiring the verified statement to set forth the specific date(s) as to when notice was given is only to further ensure that the particular notice was given and not to suggest that providing this notice is time sensitive and expires after a certain time.

**Rule 15.11. Notice of Right to File Statement of Medical, Personal, or Social History Information.**

The clerk, in accordance with Rule 4.6, shall transmit the decree of termination to the parent whose rights are terminated or to counsel for that parent, if represented. In that mailing, the clerk shall include a reference to information and instructions for the parent to file with the clerk and with the Department medical, personal, or social history information and to update the information filed, whether or not the medical condition is in existence or discoverable at the time of adoption. The clerk shall also include a reference to information and instructions to redact the birth parent's name from the child's original birth certificate.

**Explanatory Comment:** The clerk may include in the mailing to the birth parent or birth parent's counsel any forms promulgated by the Department, any forms promulgated by the Department of Health, and any forms adopted by local rule, including forms authorizing the release of information, withholding authorization to release information, or revoking any prior authorization to release information.

**Rule 15.12. Court Review and Approval of Contact Agreement.**

(a) *Time and Filing.* An executed proposed agreement for post-adoption contact and communication signed by the Prospective Adoptive Parents and any birth relatives ("the proposed agreement") must be appended to a petition requesting the court to approve the proposed agreement.

(1) If Prospective Adoptive Parents have been identified by the time of the hearing terminating the parental rights of the parent whose birth relative is a party to the proposed agreement, the proposed agreement may be presented by separate petition to the same court that has or will conduct the hearing on the petition to terminate parental rights, and if not then presented, the proposed agreement shall be presented by petition to the court that will be presented with the adoption petition.

(2) If Prospective Adoptive Parents are identified after the time of the hearing to terminate parental rights, the proposed agreement shall be presented by separate petition to the court that will be presented with the adoption petition.

(3) The petition to approve the proposed agreement may be filed by the agency or intermediary, any party to the proposed agreement, or by the guardian *ad litem* appointed to represent the child.

(b) *Petition to Approve a Contact Agreement.* A petition to approve the proposed agreement under 23 Pa.C.S. § 2735 shall contain averments setting forth the following specific and material facts, to the extent known to the petitioner:

(1) the age and birth date of the child;

(2) if the child has attained 12 years of age, whether the child signed a written consent agreeing to the proposed agreement or signed the proposed agreement as evidence of his or her consent;

(3) whether the child has been represented by a guardian *ad litem*;

(4) whether a guardian *ad litem* is required to be appointed under 23 Pa.C.S. § 2733(b), and if so, whether such guardian *ad litem* has been appointed for any of the child's minor siblings;

(5) the length of time that the child has been under the care, custody and control of an individual other than a birth parent, even if such individual is other than the Prospective Adoptive Parents;

(6) the circumstances under which the child became freed for adoption, including the name of the judge who terminated parental rights if the petition and proposed agreement are not being presented to the court that heard the termination of parental rights petition or confirmation of consent petition;

(7) the length of time that the child has been in the care and custody of the Prospective Adoptive Parents;

(8) whether the proposed agreement will impact the child's adjustment to the home, school and community of the Prospective Adoptive Parents;

(9) the names of any other persons who are not parties to the proposed agreement but who routinely would be present when the birth relatives who are parties to the proposed agreement have contact or communications with the child and the child's interaction and relationship with such other persons;

(10) the willingness and ability of the signatory birth relatives to respect and appreciate the bond between the child and Prospective Adoptive Parents;

(11) the willingness and ability of the Prospective Adoptive Parents to respect and appreciate the bond between the child and the birth relatives who are parties to the proposed agreement;

(12) whether the petitioner is aware of any evidence or substantiated allegation that the child has been abused or neglected by the birth relatives who are parties to the proposed agreement; and

(13) that each petitioner has read and understands the petition and believes its filing and the proposed agreement to be in the best interests of the child.

(c) *Exhibits.* The following exhibits shall be attached to the petition:

(1) A copy of the proposed agreement signed by the Prospective Adoptive Parents and the involved birth relatives;

(2) The child's signed consent if required under 23 Pa.C.S. § 2734; and

(3) Affidavits of all parties to the proposed agreement affirmatively stating that the proposed agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress. The affidavits may be executed jointly or separately.

(d) *Service of Petition.*

(1) The petitioner shall mail a copy of the petition with exhibits and a notice that any responsive pleading must be filed with the clerk within 10 days from the date indicated on the petition or notice letter, whichever is later, to the following:

(A) all parties to the proposed agreement or their counsel, if represented;

(B) the individual or entity having custody of the child at the time of the petition's filing;

(C) the child if he or she signed a separate written consent agreeing to the proposed agreement or signed the proposed agreement as evidence of his or her consent, or his or her attorney if acting as counsel;

(D) the child's guardian *ad litem* if one has been appointed; and any minor sibling who signed a separate written consent agreeing to the proposed agreement or signed the proposed agreement as evidence of his or her consent, or his or her attorney if acting as counsel, or his or her guardian *ad litem* if one has been appointed.

(2) A certificate of service shall be appended to the petition or filed separately and contemporaneously with the filing of the petition, stating the date when the petition with exhibits and the notice for filing a timely responsive pleading was mailed by first-class United States mail, postage prepaid, to those listed in subparagraphs (1)(A)—(1)(D), as applicable.

(e) *Guardian ad litem.* Upon its own motion, or if requested by the petitioner or by any previously appointed guardian *ad litem*, the court shall appoint a new guardian *ad litem* or reappoint any prior guardians *ad litem* for any or all of the following:

(1) the child if one is not currently serving; and

(2) any minor siblings of the child entitled to be represented by a guardian *ad litem* pursuant to 23 Pa.C.S. § 2733(b).

(f) *Court Review and Approval; Necessity of a Hearing and Notice of the Hearing.*

(1) If, upon a review of the petition and the attached exhibits, the court determines that the proposed agreement is in the best interest of the child, the court may issue a decree approving the proposed agreement attached to the petition, provided, however, that any such decree shall not be issued less than 10 days after the date of service unless all of those entitled to notice under subparagraph (d)(1) of this Rule have signed consents, joined in the petition, or waived in writing the notice required herein.

(2) The court shall schedule and conduct a closed hearing under any one of the following circumstances:

(A) upon a review of the petition and the attached exhibits, the court cannot determine if the proposed agreement is in the best interest of the child;

(B) any person receiving notice of the filing of the petition under subparagraph (d)(1) files a responsive pleading in opposition to the petition; or

(C) for any other reason within the court's discretion.

(3) *Notice of the Hearing.* The petitioner shall provide notice of the scheduled hearing to the same parties entitled to notice under subparagraph (d)(1) of this Rule and any other individual or entity that the court directs to receive notice.

(A) Notice of the hearing need not comport with the requirements of Rule 15.4. Notice of the hearing may be sent by first-class United States mail, postage prepaid, by electronic transmission, or by whatever other means will effectively inform everyone entitled to notice of the date, time, and place of the hearing.

(B) A certificate of service shall be presented to the court at the time of the hearing. The certificate of service shall indicate the method of notice and shall have attached thereto a copy of the notice, any affidavit by one

who made personal service, any receipt cards for service sent by registered or certified mail, and any electronic receipt confirmation for service sent by electronic transmission.

(g) *Court Decree*. The court shall review and grant or deny the petition to approve the proposed agreement on or before the date of any adoption decree issued in accordance with 23 Pa.C.S. § 2902.

**Explanatory Comment:** Although agreements providing for post-adoption contact and communication may be negotiated and entered without anyone seeking judicial approval, the court will enforce and provide remedies only for those agreements that receive court approval on or before the date when the adoption is finalized. See 23 Pa.C.S. §§ 2735(c), 2738(c)(2).

Discussions about post-adoption contact and communication agreements should begin as early as possible, especially once all the necessary parties are identified. To this end, the courts can review and approve a proposed agreement for post-adoption contact and communication at any time after termination of parental rights and prior to finalization of the adoption. If practical, a hearing on the petition to approve an executed proposed agreement may be conducted immediately following a hearing to terminate parental rights by the same judge who presided over the termination hearing. This Rule establishes where the petition to approve the proposed agreement may be filed depending upon whether Prospective Adoptive Parents have been identified by the time of the hearing to terminate parental rights.

Section 2735 of the Adoption Act, 23 Pa.C.S. § 2735, does not indicate who is responsible for filing the petition seeking court approval of the proposed agreement for post-adoption contact and communication. The Orphans' Court Procedural Rules Committee decided not to require a particular party to file the requisite petition in all instances, but rather, to allow the individuals to the proposed agreement and the agency or intermediary facilitating the negotiation and development of the proposed agreement to determine who should be responsible for drafting and filing the petition depending upon the resources and circumstances of all those involved.

Section 2735 of the Adoption Act, 23 Pa.C.S. § 2735, does not require a hearing in order for the court to approve the proposed agreement, and the Orphans' Court Procedural Rules Committee decided not to impose an evidentiary hearing requirement in all instances. Nevertheless, given that one who has not attained the age of 18 cannot attest to a notary that he or she executed or consented to a proposed agreement voluntarily, knowingly, without coercion, fraud or duress, best practices would be for the court to conduct its own inquiry whenever a child or any of the child's minor siblings signed a separate consent agreeing to the proposed agreement or signed the proposed agreement as evidence of such consent. At such hearing, the court can ensure that any individual who is a minor consented to or signed the proposed agreement voluntarily and fully understands the terms of the proposed agreement. Because section 2738(c)(3) of the Adoption Act, 23 Pa.C.S. § 2738(c)(3), requires a child who has attained 12 years of age to consent to the proposed agreement, best practices would be to conduct an evidentiary hearing in these situations.

The court must find, either by reviewing the petition and exhibits or by conducting an evidentiary hearing, the proposed agreement, as submitted, is in the child's best interests. Since the statute does not specify the standard

of proof, this question will have to be determined by developing case law. Section 2734 does specify that the proposed agreement may not be enforced unless the child who has attained 12 years of age at the time of the agreement's execution consents to the proposed agreement, thereby suggesting that a proposed agreement cannot be found to be in the best interests of a child who has attained 12 years of age and refuses to consent to the proposed agreement.

If the court finalizing the adoption will be different from the court that approved the Contact Agreement, the Contact Agreement must be filed with the clerk of the court that signs and enters the adoption decree under 23 Pa.C.S. §§ 2902, 2907. Neither the statute nor these Rules impose that obligation on any one of the signatories to the Contact Agreement, except as provided in Rule 15.13.

#### **Rule 15.13. Adoption.**

(a) *Petition*. A petition for adoption under 23 Pa.C.S. § 2701 shall contain the following averments:

(1) the name, current address, any other addresses for the past five years, marital status, age, occupation, racial background and religious affiliation of the petitioners;

(2) the name of the adoptee as it appears on the birth certificate or certification of registration of the child's birth;

(3) the relationship, if any, of the petitioners to the adoptee;

(4) whether the adoptee has resided with the petitioners, and if so, the length of time that adoptee has so resided with the petitioners;

(5) the name and address of the intermediary, if any;

(6) whether the home study and preplacement report under 23 Pa.C.S. § 2530, the Report of an Intention to Adopt under 23 Pa.C.S. § 2531, and the Report of Intermediary under 23 Pa.C.S. § 2533 have been filed;

(7) if there is no intermediary, if no Report of the Intermediary has been or will be filed, or if the adoptee has attained 18 years of age, all vital statistics and other information required in the Report of the Intermediary, so far as is applicable;

(8) whether the original birth certificate or certification of registration of the child's birth has been filed with the clerk where the adoption petition is being filed, and if not whether a birth certificate or certification of registration of the child's birth is attached to the petition as an exhibit, and if not previously filed or attached, the reason why it is has not been filed or is not attached, the efforts made to obtain the birth certificate or certification of registration of the child's birth, and evidence available to establish a date and place of the adoptee's birth;

(9) whether all the consents required by 23 Pa.C.S. § 2711 are attached to the petition as exhibits;

(10) whether the criminal history records information and child abuse clearance certificate for each Prospective Adoptive Parent prepared in accordance with 23 Pa.C.S. § 6344(b), (d)(1) are attached to the petition as exhibits;

(11) whether there are any court orders that remain in effect as of the date of the petition's filing and which:

(A) terminate parental rights of any birth parent, presumptive father, or putative father of the adoptee;

(B) establish rights of guardianship or custody of the adoptee in any person or entity other than the birth parent; or

(C) establish or set forth any special conditions concerning placement, custody, guardianship, or adoption of the adoptee;

(12) whether there has been compliance with the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to this placement;

(13) if any of the reports or exhibits listed in subparagraphs (a)(6)—(a)(12) have not been filed or are not attached to the petition, specific averments explaining why such reports have not been filed or exhibits have not been attached and the reasons showing cause why the court may enter a decree of adoption under 23 Pa.C.S. § 2901, notwithstanding the absence of all legal requirements having been met;

(14) whether the Prospective Adoptive Parents and the minor adoptee, if required by 23 Pa.C.S. § 2733(c), have been informed of the opportunity to enter into a Contact Agreement with any of the minor adoptee's birth relatives;

(15) if an agreement for post-adoption contact and communication has been negotiated and executed by the Prospective Adoptive Parents and one of more birth relatives, an averment of one of the following, as applicable:

(A) the date of the order and the name of the court approving the Contact Agreement and that the Contact Agreement and court order are attached as exhibits to the petition; or

(B) a petition to approve the executed proposed agreement for post-adoption contact and communication has been submitted and is pending before the court or is being filed under a separate petition simultaneously with the filing of this petition;

(16) whether the adoptee will retain his or her given birth name or the adoptee's proposed new name if a name change is desired;

(17) that the petitioners desire to have a "parent-child" relationship established between the petitioners and the adoptee; and

(18) that each petitioner has read and understands the petition and believes the adoptee's needs and welfare will be promoted by the adoption.

(b) *Exhibits.* Unless the petition contains averments explaining why an exhibit is not attached, the following exhibits shall be attached to the petition:

(1) Unless previously filed with the clerk where the adoption petition is being filed, a birth certificate or certification of registration of the child's birth.

(2) The consents required by 23 Pa.C.S. § 2711, as applicable.

(3) Unless previously filed, the Report of the Intermediary with the exhibits required under 23 Pa.C.S. § 2534.

(4) The criminal history records information and child abuse clearance certificate for each Prospective Adoptive Parent prepared in accordance with 23 Pa.C.S. § 6344(b).

(5) Copies of any court orders referenced in subparagraph (a)(11).

(6) Written approval by the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to this placement.

(7) A verified statement from a representative of the agency or intermediary, counsel representing the agency or intermediary, or counsel representing any other party

that written notice was provided to the Prospective Adoptive Parents and to the minor adoptee, if required by 23 Pa.C.S. § 2733(c), regarding the opportunity to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with Rule 15.4(b)(1)(C), and the date(s) that such notice was provided. A copy of the notice shall accompany this verified statement.

(8) If previously approved, the Contact Agreement and the court order approving the Contact Agreement.

(c) *Notice or Consent—Parents of Child.*

(1) Notice of the hearing on the petition for adoption shall be given to the birth parent, putative father, and presumptive father in accordance with Rule 15.4 unless the parental rights of such birth parent, putative father, or presumptive father were terminated in a prior proceeding.

(2) If, as part of the adoption hearing, the petitioners are seeking court approval of an executed proposed agreement for post-adoption contact and communication, the petitioner shall mail a copy of the petition to approve the proposed agreement and the accompanying exhibits in accordance with subparagraph (d)(1) of Rule 15.12 to the individuals and entities therein listed, shall file a certificate of service as provided in subparagraph (d)(2) of Rule 15.12, and shall provide notice of the adoption hearing to these individuals and entities as provided in subparagraph (f)(3) of Rule 15.12.

(d) *Investigation.* A petition for adoption shall be subject to investigation as prescribed by local rules. The investigation report shall cover the matters alleged in the petition, any other matters that may affect the welfare of the adoptee, and the information required by 23 Pa.C.S. §§ 2535 and 2724.

(e) *Hearing.* The court shall schedule a hearing to allow for testimony pursuant to 23 Pa.C.S. §§ 2721—2724. Petitioner(s) and the adoptee shall appear at the hearing. After a hearing, if the court determines that the adoption can be granted, the court shall enter a decree conforming to the requirements of 23 Pa.C.S. §§ 2901-2902, 2904.

(1) If the petition for adoption contains averments requesting that the court waive a statutory requirement of the Adoption Act, the court shall determine if the petitioner has shown cause for failing to meet the statutory requirement and has demonstrated that the adoptee's needs and welfare nevertheless will be best served by entering a decree of adoption.

(2) At the hearing on the petition for adoption, there shall be offered in evidence a report, verified by the petitioners or counsel, setting forth the amount of fees and expenses paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary or to any other person or entity, in connection with the adoption. The court may request an itemization of any of the amounts reported.

(f) *Adult—Change of Name.* When the person to be adopted is over the age of 18 years and desires to assume the surname of the adopting parents, evidence showing compliance with the law relating to change of name must be introduced before a decree will be made. *See* 54 Pa.C.S. § 702.

**Explanatory Comment:** The court, in its discretion, can dispense with any statutory requirement of the Adoption Act for cause shown. *See* 23 Pa.C.S. § 2901. As

a result, if petitioner is unable to satisfy all the prerequisites or attach all the exhibits required by the Adoption Act, the adoption petition should not be dismissed summarily. Rather, the petitioner should be afforded an opportunity to demonstrate why a statutory requirement has not or cannot be met and why the proposed adoptee's best interests nevertheless are served by granting the adoption petition. *In re Adoption of R.B.F. and R.C.F.*, 803 A.2d 1195 (Pa. 2002). If, upon reviewing the petition's averments as to why a statutory requirement should be waived, the court determines that cause has been demonstrated, the court can grant the relief requested and dispense with the relevant statutory requirement without conducting a hearing. However, if the court is not inclined to waive the pertinent statutory requirement, the petitioner is entitled to a hearing and an opportunity to present evidence in support of the averments in the petition. *See In re Adoption of R.B.F. and R.C.F.*

Subparagraph (c)(1) of this Rule applies if a parent's parental rights are being terminated as part of the hearing on the adoption petition. In such cases, the birth parent, putative father, or presumptive father whose rights are being terminated must receive notice of the adoption hearing in accordance with Rule 15.4. On the other hand, such persons do not need to be notified of the adoption hearing if (i) he or she previously consented to the adoption and his or her consent was confirmed by the court as provided in 23 Pa.C.S. § 2504 and Rule 15.9; (ii) he or she previously relinquished his or her parental rights as provided in 23 Pa.C.S. §§ 2501, 2502 and Rule 15.7 or Rule 15.8 as applicable; or (iii) his or her parental rights were involuntarily terminated by the court as provided in 23 Pa.C.S. §§ 2511 *et seq.* and Rule 15.10.

**Rule 15.14. Registration of Foreign Adoption Decree.**

(a) Adopting parents may petition the court in the county of their residence to register a foreign adoption decree so that it will be given full and final effect in this Commonwealth. The petition and final decrees shall be in substantially the form approved by the Supreme Court. *See* Appendix of Forms to these Rules. As part of the Petition to Register Foreign Adoption Decree, an adopted child's name may be changed from that appearing on the foreign adoption decree if the adopted child has not yet attained 12 years of age.

(b) A foreign adoption decree previously registered or otherwise finalized by a court of this Commonwealth or of any other state may not be registered subsequently in another court of this Commonwealth.

(c) If the court determines that the foreign adoption decree can be registered, the court shall sign the final decree and shall direct the clerk to enter the date of the foreign adoption decree and identify the foreign court on the docket. The clerk shall send Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child, and Form No. HD01275F, Statement of Citizenship and Residency, to the Department of Health, Division of Vital Records, along with a copy of U.S. Government Form N-560, Certificate of Citizenship, or a copy of the child's United States passport, or both, if the documents have been provided by the adopting parents. The clerk shall issue to the adopting parents a certificate of adoption in accordance with 23 Pa.C.S. § 2907.

(d) If the court determines that the foreign adoption decree cannot be registered, the adopting parents shall proceed as applicable under the provisions set forth in the

Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.*, Rule 15.15 (specific to the adoption of a foreign born child), and local rules.

(e) Adopting parents who are eligible to register the foreign adoption decree under this Rule may, for any reason, proceed under Rule 15.15.

**Explanatory Comment:** Pursuant to 23 Pa.C.S. § 2908(b), as amended by Act 96 of 2006, a set of forms, consisting of a Petition to Register Foreign Adoption Decree, Final Decrees approving and denying the Petition, and detailed Instructions for the *pro se* petitioners are set forth in the Appendix to these Rules.

The petition should be filed with the clerk of the Orphans' Court, except in Philadelphia County, where it should be filed with the clerk of the Family Court Division. The petition and accompanying documents, including the final decree, are confidential and should be impounded and withheld from public inspection as provided in the Adoption Act, 23 Pa.C.S. §§ 2906, 2907, 2908(f), and 2911—2937 and Rule 15.21.

The clerk shall make available to petitioner(s) the necessary Department of Health, Division of Vital Records forms: Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child; and Form No. HD01275F, Statement of Citizenship and Residency.

A change of name from that appearing on the foreign adoption decree is permitted without the need to comply with the procedures of 54 Pa.C.S. § 702 if the adopted child is younger than 12 years of age. *Cf.* 23 Pa.C.S. § 2711(a)(1). If the foreign born adopted child is 12 years of age or older, then the adopted child and parent(s) either may proceed under Rule 15.15 or follow the procedures set forth in 54 Pa.C.S. § 702. In this latter situation, the adopted child and parent(s) would not be foreclosed by 54 Pa.C.S. § 702(b)(5)(ii) because the name change petition would not be in connection with any adoption proceeding as the foreign adoption is full and final and therefore completed.

A foreign born child who has been issued an IR-2, IR-3 or IH-3 United States Visa has had the adoption proceeding fully completed in the foreign country and the foreign adoption decree only needs to be registered here to be given the full force and effect of an adoption decree issued by this Commonwealth. However, situations may arise that necessitate proceeding under Rule 15.15 even though the foreign born child has been issued an IR-2, IR-3 or IH-3 United States Visa, such as the inclusion of an incorrect birth year on the foreign adoption decree, or other personal family reasons. Proceeding under Rule 15.15 is permitted; Rule 15.14 is not the exclusive means to obtain a Pennsylvania adoption decree and birth certificate for a foreign born adopted child.

Only one court, whether in this Commonwealth or another state, should exercise jurisdiction over the foreign adoption decree. Thus, if the foreign adoption decree has been registered or otherwise finalized in another state court, the adopting parents need not and should not register the foreign adoption decree in this Commonwealth under this Rule. In similar fashion, if the foreign adoption decree has been registered in this Commonwealth, and thereafter, another petitioner in this Commonwealth seeks to adopt this adopted individual, the subsequent proceeding will be a proceeding under the applicable provisions of the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.* Such a situation could occur when the adopted child is to be adopted by a stepparent after divorce or death of the original adopting parents, or

when, after termination of parental rights, the adopted child is to be adopted by Prospective Adoptive Parents different than the original adopting parents.

If the court determines that the foreign adoption is not a full and final adoption because the foreign born child has been issued an IH-4 or IR-4 Visa, the adopting parent(s) shall proceed under subdivision (d) of this Rule. See also Rule 15.15.

Notice of the opportunity to enter into a Contact Agreement is not required to be given to the birth parent(s) of a foreign born adopted child if such adopted child has been issued an IR-2, IR-3, or IH-3 United States Visa because the adoption was completed in the native country of the foreign born adopted child pursuant to the laws and rules of that country. Under Rule 15.14, the court is merely registering the foreign adoption decree, which evidences a completed adoption, and giving it the full force and effect of a Pennsylvania adoption.

**Rule 15.15. Petition for Adoption of a Foreign Born Child.**

(a) *General Rule.* Prospective Adoptive Parents or adopting parents who are residents of the Commonwealth may petition the court in any county as provided in 23 Pa.C.S. § 2302 to proceed with an adoption of their foreign born child who has entered the United States pursuant to an IR-2, IR-3, IH-3, IR-4 or IH-4 United States Visa.

(b) *Required Documents.* The following documents shall be filed in the following order with the clerk:

- (1) Preliminary Decree;
- (2) Final Decree;
- (3) Petition for Adoption of a Foreign Born Child with a verification signed by the petitioners stating that the facts set forth therein are true and correct under penalties of 18 Pa.C.S. § 4904;
- (4) Copy of United States Visa;
- (5) Reports of investigations, home studies, preplacement and postplacement;
- (6) Copy of birth certificate of foreign born child (if available), with an English translation for those birth certificates not in English, certified by the translator to be a true and correct translation;
- (7) Copy of any other relevant foreign decrees and documents with an English translation for those decrees and documents not in English, certified by the translator to be a true and correct translation;
- (8) Consents of any person or agency having custody or legal or physical rights to the child;
- (9) Report of Intermediary (if an intermediary was involved) with a verification signed by the intermediary stating that the facts set forth therein are true and correct under penalties of 18 Pa.C.S. § 4904;
- (10) Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed;
- (11) Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency; and
- (12) A copy of U.S. Government Form N-560, Certificate of Citizenship, or a copy of the child's United States passport, or both, if the documents are available.

(c) *Form of Documents.* The Preliminary Decree, Final Decree, Petition for Adoption of a Foreign Born Child, and

Report of Intermediary (if applicable) shall be in substantially the form approved by the Supreme Court. See Appendix of Forms to these Rules.

(d) *Judicial Review and Hearing.*

(1) *Scope of Review.* The petition and accompanying documents filed under this Rule shall be subject to review by the court as prescribed by the Pennsylvania Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.*, Pennsylvania Orphans' Court Rules and local rules.

(2) *Home Study and Investigation.* The court may rely in whole or in part upon a home study containing information required by 23 Pa.C.S. § 2530(b) and an investigative report containing information required by 23 Pa.C.S. § 2535(b) previously commissioned in the foreign adoption proceeding without regard to when such reports were prepared. The court may in its discretion require additional reports and investigations to be made in accordance with the Pennsylvania Adoption Act and local rules.

(3) *Original Documents, Decrees and Translations.* All original documents, decrees and translations must be available for review by the court upon request.

(4) *Pre-adoption Requirements.* In order to grant an adoption, the court must be satisfied that the pre-adoption requirements set forth in 23 Pa.C.S. §§ 2530—2535 have been met. If the Prospective Adoptive Parents or adopting parents were Pennsylvania residents at the time that the United States Visa was issued to the foreign born child, the court may accept an IH or IR United States Visa as proof that the pre-adoption requirements have been met.

(5) *Proof that the Child is an Orphan.* In order to grant an adoption, the court must be satisfied that the adoptee is an orphan. The court may accept the IH or IR United States Visa of the child as proof that the foreign born child is an orphan.

(6) *Hearing.* The court shall schedule a hearing to allow for testimony pursuant to 23 Pa.C.S. §§ 2721—2724. Petitioners and the adoptee or adopted child shall appear at the hearing. The court may in its discretion require the presence of additional persons, including a representative of the intermediary.

(e) *Disclosure of Fees and Costs.* At the hearing on the petition for adoption, there shall be offered in evidence a report, verified by the petitioners or counsel, setting forth the amount of fees, expenses, and costs paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary or to any other person or entity, in connection with the adoption of the foreign born adoptee or adopted child. The court may request an itemization of any of the amounts reported.

(f) *Final Decree.* After the hearing, the court shall determine if the adoption of the foreign born child can be granted, and if so, the court shall enter a decree as provided in 23 Pa.C.S. § 2902.

(g) *Clerk of the Appropriate Court.* Upon the filing of a decree granting the adoption under this Rule, the clerk shall enter the decree and date of the decree on the docket. The clerk shall send Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child, and Form No. HD01275F, Statement of Citizenship and Residency, to the Department of Health, Division of Vital Records, along with a copy of U.S. Government Form N-560, Certificate of Citizenship, or a copy of the child's United States passport, or both, if the documents have been provided by the Prospective Adoptive Parents or adopting parent(s). The clerk shall issue to the Prospective Adop-

tive Parents or adopting parent(s) a certificate of adoption in accordance with 23 Pa.C.S. § 2907.

(h) *Only One Court May Assume Jurisdiction.* Prospective Adoptive Parents or adopting parent(s) shall not proceed under this Rule if the foreign adoption has been registered or otherwise finalized by a court of this Commonwealth or any other state.

**Explanatory Comment:** Pursuant to 23 Pa.C.S. § 2908(e), as amended by Act 96 of 2006, a set of forms, consisting of a Petition for Adoption of a Foreign Born Child, Report of Intermediary, Preliminary Decree, and Final Decree are set forth in the Appendix to these Rules.

In most instances, the adopting parent(s) of a foreign born adopted child who has entered the United States with an IR-2, IR-3 or IH-3 United States Visa will not need to proceed under Rule 15.15, but can register the foreign adoption decree pursuant to Rule 15.14. Situations may arise, though, that necessitate proceeding under this Rule, such as the inclusion of an incorrect birth year on the foreign adoption decree, or other personal family reasons. In these situations, adopting parent(s) of a foreign born adopted child entering the United States with an IR-2, IR-3, or IH-3 United States Visa may proceed under Rule 15.15; however, adopting parent(s) should be advised by counsel of the additional costs, additional documentation required, and the delay caused by the need for a hearing.

If a foreign born adoptee has entered the United States with an IH-4 or IR-4 United States Visa, the Prospective Adoptive Parents must proceed under Rule 15.15.

Only one state court, whether in this Commonwealth or another state, should exercise jurisdiction over the registration of the foreign adoption decree or the completion of the adoption initiated in the native country of the foreign born child. Thus, if the adoption has been finalized or the foreign adoption decree has been registered in another state court or in another court within this Commonwealth, the adopting parents need not and should not proceed under this Rule. In similar fashion, if the adoption of the foreign born adopted child has been finalized in this Commonwealth, and thereafter, another petitioner seeks to adopt this adopted individual, the subsequent proceeding will be a proceeding under the applicable provisions of the Adoption Act, 23 Pa.C.S. §§ 2101 *et seq.* Such a situation could occur when the adopted child is to be adopted by a stepparent after divorce or death of the original adopting parents, or when, after termination of parental rights, the adopted child is to be adopted by Prospective Adoptive Parents different than the adopting parents.

The documents referenced in Rule 15.15 should be filed with the clerk of the Orphans' Court, except in Philadelphia County, where they should be filed with the clerk of the Family Court Division. The petition and accompanying documents under this Rule, including the decree granting the adoption, are confidential and should be impounded and withheld from public inspection as provided in the Adoption Act, 23 Pa.C.S. §§ 2906, 2907, 2908(f), and 2911—2937 and Rule 15.21.

The clerk shall make available to the petitioners the necessary Department of Health, Division of Vital Records forms: Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child; and Form No. HD01275F, Statement of Citizenship and Residency.

Notice of the opportunity to enter into a Contact Agreement is not required to be given to the birth parent(s) of a foreign born child under either Rule 15.14

or Rule 15.15. If the adopted child has been issued an IR-2, IR-3, or IH-3 United States Visa, then the adoption has been completed in the native country of the foreign born adopted child pursuant to the laws and rules of that country. If the foreign born child has been issued an IR-4 or IH-4 United States Visa, then the child has been determined to be an orphan and the parental rights of the child's parents have been terminated pursuant to the laws of the child's native country. The child thus has no legal parents to receive notice. *See* Rule 15.15(d)(5).

**Rule 15.16. Notice and Service in Subsequent Petitions Regarding Contact Agreements.**

(a) *Service of the Petition.*

(1) The petitioner shall mail by first-class United States mail, postage prepaid a copy of any petition to modify, enforce, or discontinue the Contact Agreement and a notice that a responsive pleading must be filed with the clerk within 20 days from the date indicated on the petition or notice letter, whichever is later, to the following:

(A) all parties to the Contact Agreement;

(B) the adopted child who is the subject of the Contact Agreement if he or she has attained 12 years of age at the time of the petition's filing;

(C) any sibling of the adopted child who has continuing contact or communication with the adopted child under the terms of the Contact Agreement; and

(D) all counsel who entered an appearance for any party, including appearing as counsel or guardian *ad litem* for the adopted child, in the proceeding to approve the Contact Agreement or who have filed an entry of an appearance in the current proceeding.

(2) A certificate of service shall be appended to the petition or filed separately and contemporaneously with the filing of the petition, stating the date when the petition and the notice for filing a timely responsive pleading was mailed by first-class, United States mail, postage prepaid, to those listed in subparagraphs (1)(A)—(1)(D), as applicable.

(b) *Service of Notice of the Hearing on the Petition.*

(1) The petitioner shall provide notice of any scheduled hearing on a petition to modify, enforce, or discontinue the Contact Agreement to the same parties entitled to notice under subparagraph (a)(1) of this Rule and any other individual or entity that the court directs to receive notice.

(2) Notice of the hearing need not comport with the requirements of Rule 15.4, and notice of the hearing may be sent by first-class United States mail, postage prepaid, by electronic transmission, or by whatever other means will effectively inform everyone entitled to notice of the date, time, and place of the hearing.

(3) A certificate of service shall be presented to the court at the time of the hearing. The certificate of service shall indicate the method of notice and shall have attached thereto a copy of the notice, any affidavit by one who made personal service, any receipt cards for service sent by registered or certified mail, and any electronic receipt confirmation for service sent by electronic transmission.

**Rule 15.17. Petition to Modify a Contact Agreement.**

(a) *General rule.* By filing a petition under 23 Pa.C.S. § 2737 with the court that entered the adoption decree,

the adopting parents or the adopted child, if he or she has attained 12 years of age, may seek to modify the Contact Agreement.

(b) *Contents of petition to modify.* The petition to modify the Contact Agreement shall set forth specific averments to establish the following facts:

- (1) the age and birth date of the adopted child;
  - (2) the date when the court approved the Contact Agreement and that such date was on or before the date of the adoption decree;
  - (3) whether the adopted child was then represented by a guardian *ad litem*;
  - (4) whether the adopted child either signed a separate written consent agreeing to the Contact Agreement or signed the Contact Agreement as evidence of his or her consent, or that the adopted child had not attained 12 years of age at the time of the execution of the Contact Agreement;
  - (5) whether there are siblings of the adopted child who have continuing contact or communication with the adopted child under the terms of the Contact Agreement, and if so, the names, ages, and birth dates of such siblings, the names of previously appointed guardians *ad litem*, if any, and who such guardian *ad litem* represented;
  - (6) a description of the proposed modification; and
  - (7) the reasons why the proposed modification will serve the needs, welfare and best interest of the adopted child.
- (c) *Exhibits.* A copy of the Contact Agreement shall be attached to the petition.

(d) *Service.* The petition shall be served in accordance with Rule 15.16(a) and notice of any scheduled hearing shall be provided in accordance with Rule 15.16(b).

(e) *Decree.* After a hearing, if the court finds by clear and convincing evidence that modification of the Contact Agreement shall serve the needs, welfare and best interest of the adopted child, the court shall enter a decree so modifying the Contact Agreement as necessary.

**Explanatory Comment:** Section 2741(b) provides that a guardian *ad litem* may be appointed to represent siblings who have not attained 18 years of age in a proceeding to enforce or discontinue a Contact Agreement, but does not specifically mention a proceeding to modify a Contact Agreement. 23 Pa.C.S. § 2741(b)(1). However, the court has inherent powers to appoint a guardian *ad litem* whenever the court finds that the interests of a minor are not adequately represented by others who are *sui juris*.

The evidentiary standard of clear and convincing evidence is statutorily mandated. See 23 Pa.C.S. § 2737(b).

**Rule 15.18. Petition to Enforce a Contact Agreement.**

(a) *General Rule.* By filing a petition under 23 Pa.C.S. § 2738, any party to the Contact Agreement, the adopted child, or a sibling who has continuing contact or communication with the adopted child under the terms of the Contact Agreement may seek to enforce the terms of the Contact Agreement.

(b) *Contents of petition to enforce.* The petition to enforce the Contact Agreement shall set forth specific averments to establish the following facts:

- (1) the age and birth date of the adopted child;
- (2) the date when the court approved the Contact Agreement and that such date was on or before the date of the adoption decree;
- (3) whether the adopted child was then represented by a guardian *ad litem*;
- (4) whether the adopted child either signed a separate written consent agreeing to the Contact Agreement or signed the Contact Agreement evidencing his or her consent, or that the adopted child had not attained 12 years of age at the time of the execution of the Contact Agreement;
- (5) whether there are siblings of the adopted child who have continuing contact or communication with the adopted child under the terms of the Contact Agreement, and if so, the names, ages, and birth dates of such siblings, the names of previously appointed guardians *ad litem*, if any, and who such guardians *ad litem* represented;
- (6) whether the party seeking enforcement is in substantial compliance with the terms of the Contact Agreement;
- (7) the identity of the party who has breached the Contact Agreement and the nature and circumstances of the breach; and
- (8) that enforcement of the Contact Agreement serves the needs, welfare and best interest of the adopted child.

(c) *Exhibits.* A copy of the Contact Agreement shall be attached to the petition.

(d) *Service.* The petition shall be served in accordance with Rule 15.16(a) and notice of any scheduled hearing shall be provided in accordance with Rule 15.16(b).

(e) *Decree and Remedies.* After a hearing, if the court finds that the petitioner is in substantial compliance with the terms of the Contact Agreement and also finds by clear and convincing evidence that enforcement of the Contact Agreement serves the needs, welfare and best interest of the adopted child, the court shall enter a decree directing specific performance of the Contact Agreement.

**Explanatory Comment:** The evidentiary standard of clear and convincing evidence is statutorily mandated. See 23 Pa.C.S. § 2738(d)(2). For purposes of determining where to file a petition to enforce a Contact Agreement, petitioner should consider 23 Pa.C.S. § 2738(a) and 23 Pa.C.S. § 2738(e)(2).

**Rule 15.19. Petition to Discontinue a Contact Agreement.**

(a) *General rule.* By filing a petition under 23 Pa.C.S. § 2739 with the court that entered the adoption decree, any party to the Contact Agreement or the adopted child if he or she has attained 12 years of age may seek to discontinue the Contact Agreement.

(b) *Contents of petition to discontinue.* The petition to discontinue the Contact Agreement shall set forth specific averments to establish the following facts:

- (1) the age and birth date of the adopted child;
- (2) the date when the court approved the Contact Agreement and that such date was on or before the date of the adoption decree;
- (3) whether the adopted child was then represented by a guardian *ad litem*;
- (4) whether the adopted child either signed a separate written consent agreeing to the Contact Agreement or

signed the Contact Agreement evidencing his or her consent, or that the adopted child had not attained 12 years of age at the time of the execution of the Contact Agreement;

(5) whether there are siblings of the adopted child who have continuing contact or communication with the adopted child under the terms of the Contact Agreement, and if so, the names, ages, and birth dates of such siblings, the names of previously appointed guardians *ad litem*, if any, and who such guardian *ad litem* represented;

(6) the reasons why the petitioner seeks to discontinue the Contact Agreement; and

(7) why discontinuance of the Contact Agreement serves the needs, welfare and best interest of the adopted child.

(c) *Exhibits.* A copy of the Contact Agreement shall be attached to the petition.

(d) *Service.* The petition shall be served in accordance with Rule 15.16(a) and notice of any scheduled hearing shall be provided in accordance with Rule 15.16(b).

(e) *Decree.* After a hearing, if the court finds by clear and convincing evidence that discontinuance of the Contact Agreement shall serve the needs, welfare and best interest of the adopted child, the court shall enter a decree discontinuing the Contact Agreement.

**Explanatory Comment:** The evidentiary standard of clear and convincing evidence is statutorily mandated. See 23 Pa.C.S. § 2739(b).

**Rule 15.20. Collection of Documents and Maintenance of Court File.**

(a) The clerk where parental rights were terminated and the clerk where the adoption decree is entered shall maintain as a permanent court file all court records pertaining to the adoption, including the docket, all petitions, exhibits, reports, notes of testimony, decrees and other filed legal papers.

(b) The clerk where parental rights were terminated and the clerk where the adoption decree is entered shall also accept the following items that shall then become part of the permanent court file:

(1) a statement of medical, personal, or social history information filed by a birth parent, a survivor of a deceased birth parent, the adopted individual who is *sui juris*, the legal or natural guardian of a non-*sui juris* adopted individual, or the descendant of a deceased adopted individual;

(2) a form promulgated by the Department containing medical, personal, or social history information completed by an individual named in subparagraph (1);

(3) an authorization or consent form signed by a birth parent permitting the release of identifying information, including, but not limited to, any signed form promulgated by the Department to authorize the release of identifying information and any signed form promulgated by the Department of Health granting the issuance of a summary of the adopted individual's original birth record with identifying information about the birth parent;

(4) a form signed by a birth parent withholding the release of identifying information or revoking a prior authorization or consent given, including any such form promulgated by the Department or the Department of Health that is signed by the birth parent; and

(5) a notification from the Department given in accordance with 23 Pa.C.S. § 2915(c)(4) that an agency has closed and transferred its case records to another agency.

(c) In addition to the documents listed in paragraphs (a) and (b), the clerk where the adoption decree is entered shall also accept the following items that shall then become part of the permanent court file:

(1) an authorization or consent form signed by an adopted individual permitting the release of identifying information, or any form signed by an adopted individual withholding the release of identifying information or revoking a prior authorization or consent given, including any such form promulgated by the Department or the Department of Health that is signed by the adopted individual;

(2) requests for non-identifying or identifying information; and

(3) records or documents from an attorney who represented an individual in the adoption proceeding or who acted as counsel or as the guardian *ad litem* for the child, the minor birth parent, or a minor sibling of the child; provided that, the records and written documents concern the child, the birth family or the adopting family, such records and documents are in the format required by local rule, and the filing fee, if any, is paid.

(d) The clerk where parental rights were terminated shall copy and forward any statement of medical, personal, or social history information and forms signed by a birth parent authorizing the release of identifying information, withholding the release of identifying information, or revoking previously given authorizations as follows:

(1) a completed document in the form promulgated by the Department shall be forwarded to the Pennsylvania Adoption Information Registry ("PAIR"); and

(2) documents in whatever form or format shall be forwarded to the clerk where the adoption decree has been entered if the court entering the adoption decree is known or reasonably ascertainable from information in the court file of the court that terminated parental rights.

(e) All documents described in subparagraphs (b)(1), (b)(2), (b)(3), (b)(4), (c)(1), and (c)(3) shall be stamped with the date of receipt and an acknowledgement of receipt shall be sent to the individual who filed the document or the clerk who sent the document.

**Explanatory Comment:** In order to avoid confusion, the term "court file," rather than "court records," is being used to describe all documents that can be part of the court's file because "court records" is statutorily defined in 23 Pa.C.S. § 2911 to include only the petition, exhibits, reports, notes of testimony, decrees and other papers pertaining to the judicial proceeding.

The statute directs that notice of the filing of a statement of medical, personal, or social history information shall be given to "the individual who is at least 21 years of age and whom the information is intended to benefit, if known or identified in its records." 23 Pa.C.S. § 2934(e)(2). Rule 15.22(g) provides the procedure for determining who is the person intended to be benefitted and how notice of the filing of this Statement shall be provided to that intended beneficiary. Because the procedure in Rule 15.22(g) requires the filing of an initial request for information and because all requests for information are filed through the clerk where the adoption decree is entered, it is that court, and not the court that terminated parental rights, that shall review the statement of medical, personal, or social history information, determining who is the individual intended to be benefitted and whether and how information is to be provided to that individual. The clerk where parental

rights were terminated need only forward the statement of medical, personal, or social history information to the clerk where the adoption decree is entered, if such court is known or can be readily identified from items in the court file, and to the Pennsylvania Adoption Information Registry ("PAIR") if the completed Statement is in the form promulgated by the Department.

PAIR has a website ([www.pagov-pair.org](http://www.pagov-pair.org)) and is requesting that any statement of medical, personal, or social history information be forwarded electronically in a .pdf format. The clerk shall forward the Statement to PAIR in a .pdf format as filed.

Notwithstanding the development of forms by the Department, the statute does not limit or restrict what statements and forms the clerk can accept from birth parents, adopted individuals or their statutorily permissible representatives. Thus, in keeping with the spirit of the statute, clerks are encouraged to accept any document that reveals medical, personal, or social history information from a birth parent, adopted individual, his or her statutorily permissible representative, descendants of a deceased adopted individual, or survivors of a deceased birth parent. Likewise, clerks are encouraged to accept and maintain any form or statement that reasonably can be construed as providing authorization or consent to release identifying information, withholding such authorization or consent, or revoking a prior authorization or consent given. The local courts are also free to adopt, through the promulgation of local rules, their own forms for such uses. The Department has designed sample forms for the local courts to use or to modify for use.

Because requests for identifying information are permitted to be filed only with the clerk where the adoption decree is entered, only the clerk where the adoption decree is entered shall accept requests for non-identifying or identifying information and forms from the adopted individual authorizing the release of identifying information or withholding or revoking such authorization. See 23 Pa.C.S. § 2931(a). Despite the preceding sentence, the statute implies that the clerk where parental rights were terminated must accept and maintain as part of its court file an authorization or consent to release identifying information or any document withholding or revoking such authorization signed by a birth parent. See 23 Pa.C.S. §§ 2933(a)(2)—(4). For this reason, Rule 15.20(d)(2) requires the clerk where parental rights were terminated to forward a copy of any such signed authorization or consent form or any document withholding or revoking authorization or consent to the clerk where the adoption decree is entered, if known, thereby streamlining the efforts required by the court that entered the adoption decree if a request for non-identifying or identifying information is later filed.

Finally, attorneys representing a party to an adoption proceeding or representing a child thereto either as counsel or as a guardian *ad litem* are permitted to forward their records and information only to the clerk where the adoption decree is entered. 23 Pa.C.S. § 2916. In this age of document management and given the judiciary's limited financial and physical resources, the attorney representing an agency may not deposit his or her records with the court as the agency already has record-keeping requirements imposed by the Department. See 23 Pa.C.S. § 2915. Moreover, the court, by local rule, may adopt procedures for attorneys forwarding documents to be retained in the court file, e.g., on a disc, CD-ROM, or other electronic format. The court may charge reasonable fees for the acceptance and retention of

an attorney's records. See 23 Pa.C.S. § 2913 ("Any court. . . may charge reasonable fees for services provided under this chapter.").

#### **Rule 15.21. Privacy; Withholding the Court File from Inspection.**

(a) All court records and all other documents in the court file, including, but not limited to, completed statements of medical, personal, or social history information, signed authorization or consent forms, signed forms withholding or revoking authorization, requests for identifying or non-identifying information, and attorney records shall be withheld from inspection except as provided by 23 Pa.C.S. §§ 2931 *et seq.* and Rule 15.22.

(b) Except as provided in (d), the docket, court records, and all other documents in the court file shall be closed.

(c) Certificates of adoption shall be issued as provided in 23 Pa.C.S. § 2907, reciting that the court has granted the adoption, but not disclosing the names of the birth parents or the name of the adopted individual before adoption.

(d) No decision under the Adoption Act of any hearing judge or an appellate court publicly reported or in any other way made available to the public by the court shall disclose the identity of the individual parties.

#### **Rule 15.22. Dissemination and Release of Information in the Court File.**

(a) One seeking non-identifying or identifying information or contact shall file a written request with the clerk where the adoption decree was entered and the written request shall contain the following information to the extent known:

(1) the name of the court that entered the adoption decree and the date of the adoption decree;

(2) the requester's relationship to the adoption proceeding as the adopted individual, the adopting parents, the adopted individual's legal guardian, a descendant of the adopted individual, a birth parent, a parent of a birth parent, or a birth sibling of the adopted individual; and

(A) If the requester is the adopted individual, the adopted individual's birth date and that he or she has attained 18 years of age.

(B) If the requester is an adopting parent, the adopted individual's birth date and that the adopted individual has not attained 18 years of age or has attained 18 years of age and been adjudicated incapacitated, including attaching a copy of the court decree of incapacity, or that the adopted individual is deceased, including attaching a copy of the death certificate.

(C) If the requester is a legal guardian of the adopted individual, the adopted individual's birth date and that the adopted individual has not attained 18 years of age or has attained 18 years of age and been adjudicated incapacitated, including attaching a copy of the court decree of incapacity.

(D) If the requester is a descendant of the adopted individual, a statement that the adopted individual is deceased, including attaching a copy of the death certificate.

(E) If the requester is a parent of a birth parent, a statement that the birth parent either consents to the request for information or contact, has been adjudicated incapacitated, or is deceased, including attaching a signed copy of the birth parent's consent, a copy of the court decree of incapacity, or a copy of the death certificate, as applicable.

(F) If the requester is related to the adopted individual as a sibling through either one or both of the birth parents, the birth date of the requester, that the requester has attained 21 years of age, and that either the requester remained in the custody of his or her parent and that this birth parent consents to the request for information or contact, has been adjudicated incapacitated, or is deceased, including attaching a signed copy of the birth parent's consent, a copy of the court decree of incapacity, or a copy of the death certificate, as applicable, or that the requester was adopted out of the birth family or did not remain in the custody of the birth parent, including a copy of the requester's adoption decree or the court order granting legal or physical custody of the requester to another.

(3) a general description of the individual who is the subject of the request explaining the subject's relationship to the adoption proceeding as the adopted individual, a birth parent, a parent of a birth parent, or a birth sibling of the adopted individual. In addition:

(A) If the subject of the request is the adopted individual, the adopted individual's birth date and that the adopted individual has attained 21 years of age.

(B) If the subject of the request is a parent of a birth parent, the adopted individual's birth date, that the adopted individual has attained 21 years of age, and that the birth parent either consents to the request for information or contact, has been adjudicated incapacitated, or is deceased, including attaching a signed copy of the birth parent's consent, a copy of the court decree of incapacity, or a copy of the death certificate, as applicable.

(C) If the subject of the request is related to the adopted individual as a sibling through either one or both of the birth parents, the birth dates of both the adopted individual and his or her birth sibling, that both the adopted individual and the birth sibling have attained 21 years of age, and that either the birth sibling remained in the custody of his or her parent and that this birth parent consents to the request for information or contact, has been adjudicated incapacitated, or is deceased, including attaching a signed copy of the birth parent's consent, a copy of the court decree of incapacity, or a copy of the death certificate, as applicable, or that the birth sibling was adopted out of the birth family or did not remain in the custody of the birth parent, including a copy of the birth sibling's adoption decree or the court order granting legal or physical custody of the birth sibling to another.

(b) The clerk shall accept and date stamp the request before forwarding it to the court for review and consideration.

(c) Upon a review of the request for non-identifying or identifying information or contact, the court shall determine if it is the proper court to handle the request, if the requester is permitted to seek the requested information or contact by 23 Pa.C.S. § 2931(a), and if the request inquires about an individual who can be the subject of the request per 23 Pa.C.S. § 2931(b).

(1) If the court cannot affirmatively answer all three of the questions in paragraph (c), the court shall notify the requester that his or her request for information is denied and the reasons for its denial.

(2) If the court affirmatively answers all three of the questions in paragraph (c), the court shall proceed under paragraphs (d) and (e), as applicable.

(d) If the request is for only non-identifying information, an authorization or consent to release information is not needed. To the extent available and provided that the

information will not reveal the identity of the subject of the request or compromise the confidentiality of the relationship between the adopted individual and his or her birth parent(s), the court shall provide a written report containing information such as the date, time and location of the adopted individual's birth; the adopted individual's birth weight and other physical characteristics; where the adopted individual's birth parents were born; the age of the birth parents when the adopted individual was born; the marital status of the birth parents when the adopted individual was born; the facts and circumstances relating to the nature and cause of the adoption; the nationality, ethnic background, race, tribal affiliation, and religious preference of the adopted individual's birth parents; the educational level, course of study, general occupation, talents and hobbies of the adopted individual's birth parents; a general physical description of the adopted individual's birth parents and other birth relatives, including height, weight, color of hair, color of eyes, complexion, and other similar information; whether other children were born to the adopted individual's birth parent, and if so, available non-identifying information about these children; information regarding the adopted individual's birth grandparents; the name of the agency involved in the adoption; the length of time the adopted individual was in the custody of an adopting parent; whether the adopted individual was ever placed in foster care, and if so, the number of foster care placements, the beginning and end dates of each foster care placement, and any significant occurrences in any foster care placement; and available health history of the adopted individual and the adopted individual's birth relatives, including psychological and psychiatric information which may have an effect on the adopted individual's physical or mental health. This report shall be made available to the requester as provided by local rule or practice.

(e) If the request is for identifying information or contact, the court shall appoint an Authorized Representative who shall determine if the court file includes an unrevoked authorization or consent from the individual who is the subject of the request:

(1) If the court file does include such authorization or consent, the Authorized Representative shall determine whether and how to deliver the requested identifying information to the requester or arrange for contact between the requester and the subject of the request and then shall either respond to the requester or report to the court if the Authorized Representative believes one of the circumstances described in subparagraph (3) exists.

(2) If the court file does not include such an authorization or consent, the Authorized Representative shall proceed in accordance with 23 Pa.C.S. § 2933 and his or her training and thereafter shall either respond to the requester or report to the court if the Authorized Representative believes one of the circumstances described in subparagraph (3) exists.

(3) The court shall not grant a request and shall not provide identifying information under either of the following circumstances:

(A) dissemination of the requested identifying information will compromise the identify or confidentiality of an individual who has not authorized release of the identifying information, and after appointing an Authorized Representative, the Authorized Representative reports to the court that such individual either cannot be located, or after being located, refuses to consent to the release of such identifying information; or

(B) dissemination of the requested identifying information could cause physical or emotional harm to the requestor or others, as determined by the court either with or without the assistance of a report from the Authorized Representative, and in such cases, the court shall issue an order to this effect setting forth the basis of its findings.

(f) Anyone requesting an original birth record or a summary of the original birth record shall be directed to contact the Department of Health.

(g) Upon the filing of a statement of medical, personal, or social history information, or a statement updating such information, or if either is received from the clerk where parental rights were terminated, the clerk where the adoption decree is entered shall send notice as follows:

(1) if the statement contains information about a birth parent, notice of its filing shall be sent to the adopted individual, the adopting parents, the legal guardian of an incapacitated adopted individual, or descendants of a deceased adopted individual, only if such person, at any time prior, had filed a request for non-identifying or identifying information that was approved by the court or was then denied by the court due only to the age of the requestor or the age of the subject of the request; or

(2) if the statement contains information about the adopted individual, notice of its filing shall be sent to the birth parents, any legal guardian of a birth parent, the parents of a deceased birth parent, and in limited circumstances to a birth sibling, but only if such person, at any time prior, had filed a request for non-identifying or identifying information that was approved by the court or was then denied by the court due only to the age of the requestor or the age of the subject of the request.

(3) Notice under this subparagraph (g) shall be provided to the individual at the address listed on the request for non-identifying or identifying information or at the last updated address in the court file.

(4) Notice shall inform the individuals that a statement of medical, personal, or social history information or a statement updating such information has been received, the date of its filing, and that the information contained in the statement may be provided either in redacted form or with identifying information upon the filing of new request for non-identifying or identifying information.

(5) If a new request for non-identifying or identifying information is thereafter filed, the request shall contain the information required in paragraph (a) and shall be processed as provided in paragraphs (b), (c), (d), and (e) as applicable.

(h) The court may permit reasonable fees to be charged for the filing, handling, and processing of any request for non-identifying or identifying information, and the fees may vary depending upon the time and efforts involved, the extent of information made available to the requestor, whether an Authorized Representative is appointed by the court, and the extent of any search required.

**Explanatory Comment:** The handling of requests for non-identifying information, identifying information, or contact will largely be dictated by local rule, custom and practice. Judges, law clerks, or court personnel experienced in adoptions should handle and address requests for non-identifying information and only an appointed Authorized Representative duly trained by the Department should handle and address all requests for identifying information. The statute has very specific rules as to who may request non-identifying and identifying informa-

tion and the age or existence of one individual may change the requester’s right to have the request answered. *See* 23 Pa.C.S. § 2931(a). Further, the statute is specific about who can be the subject of a request. *See* 23 Pa.C.S. § 2931(b). Consequently, requests for non-identifying and identifying information or contact should be reviewed by those trained in the law or otherwise well versed in this statute.

The statutory deadlines set forth in 23 Pa.C.S. § 2932 for a court to notify a requester of the court’s receipt of a non-identifying information request and to fulfill the request are not incorporated in this Rule because these deadlines are procedural and compliance may not be practical in all cases. The statutory deadlines are aspirational, rather than mandatory. Individual judges must view the specific circumstances when enforcing a request for information and a non-response.

If the court believes that a request for identifying information or contact could cause physical or emotional harm to the requestor or others, the court shall issue an order to this effect that can be appealed by the requestor in accordance with 23 Pa.C.S. § 2936(b).

**INDEX TO APPENDIX**

**ORPHANS’ COURT AND REGISTER OF WILLS  
FORMS ADOPTED BY SUPREME COURT  
PURSUANT TO Pa. O.C. Rule 1.8**

Available as Fill-in Forms on Website  
of Administrative Office of Pennsylvania Courts  
<http://www.pacourts.us/forms/for-the-public/orphans-court-forms>

*Orphans’ Court and Administration Forms*

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*F. Adoption Forms*

1. Notice of Orphans’ Court Proceedings to be Filed With Clerk in Dependency Proceeding by Solicitor of County Agency (Pa. O.C. Rule 15.5)

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2. Notice to Provide Medical Information and Determine Access to Identifying Information . . . . . A-05

3. Foreign Adoption Forms

- a. Forms for Registration of Foreign Adoption Decree (Pa. O.C. Rule 15.14)
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IN THE COURT OF COMMON PLEAS
\_\_\_\_\_ COUNTY PENNSYLVANIA
JUVENILE COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

In the Interest : Docket No.: CP-\_\_\_\_\_ DP-\_\_\_\_\_ -20\_\_
of \_\_\_\_\_, a Minor :
[Initials of Minor] :
Date of Birth \_\_\_\_\_ :

TO CLERK OF \_\_\_\_\_ :
[Title of Clerk Maintaining Dependency Docket]<sup>1</sup>

Please kindly record the following in the CPCMS—Dependency Module:

I hereby notify you that the following has been filed on \_\_\_\_\_ [DATE OF FILING] \_\_\_\_\_ with the
Orphans' Court in \_\_\_\_\_ [NAME] \_\_\_\_\_ County concerning the above-child:

- A petition to relinquish parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
A petition to terminate parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
A petition to confirm consent of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
A petition for adoption.

Date: \_\_\_\_\_ On behalf of: [County Agency]

<sup>1</sup>In the First Judicial District (i.e., Philadelphia County), this Clerk will be the Clerk of the Family Court division; in the Fifth Judicial District (i.e., Allegheny County), this Clerk will be personnel at the Department of Records for the Civil/Family division; and in most of the other counties, the Clerk will be the Clerk of the Juvenile Court division.

THE COURTS

IN THE COURT OF COMMON PLEAS
\_\_\_\_\_ COUNTY PENNSYLVANIA
JUVENILE COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

In the Interest : Docket No.: CP-\_\_\_\_\_ DP-\_\_\_\_\_ -20\_\_
of \_\_\_\_\_, a Minor :
[Initials of Minor] :

Date of Birth \_\_\_\_\_ :

TO CLERK OF \_\_\_\_\_ :
[Title of Clerk Maintaining Dependency Docket]<sup>1</sup>

Please kindly record the following in the CPCMS—Dependency Module:

I hereby notify you that the following has entered on \_\_\_\_\_ [DATE OF FILING] \_\_\_\_\_ by the
Orphans' Court in \_\_\_\_\_ [NAME] \_\_\_\_\_ County concerning the above-child:

- An order granting denying (circle one) the petition to relinquish parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
An order granting denying (circle one) the petition to terminate parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
An order granting denying (circle one) the petition to confirm consent of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE PETITION] \_\_\_\_\_.
With the above-order relinquishing or terminating parental rights or confirming the consent of the parent(s), the child is available for adoption.

Do not check if at least one parent still has parental rights.

- An order granting denying (circle one) the petition for adoption.

Date: \_\_\_\_\_ On behalf of: [County Agency]

<sup>1</sup>In the First Judicial District (i.e., Philadelphia County), this Clerk will be the Clerk of the Family Court division; in the Fifth Judicial District (i.e., Allegheny County), this Clerk will be personnel at the Department of Records for the Civil/Family division; and in most of the other counties, the Clerk will be the Clerk of the Juvenile Court division.

IN THE COURT OF COMMON PLEAS
\_\_\_\_\_ COUNTY PENNSYLVANIA
JUVENILE COURT DIVISION
(FAMILY COURT DIVISION in Philadelphia County)

In the Interest : Docket No.: CP-\_\_\_\_\_ DP-\_\_\_\_\_ -20\_\_
of \_\_\_\_\_, a Minor :
[Initials of Minor] :

Date of Birth \_\_\_\_\_ :

TO CLERK OF \_\_\_\_\_ :
[Title of Clerk Maintaining Dependency Docket]<sup>1</sup>

Please kindly record the following in the CPCMS—Dependency Module:

I hereby notify you that an appeal has been filed on \_\_\_\_\_ [DATE] \_\_\_\_\_ concerning the above-child from the following Orphans' Court order:

- An order granting denying (circle one) the petition to relinquish parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE ORDER] \_\_\_\_\_.
An order granting denying (circle one) the petition to terminate parental rights of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE ORDER] \_\_\_\_\_.
An order granting denying (circle one) the petition to confirm consent of \_\_\_\_\_ [INITIALS OF PARENT(S) NAMED IN THE ORDER] \_\_\_\_\_.
An order granting denying (circle one) the petition for adoption.

Date: \_\_\_\_\_ On behalf of: [County Agency]

<sup>1</sup>In the First Judicial District (i.e., Philadelphia County), this Clerk will be the Clerk of the Family Court division; in the Fifth Judicial District (i.e., Allegheny County), this Clerk will be personnel at the Department of Records for the Civil/Family division; and in most of the other counties, the Clerk will be the Clerk of the Juvenile Court division.

THE COURTS

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY PENNSYLVANIA  
JUVENILE COURT DIVISION  
(FAMILY COURT DIVISION in Philadelphia County)

In the Interest \_\_\_\_\_ : Docket No.: CP-\_\_\_\_\_ DP-\_\_\_\_\_ -20\_\_  
of \_\_\_\_\_, a Minor :  
[Initials of Minor] :

Date of Birth \_\_\_\_\_ :  
:

TO CLERK OF \_\_\_\_\_ :  
[Title of Clerk Maintaining Dependency Docket]<sup>1</sup>

Please kindly record the following in the CPCMS—Dependency Module:

I hereby notify you that the appeal from the Orphans' Court order concerning the above-child has been disposed  
\_\_\_\_\_ [DATE] \_\_\_\_\_ in the following manner:

- Quashed                       Affirmed                       Reversed                       Vacated & Remanded
- Other: \_\_\_\_\_

Date: \_\_\_\_\_

On behalf of: [County Agency] \_\_\_\_\_

<sup>1</sup>In the First Judicial District (i.e., Philadelphia County), this Clerk will be the Clerk of the Family Court division; in the Fifth Judicial District (i.e., Allegheny County), this Clerk will be personnel at the Department of Records for the Civil/Family division; and in most of the other counties, the Clerk will be the Clerk of the Juvenile Court division.

COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY

ORPHANS' COURT

DIVISION

IMPORTANT NOTICE

**NOTICE OF PARENTAL RIGHTS TO PROVIDE MEDICAL INFORMATION AND DETERMINE ACCESS TO IDENTIFYING INFORMATION**

To \_\_\_\_\_ :

Your parental rights to \_\_\_\_\_ have been terminated. Nevertheless, you have the ability (i) to make medical and personal information about you known to the adopting parents and/or your child; and (ii) to control if and how your identifying information is disclosed to the adopting parents and/or your child.

Forms to provide medical, personal, or social history information, update such information, authorize or restrict the release of identifying information, or withdraw authorization to release identifying information can be found online at [www.adoptpakids.org/Forms.aspx](http://www.adoptpakids.org/Forms.aspx) or by calling **800-227-0225**. These forms are provided free by **PAIR (Pennsylvania Adoption Information Registry, Department of Human Services)**; they should be completed and returned to PAIR.

You may also file this information with the court using the same forms provided by PAIR or providing a written statement in your own words signed by you. Please make sure to include the case caption and docket number on your form or statement and send the documents to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may update this information as necessary to reflect a change in address or any other information pertaining to either biological parent.

Your consent to release identifying information may be withdrawn at any time by filing a withdrawal of consent form with PAIR and the court; likewise, you can change a prior refusal to provide identifying information by sending and filing an authorization to release.

Finally, for information about having your name redacted from your child's birth certificate, please visit <https://www.health.pa.gov/topics/certificates/Pages/Adoptions.aspx> . For assistance, call **724-656-3100** or toll-free **1-844-228-3516**.

For any additional questions, you can contact PAIR, your Children & Youth Social Service Agency, any private licensed adoption agency, or the Orphans' Court Division of your county's Common Pleas Court.

By: \_\_\_\_\_  
Clerk, Orphans' Court

**INSTRUCTIONS FOR FILING  
PETITION TO REGISTER FOREIGN ADOPTION DECREE  
PURSUANT TO 23 Pa.C.S. § 2908**

When a child is adopted in conformity with the laws of a foreign country, the adopting parent(s) may register the Foreign Adoption Decree so that the Decree is considered full and final, enforceable as if entered pursuant to the Pennsylvania Adoption Act, and a Pennsylvania birth certificate can be obtained.

Adopting parent(s) seeking to register the Foreign Adoption Decree must:

1. Complete, sign, and date the Petition to Register Foreign Adoption Decree and Verification. If a Foreign Adoption Decree shows that there are two adopting parents, both parent(s) *must* execute the Petition to Register Foreign Adoption Decree.

2. Attach the following documents to the Petition:

- A copy of the Foreign Adoption Decree;
- A copy of the child's birth certificate. If no birth certificate was issued, a copy of any other birth identification issued by the country of birth should be attached. If no birth certificate or birth identification can be obtained, an Affidavit stating the reason should be submitted;
- A copy of the child's United States Visa;
- An English translation of all documents not in English, certified by a translator to be true and correct;
- Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed;
- Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency;
- If available, a copy of U.S. Government Form N-560 and/or a copy of the child's U.S. Passport.

3. The Petition to Register with the attachments should be filed with the Clerk of the Orphans' Court Division of the Court of Common Pleas in the county in which the adopting parent(s) reside(s), except for Philadelphia County resident(s), who must file with the Family Court Division. A filing fee will be charged in accordance with the fee schedule of the county court.

After the Petition to Register is filed, it will be submitted to the court for review. If the Petition to Register and accompanying documents establish that the foreign adoption of the child is full and final, the court will enter a Decree directing the registration of the Foreign Adoption Decree. The Clerk of the appropriate court will then issue a certificate of adoption and transmit to the Department of Health, Division of Vital Records Forms HD01273F and HD01275F, and if provided by the adopting parent(s), a copy of U.S. Government Form N-560 and/or a copy of the child's United States passport.

If the court cannot determine that the foreign adoption is full and final, it will enter a Decree denying the petition. In that case, it will be necessary to proceed under Pa. O.C. Rule 15.15.

Some of the following are reasons why a foreign adoption may not be a full and final adoption eligible for registration:

- both adopting parents were not present for the adoption hearing in the foreign country and the foreign country is not a Hague Convention country; or
- the sole adopting parent was not present at the adoption hearing in the foreign country and the foreign country is not a Hague Convention country; or
- the foreign court did not enter a final adoption Decree or Order or its equivalent; or
- the child's United States Visa is not the type that affords the child full United States citizenship.

If the child has an IH-4 or IR-4 United States Visa, it will be necessary to proceed under Pa. O.C. Rule 15.15.

IN THE COURT OF COMMON PLEAS

COUNTY, PENNSYLVANIA

ORPHANS' COURT (FAMILY COURT DIVISION IN PHILADELPHIA)

IN RE: FOREIGN ADOPTION OF \_\_\_\_\_

FILE NO. \_\_\_\_\_

PETITION TO REGISTER FOREIGN ADOPTION DECREE PURSUANT TO 23 Pa.C.S. § 2908

- 1. Petitioner(s), the Adopting Parent(s) of the above-named adopted child, is/are \_\_\_\_\_ .
2. Petitioner(s) reside(s) in \_\_\_\_\_ County, Pennsylvania, at

(Street Address)

(City, State, Zip)

3. Has any other court in this Commonwealth or in any other state reviewed, registered, finalized or otherwise assumed jurisdiction over the foreign adoption decree being registered here:

(check one) [ ] Yes [ ] No

If yes, please provide the name of the court, the state, and county, what was previously presented to the court and the resulting decision from the court (attach all court decrees):

4. The full name of the adopted child at birth as listed on the foreign birth certificate, if available, was \_\_\_\_\_

5. The full name of the adopted child as written on the foreign adoption decree is \_\_\_\_\_ .

6. The full name of the adopted child as he or she is to be known from this time forward is \_\_\_\_\_ .

7. The date of birth of the adopted child is \_\_\_\_\_ .

8. The date of the foreign adoption decree is \_\_\_\_\_ .

9. The type of United States Visa issued to the adopted child is:

(check one) [ ] IR-2 [ ] IR-3 [ ] IH-3 [ ] IR-4 [ ] IH-4

10. The following documents are attached to this Petition:

a. Copy of child's birth certificate or other birth identification issued by country of birth; if none, an affidavit of adopting parent(s) stating why none is available.

b. Copy of Decree of Adoption issued by foreign government; if Decree is not in English, an English translation certified by the translator to be true and correct.

c. Copy of adopted child's United States Visa.

d. Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign- Born Child with Parts 1 and 2 (and Part 3, if applicable) completed.

e. Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency.

f. Copy of U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents are available.

WHEREFORE, Petitioner(s) request(s) that this Court enter a Decree authorizing the registration and docketing of the attached Foreign Adoption Decree with the Clerk of the appropriate Court and decreeing that

\_\_\_\_\_ shall henceforth be known as (Name of child as written on Foreign Adoption Decree)

\_\_\_\_\_ and shall have all the rights of a child and heir of the Petitioner(s). (Child's name from this time forward)

Signature of Adopting Parent^1

Signature of Adopting Parent

Daytime telephone no. for Adopting Parent(s)

^1When there are two adopting parents, both must sign.

**VERIFICATION TO PETITION TO REGISTER FOREIGN ADOPTION DECREE  
PURSUANT TO 23 Pa.C.S. § 2908**

I/We, \_\_\_\_\_, verify that I/we am/are the Petitioner(s) named in the foregoing Petition, that I/we have read and understand the information set forth in the Instructions to the Petition to Register Foreign Adoption Decree, and that the facts set forth in the foregoing Petition are true and correct to the best of my/our knowledge, information and belief. I/We further verify that all documents attached to this Petition are true and correct copies of the originals. I/We understand that false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Adopting Parent

\_\_\_\_\_  
Signature of Adopting Parent

IN THE COURT OF COMMON PLEAS

\_\_\_\_\_ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

(FAMILY COURT DIVISION in Philadelphia County)

IN RE: FOREIGN ADOPTION OF \_\_\_\_\_

ADOPTION NO. \_\_\_\_\_

FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it is hereby ORDERED and DECREED that the Petition of \_\_\_\_\_

(Adopting Parent(s))

\_\_\_\_\_ to Register Foreign Adoption Decree is GRANTED and that this Court authorizes the registration and docketing of the Foreign Adoption Decree entered on \_\_\_\_\_ by \_\_\_\_\_ in \_\_\_\_\_.

(Date of Foreign Adoption Decree)

(Name of Foreign Court)

(Foreign Country)

It is FURTHER ORDERED and DECREED that the above Foreign Adoption Decree shall be enforceable as if this Court had entered the Decree and that henceforth this child \_\_\_\_\_

(Name of child as written on Foreign Adoption Decree)

shall be known as \_\_\_\_\_ and shall

(Child's name from this time forward)

have all the rights of a child and heir of \_\_\_\_\_.

(Adopting Parent(s))

BY THE COURT:

\_\_\_\_\_

IN THE COURT OF COMMON PLEAS

\_\_\_\_\_ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

(FAMILY COURT DIVISION in Philadelphia County)

IN RE: FOREIGN ADOPTION OF \_\_\_\_\_

ADOPTION NO. \_\_\_\_\_

FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it is hereby ORDERED and DECREED that the Petition of \_\_\_\_\_

(Adopting Parent(s))

\_\_\_\_\_ to Register Foreign Adoption Decree is DENIED.

BY THE COURT:

\_\_\_\_\_

THE COURTS

IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
(FAMILY COURT DIVISION in Philadelphia County)  
IN RE: ADOPTION OF \_\_\_\_\_  
(initials only)

ADOPTION NO. \_\_\_\_\_

**PETITION FOR ADOPTION OF A FOREIGN BORN CHILD**

To the Honorable, the Judge of said Court:

The Petition of \_\_\_\_\_ under  
(Name(s) of Adopting Parent(s))

23 Pa.C.S. §§ 2701 and 2908 respectfully states that:

1. At least one of the Petitioners filing this Petition is a resident of the Commonwealth of Pennsylvania and has resided in this Commonwealth since \_\_\_\_\_ .  
(Provide at least month and year)

2. No other court in this Commonwealth or in any other state has reviewed, registered, finalized or otherwise assumed jurisdiction over the adoption of this child, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Provide name of court, county and state)

Explain the proceeding previously initiated and the resulting decision from the court (attach all court decrees):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Petitioner(s) desire(s) to adopt this child known as \_\_\_\_\_ ,  
(Name of child as written on Foreign Decree)  
and intend(s) that such child shall be treated as one of (his/her/their) heirs and hereby declare(s) that (he/she/they) will perform all the duties of parent(s) to him/her.

4. The child has entered the United States pursuant to a United States Visa. A true and correct copy of the United States Visa is attached as an exhibit to this Petition. The United States Visa was issued as an:  
(Please check one)     IR-2                       IR-3                       IH-3                       IR-4                       IH-4

- 5. a) The child's full name as shown on the United States Visa is \_\_\_\_\_ .
- b) The full birth name of the child as listed on the foreign birth certificate (if available) is \_\_\_\_\_ .
- c) The full name of the child as it appears on the foreign decree is \_\_\_\_\_ .
- d) The full name of the child as he/she is to be known from this time forward is \_\_\_\_\_ .

6. The child has resided with Petitioner(s) for the following length of time \_\_\_\_\_ .

7. Information concerning the Petitioner(s), the adopting parent(s), is as follows:
- a) Adopting Parent #1:
    - 1) Full name \_\_\_\_\_
    - 2) Residence \_\_\_\_\_
    - 3) Marital status \_\_\_\_\_
    - 4) Age \_\_\_\_\_
    - 5) Occupation \_\_\_\_\_
    - 6) Religious affiliation \_\_\_\_\_
    - 7) Racial background \_\_\_\_\_

- 8) Relationship to adoptee by blood or marriage, if any \_\_\_\_\_
- 9) Daytime telephone no. \_\_\_\_\_

b) Adopting Parent #2:

- 1) Full name \_\_\_\_\_
- 2) Residence \_\_\_\_\_
- 3) Marital status \_\_\_\_\_
- 4) Age \_\_\_\_\_
- 5) Occupation \_\_\_\_\_
- 6) Religious affiliation \_\_\_\_\_
- 7) Racial background \_\_\_\_\_
- 8) Relationship to adoptee by blood or marriage, if any \_\_\_\_\_
- 9) Daytime telephone no. \_\_\_\_\_

8. The following reports, as applicable, have been completed as of the dates set forth below. A true and correct copy of each of these reports is attached as an exhibit to this Petition.

- a) Report of Intermediary described in 23 Pa.C.S. § 2533  
Completion Date: \_\_\_\_\_
- b) Home Study and/or Preplacement Reports described in 23 Pa.C.S. § 2530  
Completion Date: \_\_\_\_\_
- c) Investigation Reports described in 23 Pa.C.S. § 2535  
Completion Date: \_\_\_\_\_
- d) Postplacement Reports, if any  
Completion Date (if applicable): \_\_\_\_\_

9. Information concerning the intermediary agency, if any, is as follows:

- Name of agency \_\_\_\_\_
- Address \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- Telephone no. \_\_\_\_\_
- County where office is located \_\_\_\_\_

10. If there is no Report of an Intermediary, the following information is being provided by the Petitioner(s) as to the adoptee or adopted child:

- a) Sex \_\_\_\_\_
- b) Racial background \_\_\_\_\_
- c) Age \_\_\_\_\_
- d) Birth date \_\_\_\_\_
- e) Birthplace \_\_\_\_\_
- f) Places of residence since birth \_\_\_\_\_
- \_\_\_\_\_
- g) Religious affiliation \_\_\_\_\_
- h) A full statement of the value of all property owed or possessed by the child, if any \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

i) State whether medical history information was obtained, and if not, explain why not \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. If there is no Report of an Intermediary, and the adoptee or adopted child is under 18 years of age, provide the following information as to the birth mother, if known:

- a) Name \_\_\_\_\_
- b) Residence or last known address \_\_\_\_\_
- c) Racial background \_\_\_\_\_
- d) Age \_\_\_\_\_
- e) Marital status as of the time of the birth of child \_\_\_\_\_
- f) Marital status during one year prior to birth of child \_\_\_\_\_
- g) Religious affiliation \_\_\_\_\_
- h) Birth mother's parental rights were terminated by decree of \_\_\_\_\_  
 \_\_\_\_\_ dated \_\_\_\_\_

12. If there is no Report of an Intermediary, and the adoptee or adopted child is under 18 years of age, provide the following information as to the birth father, if known:

- a) Name \_\_\_\_\_
- b) Residence or last known address \_\_\_\_\_  
 \_\_\_\_\_
- c) Racial background \_\_\_\_\_
- d) Age \_\_\_\_\_
- e) Marital status as of the time of the birth of child \_\_\_\_\_
- f) Marital status during one year prior to birth of child \_\_\_\_\_
- g) Religious affiliation \_\_\_\_\_
- h) Birth father's parental rights were terminated by decree of \_\_\_\_\_  
 \_\_\_\_\_ dated \_\_\_\_\_

13. If there is no Report of an Intermediary, attach a copy of the birth certificate, with an English translation for those birth certificates not in English, certified by a translator to be true and correct. If no birth certificate or other birth identification issued by the country of birth can be obtained, a statement of the reason and a detailed explanation of the efforts made to obtain the certificate are required and attached as an exhibit to this Petition.

14. If there is no Report of an Intermediary, attach copies of any foreign decrees and/or documents concerning this adoption, including any decree terminating the parental rights of birth mother and/or birth father, if needed, with an English translation for those decrees and/or documents not in English, certified by a translator to be true and correct translations of the foreign decrees and/or documents.

15. If there is no Report of an Intermediary, attach all consents required by Section 2711 of the Adoption Code, 23 Pa.C.S. § 2711. If consents are not required, explain:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

16. Attach Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed.

17. Attach Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency.

18. Attach U.S. Government Form N-560, Certificate of Citizenship, and/or a copy of the child's United States passport, if either or both documents are available.

19. It is the desire of the Petitioner(s) to have a parent-child relationship established between the Petitioner(s) and the adoptee or adopted child.

WHEREFORE, Petitioner(s) pray your Honorable Court to enter a Final Decree that the child proposed to be adopted shall have all the rights of a child and heir of Petitioner(s) and Petitioner(s) shall be subject to the duties as parents of such child, and that the child's name shall henceforth be

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Adopting Parent<sup>1</sup>

\_\_\_\_\_  
Signature of Adopting Parent

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If represented, counsel's name, address, and telephone number)

**VERIFICATION TO PETITION FOR ADOPTION OF A FOREIGN BORN CHILD**

I/We, \_\_\_\_\_, verify that I/we are the Petitioner(s) named in the foregoing Petition and that the facts set forth therein are true and correct to the best of my/our knowledge, information and belief. I/We further verify that all documents attached to this Petition are true and correct copies of the originals. I/We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Adopting Parent

\_\_\_\_\_  
Signature of Adopting Parent

<sup>1</sup> When there are two adopting parents, both must sign.

THE COURTS

IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_, PENNSYLVANIA

ORPHANS' COURT

(FAMILY COURT DIVISION in Philadelphia County)

IN RE: ADOPTION OF \_\_\_\_\_ (initials only)

ADOPTION NO. \_\_\_\_\_

REPORT OF THE INTERMEDIARY IN THE ADOPTION OF A FOREIGN BORN CHILD

The report of the agency, \_\_\_\_\_, as intermediary, under 23 Pa.C.S. § 2533, states as follows:

1. Intermediary's address: \_\_\_\_\_

Intermediary's telephone no: \_\_\_\_\_

County where office is located: \_\_\_\_\_

2. The facts as to the adoptee or adopted child are:

a) Name \_\_\_\_\_

b) Sex \_\_\_\_\_

c) Racial Background \_\_\_\_\_

d) Age \_\_\_\_\_

e) Birth Date \_\_\_\_\_

f) Birthplace \_\_\_\_\_

g) Religious affiliation \_\_\_\_\_

3. Date of the placement of the child with the Petitioner(s), adopting parent(s), \_\_\_\_\_

4. If known, the facts as to the birth mother are:

a) Name \_\_\_\_\_

b) Residence or last known address \_\_\_\_\_

c) Racial background \_\_\_\_\_

d) Age \_\_\_\_\_

e) Marital status as of the time of the birth of the child \_\_\_\_\_

f) Marital status during one year prior to birth of the child \_\_\_\_\_

g) Religious affiliation \_\_\_\_\_

h) Birth mother's parental rights were terminated by decree of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

dated \_\_\_\_\_

5. If known, the facts as to the birth father are:

a) Name \_\_\_\_\_

b) Residence or last known address \_\_\_\_\_

c) Racial background \_\_\_\_\_

d) Age \_\_\_\_\_

e) Marital status as of the time of the birth of the child \_\_\_\_\_

f) Marital status during one year prior to birth of the child \_\_\_\_\_

g) Religious affiliation \_\_\_\_\_





IN THE COURT OF COMMON PLEAS OF

\_\_\_\_\_ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

(FAMILY COURT DIVISION in Philadelphia County)

IN RE: ADOPTION OF \_\_\_\_\_

(initials only)

ADOPTION NO. \_\_\_\_\_

PRELIMINARY DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the within Petition and on the motion of \_\_\_\_\_, Esquire, attorney for Petitioner(s) or \_\_\_\_\_, *Pro Se*, a hearing thereon is fixed for \_\_\_\_\_ in \_\_\_\_\_ before the Honorable \_\_\_\_\_ at \_\_\_\_\_ am/pm.

Notice shall be given to the following persons and or entities having any legal and/or physical rights to the child:

1. NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

RELATIONSHIP \_\_\_\_\_

2. NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

RELATIONSHIP \_\_\_\_\_

3. NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

RELATIONSHIP \_\_\_\_\_

\_\_\_\_\_ J.

IN THE COURT OF COMMON PLEAS OF  
 COUNTY, PENNSYLVANIA  
 ORPHANS' COURT DIVISION  
 (FAMILY COURT DIVISION in Philadelphia County)  
 IN RE: ADOPTION OF \_\_\_\_\_  
 (initials only)

ADOPTION NO. \_\_\_\_\_

**FINAL DECREE**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the within Petition and after the hearing thereon, the Court having made an investigation to verify the statements of the Petition and other facts to give the Court full knowledge as to the desirability of the proposed adoption; and the Court, being satisfied, finds that the statements made in the Petition are true, that the needs and welfare of the child proposed to be adopted will be promoted by this adoption, and that all requirements of the Adoption Act have been met, it is hereby

ORDERED, ADJUDGED and DECREED that this child, \_\_\_\_\_ is hereby adopted, shall be known as \_\_\_\_\_ and shall have all the rights of a child and heir of \_\_\_\_\_, and shall be subject to the duties of a child to said adopting parent(s).

*(Name of child as written on Foreign Decree)*  
*(Child's name from this time forward)*  
*(Adopting Parent(s))*

J.

**Adoption Report**

**Amendment of Pa. O.C. Rule 1.5; Rescission of Pa. O.C. Rules 15.1—15.9, Orphans' Court Forms 15.6, 15.8, and 15.9, and Paragraph (F) of the Appendix of Forms; Adoption of New Pa. O.C. Rules 15.1— 15.22, Orphans' Court Forms A-05 through A-09, and Paragraph (F) of the Appendix of Forms**

On July 22, 2021, the Supreme Court of Pennsylvania adopted a comprehensive rewrite of the Pennsylvania Orphans' Court Rules related to adoption proceedings pursuant to the Adoption Act, 23 Pa.C.S. §§ 2101—2938. The Rules were published for comment at 46 Pa.B. 332 (January 16, 2016); earlier versions of the Rules were published at 41 Pa.B. 2932 (June 11, 2011) and 43 Pa.B. 6321 (October 26, 2013.)

This is the Orphans' Court Procedural Rules Committee's Adoption Report related to the new rules. Please note that the Court does not adopt the Committee's Report.

*Rule 1.5 Local Rules*

Through amendment of Rule 1.5 and operation of Order, No. 874 Supreme Court Rules Docket (July 22, 2021), all previously promulgated local rules concerning adoption proceedings are vacated, effective July 1, 2022. For a local rule of procedure to be effective on July 1, 2022, it must be deemed necessary by the judicial district in light of the new statewide rules and be submitted to the Orphans' Court Procedural Rules Committee no later than February 1, 2022. This deadline is intended to afford the Committee sufficient time to review the local rules, respond to the judicial district, and permit publication in the *Pennsylvania Bulletin* pursuant to Pa.R.J.A. No. 103(d). Submissions after February 1, 2022 will be accepted; however, the Committee may not be able to give late submissions sufficient priority to clear the review

process before July 1, 2022. The effective date of the new local rules and new Chapter XV rules should coincide, *i.e.*, July 1, 2022.

*Rule 15.1 Local Adoption Rules*

Rule 15.1 is derived from former Rule 15.1 but with substantial amendments. Unlike the former Rule, new Rule 15.1 elevates statewide rules over local rules and provides parity between statewide rules and the statutory provisions of the Adoption Act. By having the Adoption Act and the statewide rules under Chapter XV govern the practice of adoptions in the first instance, adoption practice throughout the Commonwealth is standardized. Any judicial district seeking to promulgate local rules must follow Pa. O.C. Rule 1.5, which in turn cross-references Pa.R.J.A. 103.

*Rule 15.2 Definitions*

Rule 15.2 is an entirely new rule, defining terms thereafter used throughout Chapter XV. If a term is defined in the Adoption Act, then the definition in Rule 15.2 cross-references the statutory provision.

*Rule 15.3 Prerequisites for any Petition to Terminate Parental Rights or Petition to Adopt*

Rule 15.3 is an entirely new rule; it has no counterpart in the former Adoption Rules. Paragraph (a) of Rule 15.3 requires the filing of a separate adoption petition for each child or any adult adoptee as well as separate parental rights termination petitions for each child whose birth parent, presumptive father, or putative father is the subject of the petition. While there are efficiencies in preparing one petition listing multiple children, other concerns and issues outweigh this benefit, such as more accurate data collection of children involved in dependency proceedings, enhanced privacy and confidentiality, and facilitating appeals. The one child/one petition rule may result in increased filing fees as additional petitions will need to be filed in cases involving siblings or

half-siblings. A county agency unduly burdened by the costs of filing separate petitions for a group of siblings may petition the court for relief from the filing costs. It is anticipated that such petitions for relief would be made when the costs are burdensome.

*Rule 15.4 Notice of Hearing to Terminate Parental Rights; Method and Time*

Rule 15.4 establishes notice procedures for petitions seeking to terminate parental rights. Although Rule 15.4 is derived from former Rule 15.6(a), new Rule 15.4 reorganizes and augments the notice procedures in proceedings to terminate parental rights. Rule 15.4 is organized into three concepts: (i) who is to receive notice of the hearing to terminate parental rights and the form of notice; (ii) how the notice is transmitted; and (iii) when the notice is provided.

Notably, Rule 15.4(b)(3) includes an additional requirement for a proceeding pursuant to Rule 15.10 (Involuntary Termination of Parental Rights). If the identity and location of the person whose parental rights are sought to be involuntarily terminated are known or can be determined after reasonable investigation, a copy of the petition for involuntary termination of parental rights shall be attached to the notice required by 23 Pa.C.S. § 2513(b).

*Rule 15.5 Certification Filed with the Clerk Maintaining the Dependency Docket*

Rule 15.5 is identical to former Rule 15.6(b). Pursuant to Rule 15.5 and former Rule 15.6(b), when pursuing termination of parental rights for a child who has been declared dependent by the juvenile court or when filing an adoption petition for such a child, the county agency must file *praecipes* with the clerk of the juvenile court so the juvenile court docket shows the status of the case in Orphans' Court.

*Rule 15.6 Filing of Termination Petitions when an Agency is Not Involved*

Rule 15.6 is an entirely new rule. It is intended to implement the long-standing precedent of the Court, namely that a parent cannot petition to terminate the parental rights of the other parent unless there is a present plan for the child's adoption either by a step-parent or another person. *In re Adoption of M.R.D.*, 145 A.3d 1117, 1120 (Pa. 2016); *In re T.R.*, 465 A.2d 642, 644 n.10 (Pa. 1983); *In re B.E.*, 377 A.2d 153 (Pa. 1977). See also 23 Pa.C.S. § 2512(b) ("If the petitioner is an agency it shall not be required to aver that an adoption is presently contemplated nor that a person with a present intent to adopt exists."). However, pursuant to Act 95 of 2020, a parent seeking the involuntary termination of the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to grounds for termination of the basis of a child conceived as a result of rape or incest) may proceed without identifying an adoptive parent. See 23 Pa.C.S. §§ 2512(b)(2) and 2514.

*Rule 15.7 Voluntary Relinquishment to Agency*

Rule 15.7 is derived from former Rule 15.2 and addresses terminating parental rights by a petition to voluntarily relinquish the child to the care and custody of an agency. Rule 15.7, like the other rules covering termination petitions, is structured in the following manner: paragraph (a) sets forth the petition averments; paragraph (b) lists the exhibits that must be attached to the petition; and paragraph (c) addresses the hearing and serving notice of the hearing.

With respect to the required averments in Rule 15.7(a), a number of averments are substantially similar to averments in former Rule 15.2. Three averments were not carried over from former Rule 15.2: (1) the religious affiliation of the petitioning birth parent, the other known or alleged birth parent, and the child; (2) the names of the birth mother's former husbands (except when the birth mother was married at the time of the child's birth or during the one year prior to the child's birth); and (3) whether the child was born out of wedlock, and if so, whether the parents intend to marry. Three new averments were added to Rule 15.7(a) on the subjects of counseling services, contact agreements, and consents.

Rule 15.7(b) lists exhibits to a petition to voluntarily relinquish a child to an agency. It retains one of the exhibits required by former Rule 15.2(b), eliminates three exhibits previously required, and adds three new exhibits. Both rules require the petition to include the joinder or consent of the agency having care of the child, including its consent to accept custody until the child is adopted. See 23 Pa.C.S. § 2501(b).

With respect to the child's birth certificate or a certification of registration of the child's birth, required by former Rule 15.2(b)(2), it is relevant and should be part of the court's file. However, the child's birth certificate or a certification of registration of the child's birth does not need to be attached to every parental termination rights petition presented to the court. It is sufficient that the birth certificate or a certification of registration of the child's birth be filed once and made a part of the court's file, as reflected by Rule 15.3(b).

The exhibit required by former Rule 15.2(b), written consent of the parent or guardian of a minor petitioning birth parent, was eliminated because requiring its attachment is directly contrary to Section 2501(b) of the Adoption Act.

Three new exhibits are required to be attached to the voluntary relinquishment petition. First, the parent relinquishing care and custody of the child to an agency must sign a document indicating his or her present intent to transfer custody of the child to the agency. Next, to ensure that the petitioning birth parent received a notice regarding post-adoption contact and communication agreements ("PACA-notice"), a verified statement from the person who provided the notice, attesting that the PACA-notice was provided to the petitioning birth parent and the manner and date it was presented to this birth parent must be attached as an exhibit. The statement also requires that the PACA-notice be in writing and attached to the verification statement. Lastly, if there is a putative father and his rights may be terminated as part of the hearing on the voluntary relinquishment petition, a verification statement and the PACA-notice directed to the putative father must be attached as an exhibit to the petition. See Rule 15.7(b)(3).

Rule 15.7(c) addresses notice of the hearing and what must be presented at the hearing. Rule 15.7(c)(1) cross-references the statutory provisions setting forth the time for serving notice and those entitled to receive notice of the hearing on the voluntary relinquishment petition, as well as cross-referencing Rule 15.4 regarding permitted means of service. Rule 15.7(c) requires a certificate of service to be presented to the court at the hearing, attesting that notice was given to everyone entitled to notice under 23 Pa.C.S. § 2503 and in a manner permitted under Rule 15.4(b)(1). Paragraph (c)(3) is derived

from former Rule 15.2(c), requiring the petitioning birth parent to appear at the hearing and be available to testify.

The requirement in former Rule 15.2(c) that anyone who filed a joinder or consent to the petition must be present at the hearing was eliminated from Rule 15.7. It is implicit that when a joinder is filed by the other birth parent or putative father, then that individual is a petitioner and likewise needs to be present at the hearing.

The PACA-notice may not have been provided to a putative father at the time of the petition's filing. Regardless of the reason, when the rights of an alleged father may be terminated as part of the hearing on the birth mother's voluntary relinquishment petition and the PACA-notice was not previously sent to the putative father, then Rule 15.7(c) requires a verified statement to be presented to the court at the hearing indicating that an agency representative or counsel sent a PACA-notice to the putative father. As required by Rule 15.7(b)(3), a copy of the written PACA-notice must be attached to the verified statement.

*Rule 15.8 Voluntary Relinquishment to Adult Intending to Adopt Child*

Rule 15.8 is derived from former Rule 15.3 and addresses terminating parental rights by a petition to voluntarily relinquish the child to the care and custody of an adult who has, by a filing with a court, indicated his or her intent to adopt the child. Similar to Rule 15.7, Rule 15.8 is structured in the following manner: paragraph (a) sets forth the petition averments; paragraph (b) lists the exhibits that must be attached to the petition; and paragraph (c) addresses the hearing and service of notice of the hearing. Given that Rules 15.7 and 15.8 concern voluntary relinquishments, there is substantial overlap and duplication between the two rules.

*Rule 15.9 Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption*

Rule 15.9 is an entirely new rule; however, it is structured in the same manner as Rules 15.7 and 15.8. The new rule implements an alternative procedure whereby parental rights can be voluntarily relinquished through the court's confirmation of a consent to adoption. Pursuant to Act 174 of 1982, this procedure became a third option for voluntary relinquishments.

Unlike the previously discussed voluntary relinquishment petitions, the alternative procedure for relinquishment by confirmation of consent to adoption does not require the birth parent to be either the petitioner or present at the hearing. After the birth parent signs a consent agreeing to relinquish parental rights and have the child adopted, the agency coordinating the adoption or the adopting parents, through counsel, files a petition seeking to have the court confirm the birth parent's previously executed consent to adoption, thereby terminating the parent's parental rights to the child. The contents and language of the consent are statutorily mandated by Section 2711(d) of the Adoption Act and must include the date and location of its execution as well as the names, addresses and signatures of two witnesses and an explanation of their relationship to the consenter.

Rule 15.9(a) sets forth the averments that must be contained in the petition to confirm the consent. Paragraphs (a)(1)—(4) are modeled after the averments required in the voluntary relinquishment petitions; however, the terminology is changed because the petitioner will not be the consenter, *i.e.*, person who signed the

consent to adopt. Paragraphs (a)(5) and (6) establish the consent was signed by the consenter in accordance with the statutory requirements under Sections 2711(c) and 2712 of the Adoption Act as well as informing the court that the requisite number of days has elapsed so that the previously executed consent to adoption is now irrevocable. Similarly, trying to establish that the consenter has not revoked the consent, paragraph (a)(7) asks whether the petitioner, counsel for the petitioner, the agency, or intermediary has received any revocation or attempt to revoke the previously executed consent to adoption. Paragraphs (a)(8)—(10) address counseling services, contact agreements, and consent.

Rule 15.9(b) lists the exhibits that must be attached to the petition to confirm consent and mirrors the exhibits required by Rules 15.7(b) and 15.8(b). Specifically, Rule 15.9(b)(1) requires that the original consent to adoption be attached to the petition, as mandated by Section 2504(a) of the Adoption Act. Rule 15.9(b)(2) and (b)(3) requires attachment of verified statements from an agency representative or counsel indicating that the PACA-notice was given first to the consenter and then also to the putative father, if there is a putative father and if the PACA-notice was provided to him prior to the filing of the petition to confirm consent. If a PACA-notice cannot be given to a putative father, Rule 15.9(b)(3) allows the agency representative or counsel to set forth in a verified statement why the PACA-notice could not be given to the putative father and the efforts that were made to identify or locate the subject person. Lastly, Rule 15.9(b)(4) requires that the consent of the agency or the Prospective Adoptive Parents be attached to the petition as the final exhibit, which shall provide that the agency or individuals agree to accept custody of the child until the adoption is completed.

Rule 15.9(c) addresses the hearing and what must be presented at the hearing. Rule 15.9(c)(1) cross-references statutory provisions regarding who must be served with notice, when service shall occur, and the form of notice about the hearing's scheduling. It also cross-references Rule 15.4 regarding how service is accomplished. Rule 15.9(c)(2) requires a certificate of service presented to the court at the hearing, attesting that notice of the hearing was given to everyone entitled to notice under Section 2504(b) of the Adoption Act and in a manner permitted under Rule 15.4(b)(2).

If there is an alleged father and his rights may be terminated as part of the hearing to confirm the consent executed by the consenting birth parent, and if the putative father did not receive a written PACA-notice prior to the petition's filing, Rule 15.9(c)(3) requires that a verified statement must be presented to the court during the hearing attesting that the written PACA-notice was provided to the putative father.

*Rule 15.10 Involuntary Termination of Parental Rights*

Rule 15.10 is modeled after former Rule 15.4 and establishes the petition averments, exhibits, and procedures for conducting a hearing to involuntarily terminate parental rights.

In Rule 15.10(a), the first eleven averments are substantially similar to the averments required under former Rule 15.4. Because standing is crucial in involuntary termination proceedings, the basis for the petitioner's standing is set forth as a distinct averment. Pursuant to Section 2512 of the Adoption Act, a petition to involuntarily terminate a person's parental rights may only be filed by (i) the other birth parent; (ii) an agency; (iii) an

individual having custody of the child or standing in *loco parentis* to the child and who also has filed a report of intention to adopt; or (iv) an attorney or guardian of a child who has been adjudicated dependent. Rule 15.4(a)(1) was slightly reworded to require the petitioner to provide the basis of his, her, or its standing under one of the four categories listed above.

The averments required by paragraph (a)(3) and paragraph (a)(4) are substantially similar to the second and third averments under former Rule 15.4, except the requirement to provide an averment as to the religious affiliation of the child or the subject birth parent was eliminated as discussed earlier in this Report with respect to Rules 15.7 and 15.8.

Paragraph (a)(5) is new and satisfies Section 2512(c) of the Adoption Act, which provides that the petition shall state whether a claim of paternity has been filed if the petition otherwise does not identify the child's father.

Rule 15.10(a)(6) is modeled after former Rule 15.4(a)(4); however, for the reasons previously set forth in this Report, the need to present an averment as to the names of the birth mother's former husbands was eliminated.

Rule 15.10(a)(7) is identical to former Rule 15.4(a)(5). Rule 15.10(a)(8) is new and relates to the date the child was removed from the parent who is the subject of the petition, if different than the date of placement with the petitioner. It seeks information that may not be provided to the court if the petitioner does not have custody of the child, such as the attorney or guardian *ad litem* representing a dependent child, and or if someone else had custody of the child before the petitioner obtained custody. Even though the date when the child is removed from the parent is rarely different from the date when the child is placed with the petitioner, it is important for this information to be conveyed to the court. This new pleading averment will provide the court with information as to why the child did not remain with his or her custodial parent. This information may be different than the information sought in paragraph (a)(10), which requires specificity in pleading facts to support the termination.

Rule 15.10(a)(10) is substantially similar to former Rule 15.4(a)(6). Likewise, Rule 15.10(a)(11) is identical to former Rule 15.14 (a)(7), except that the name of the federal legislation has been changed to reflect its current title.

As previously discussed in the context of Rule 15.7(a)(10), Rule 15.10(a)(12) addresses whether the petitioner has or will provide the PACA-notice, required by Section 2733(c) of the Adoption Act, to the birth parent who is the subject of the petition. This paragraph varies from its counterparts under Rules 15.7, 15.8, and 15.9 regarding whether the PACA-notice has been provided. (See *e.g.*, Rules 15.7(a)(10), 15.8(a)(10), and 15.9(a)(10)). The averment under this paragraph permits the petitioner to explain why the PACA-notice cannot be given to the subject birth parent and the requirement waived by the court.

Rule 15.10(a)(13) is derived from former Rule 15.4(a)(8). Rather than an averment in the petition that the petitioner will accept custody of the child until the child is adopted, this paragraph is reworded to require that a consent to this affect be attached as an exhibit to the petition. Paragraph (a)(13) also requires an additional averment, namely that a Report of Intention to Adopt or an adoption petition has been filed if it is an individual who is assuming custody of the child. This additional averment ensures compliance with Section 2512(b) of the

Adoption Act and Rule 15.6. The averment is not required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). See 23 Pa.C.S. § 2514.

Lastly, Rule 15.10(a)(14) requires an averment that the petitioner has read the petition and believes its filing to be in the child's best interests. Because the court must consider and determine the child's best interests before involuntarily terminating parental rights, the petitioner should represent to the court whether he, she or it believes the child's best interests are served by a termination.

Rule 15.10(b) lists the exhibits that need to be attached to a petition to involuntarily terminate parental rights. Paragraph (b) eliminates the exhibits previously required by former Rule 15.4(b) and adds two new exhibits. To ensure the PACA-notice is provided to the parent who is the subject of the involuntary termination petition, a verified statement from the person who provided the notice, attesting that the PACA-notice was provided to the subject birth parent, together with how and when it was presented, must be attached as an exhibit.

Rule 15.10(b)(1) also requires the written PACA-notice delivered to the subject birth parent be attached to the verification statement that is submitted with the petition as an exhibit. Requiring the PACA-notice in writing further ensures the birth parent is informed of the opportunity for post-adoption contact or communication, and is intended to minimize possible disputes between the birth parent and the representative providing the PACA-notice as to whether the notice was effectively given. If a PACA-notice is not provided, then paragraph (b)(1) requires the verified statement to attest to the efforts made to locate or identify the subject birth parent.

Lastly, in order to implement the requirement under Section 2512(b) of the Adoption Act, the signed consent of the petitioner, person, or agency that is accepting custody of the child until the child's adoption must be attached as an exhibit to the petition. Former Rule 15.4 required this consent to accept custody to be an averment set forth in the petition. Because consents are usually submitted as exhibits, the requirement was moved from the averments to the exhibits. It is not required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). See 23 Pa.C.S. § 2514.

Rule 15.10(c) addresses service of the hearing notice upon the appropriate individuals and other documents that must be presented at the hearing. This paragraph is modeled on former Rule 15.4(d). By cross-referencing Section 2513(b) of the Adoption Act and Rule 15.3(b)(3), Rule 15.10(c) requires the involuntary termination petition to be served 10 days in advance of the hearing on the parent who is the subject of the petition and for a copy given to the other parent, putative father, or parent or guardian of a minor parent whose rights are being involuntarily terminated. Rule 15.10(d)(2) requires a certificate of service to be presented to the court at the hearing, attesting that notice was given to everyone entitled to notice under Section 2513(b) of the Adoption Act and in a manner permitted under Rule 15.3(b)(3).

If the PACA-notice was not provided to the subject birth parent before the time of the petition's filing, then, pursuant Rule 15.10(c)(3), a verified statement must be

presented to the court at the hearing indicating that counsel or a representative of the agency or intermediary sent a written PACA-notice to the subject birth parent. Similar to Rule 15.10(b)(2) when the verified statement is attached to the petition, Rule 15.10(c)(3) requires the written PACA-notice to be attached to the verified statement. Finally, if a PACA-notice is not being provided, then the verified statement from counsel or the representative of the agency or intermediary needs to attest to the efforts made to identify or locate the subject birth parent.

Rule 15.10(d)(1) addresses the appointment of counsel for the child in a contested proceeding. If the court determines the child requires counsel to represent both the best interests and legal interests of the child, the court shall determine on the record whether counsel can represent both interests without conflict before appointing an individual to serve as both guardian *ad litem* and counsel for the child. *See In re: Adoption of K.M.G.*, 240 A.3d 1218 (Pa. 2020). The court may appoint counsel for a parent whose rights are subject to termination if it determines that the parent is unable to pay for counsel or that payment would result in substantial financial hardship.

*Rule 15.11 Notice of Right to File Statement of Medical, Personal, or Social History Information*

Rule 15.11 is new and implements requirements under Sections 2503(e), 2504(d), and 2511(c) of the Adoption Act. Pursuant to each of these statutory sections, at the time of issuing the decree terminating parental rights, the court shall advise the parent, in writing, of the parent's continuing right to provide and update medical, personal, or social history information with the court and with the Department of Human Services.

In order to inform birth parents of their rights post-termination, Rule 15.11 sets forth information that should be provided to a birth parent in the mailing with the termination decree. It directs the clerk to include a reference to information and instructions for the parent to file medical, personal, or social history information with the clerk and the Department. Rule 15.11 also requires the clerk to include information and instructions to redact the birth parent's name from the child's original birth certificate.

A new form was developed to provide information about: (i) providing and updating medical, personal, or social history information; (ii) the right to file forms with the court and the Department authorizing or not authorizing the release of identifying information; and (iii) the need to separately file a redaction request with the Department of Health to prevent the release of the original birth certificate to the child once the adopted child reaches adulthood. The form is titled "Notice to Provide Medical Information and Determine Access to Identifying Information (A-05)."

*Rule 15.12 Court Review and Approval of Contact Agreement*

Rule 15.12 is an entirely new rule designed to implement the provisions of 23 Pa.C.S. §§ 2731—2742, providing for voluntary post-adoption agreements for continuing contact or communication. Statutory sections 2731—2742 set forth various requirements and considerations; however, these provisions do not specify how a written agreement for post-adoption contact or communication ("Contact Agreement") is presented to the court, when it is to be presented to the court, and by whom. Rule 15.12(a) addresses these matters.

A proposed written Contact Agreement may be presented to the same court that has or will conduct the parental termination hearing if prospective adoptive parents have been identified by the time of the termination hearing. If the prospective adoptive parents are not identified until after a birth parent's parental rights have been terminated, then the Rule provides that the proposed written Contact Agreement be presented to the court that will be presented with the adoption petition.

The Rule does not dictate which party is responsible for filing the petition to have a proposed written Contact Agreement reviewed and approved by the court. The Rule provides that any party to the proposed written Contact Agreement, the agency or intermediary, or the guardian representing the child, may file the necessary petition depending upon which of these parties can do so most efficiently and expeditiously.

Rule 15.12(b) sets forth averments that must be contained in the petition to approve a proposed written Contact Agreement. The first four averments set forth information about the child who will be the subject of the proposed written Contact Agreement, whether the child is represented by a guardian *ad litem*, and whether the child has minor siblings who also should be represented by a guardian *ad litem*, pursuant to Section 2733(b) of the Adoption Act. Seven of the remaining averments are derived from the factors set forth in Section 2735(b)(2) that the court must consider in determining whether the Contact Agreement is in the best interest of the child. The averments set forth in Rule 15.12(b)(7), namely the length of time the child has been in the care and custody of the prospective adoptive parents, is relevant to a determination of the child's best interest. Finally, the petitioner is required to aver to the court that it is the petitioner's belief that the proposed written Contact Agreement is in the best interest of the child.

Rule 15.12(c) sets forth the exhibits that must be attached to the petition. A copy of the fully-executed proposed written Contact Agreement must be attached to the petition. This paragraph also requires the child's signed consent be attached to the petition if consent is required by Section 2734 of the Adoption Act (*i.e.*, a child who is 12 years of age or older must provide his or her consent to the proposed written Contact Agreement). Finally, the last required exhibit is the affidavit of all parties to the proposed Contact Agreement; these affidavits are required pursuant to Section 2735(b) of the Adoption Act.

Rule 15.12(d) provides the petition must be both filed with the court and served upon various individuals and entities set forth in paragraphs (d)(1)(A) through (d)(1)(E). This requirement provides notice of the filing of a petition to have the court approve a proposed written Contact Agreement to any person or entity that may have an interest in being heard before the court on the petition. The time to file a responsive pleading is within 10 days of the date on the petition or notice letter, which is consistent with the 10-day notice provided for holding a parental termination hearing.

Rule 15.12(e) provides for the appointment of a guardian *ad litem* for the child who is the subject of the proposed written Contact Agreement and any minor siblings entitled to representation pursuant to 23 Pa.C.S. § 2733(b). Finally, Rule 15.12(f) provides for court review, and if necessary, the holding of a hearing on the petition with notice to those who receive service of the petition. If the court is unable to make a determination based solely upon the pleading and exhibits, then it can schedule a

hearing to determine if the proposed written Contact Agreement is in the child's best interest.

The Explanatory Comment to this Rule suggests that the court conduct a hearing any time a child has signed the proposed written Contact Agreement or signed a separate consent agreeing to the proposed written Contact Agreement. In such instances, or where minor siblings are parties to the Agreements, the court is encouraged to conduct an evidentiary hearing to observe and question the minor participants. The court must also conduct a hearing if a responsive pleading opposing the petition has been filed.

#### *Rule 15.13 Adoption*

Rule 15.13 is modeled after former Rule 15.5. However, instead of merely cross-referencing the statutory section as in former Rule 15.5(a), new Rule 15.13(a) sets forth each averment statutorily required under Section 2701 of the Adoption Act. In addition to the required averments, this rule requires additional information and averments in order to implement other statutory sections. Rule 15.13(a)(2) contains a new averment; it requires the adoption petition to state the adoptee's name as it appears on the birth certificate, rather than the full name of the adoptee per Section 2701 of the Adoption Act. In all other respects, paragraphs (a)(1)—(a)(9) and paragraph (a)(16) track the statutory requirements under Section 2701 for an adoption petition.

In addition to the averments required by Section 2701 of the Adoption Act, there are additional averments contained in paragraphs (a)(10)—(a)(15) of Rule 15.13. These additional averments are explained briefly below.

Paragraph (a)(10) requires an affirmative averment that criminal history records and child abuse clearance certificates for each prospective adoptive parent are attached to the adoption petition as exhibits. Paragraph (a)(11) requires the petitioner to inform the court if there are any previously issued court orders impacting the ability of the court to grant the adoption petition. The existence of court orders establishing guardianship or custody of the adoptee in a person or entity other than the birth parent or court orders concerning placement, custody, guardianship or adoption of the adoptee also are pertinent to the court because previously issued orders might impede the court's ability to grant the adoption petition pending before it. In those situations where the adoptee was born in a state other than Pennsylvania, paragraph (a)(12) informs the court whether there has been compliance with the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to the placement.

Paragraph (a)(13) of the rule, implements the Court's holding in *In re Adoption of R.B.F. and R.C.F.*, 803 A.2d 1195 (Pa. 2002). If a particular report or exhibit cannot be attached to the adoption petition for any reason, the petitioner should have the opportunity to explain to the court why the report or exhibit is not attached and request that the court waive the required attachment in the particular instance.

Paragraph (a)(14) requires the court to be advised as to whether the prospective adoptive parents received the PACA-notice, and if required by Section 2733(c) of the Adoption Act, whether the adoptee received the same information.

Paragraph (a)(15) applies when the prospective adoptive parents and one or more birth relatives have negotiated a Contact Agreement. If an agreement exists, paragraph (a)(15) requires that the court before which the

adoption petition is pending either be informed and given a copy of the order and Contact Agreement or be advised that a petition to approve the proposed Contact Agreement has been submitted and is pending before the court.

Rule 15.13(b) lists all exhibits that must be attached to the adoption petition. The exhibits include the adoptee's birth certificate if not previously filed with the court before which the adoption petition is pending, the consents required under Section 2711 of the Adoption Act, where necessary a report of the intermediary unless previously filed, criminal history background checks and child abuse clearance certificates, copies of court orders terminating parental rights and other court's orders involving the guardianship, custody, placement or adoption of the adoptee, written approval by the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to the placement, a verified statement that the PACA-notice was provided to the prospective adoptive parents and the adoptee, if required by Section 2733(c) of the Adoption Act along with a copy of the PACA-notice attached to the verified statement, and if previously approved, the Contact Agreement and the court order approving the Contact Agreement.

Rule 15.13(c)(1) is modeled after former Rule 15.5(b). Notice of the hearing on the adoption petition must be given to any birth parent, putative father and presumptive father whose parental rights have not been terminated in earlier proceedings. If the parental rights of these individuals have been terminated, then there is no need to provide notice of the adoption hearing to such birth parent, putative father, or presumptive father. Paragraph (c)(2) is new and applies when the petitioners, as part of the adoption hearing, are seeking court approval of a proposed executed Contact Agreement. In that situation, by cross-referencing the applicable provisions of Rule 15.12, paragraph (c)(2) requires the necessary parties to receive notice of the filing of the petition to approve a Contact Agreement and notice of the date of the adoption hearing when the petition will be considered by the court.

Rule 15.13(d) is identical to former Rule 15.5(c) except that cross-references to the Adoption Act have been revised and updated.

Rule 15.13(e) is derived from former Rule 15.5(d) and cross-references applicable statutory provisions regarding the adoption hearing. Section 2721 of the Adoption Act requires a hearing on the adoption petition, and Section 2723 requires the adopting parents and the adoptee to attend.

Paragraph (e)(1) establishes that the petitioner shall have the opportunity at the hearing to present evidence to the court if for any reason one or more of the statutory requirements have not been satisfied or one or more reports and exhibits is not attached to the adoption petition. Paragraph (e)(2) is modeled after former Rule 15.5(d), requiring disclosure of all fees and costs incurred in connection with the adoption. Unlike former Rule 15.5(d) (requiring the disclosure statement to be verified by petitioner's counsel), paragraph (e)(2) provides that the report disclosing fees and costs may be verified by the petitioner or petitioner's counsel. The disclosure of fees and costs must be verified if the petitioners are proceeding without representation by counsel.

Rule 15.13(f) is identical to former Rule 15.5(e).

*Rule 15.14 Registration of Foreign Adoption Decree*

With a few exceptions, Rule 15.14 is identical to former Rule 15.8. Changes generally reflect style, use of defined terms, and an effort to achieve consistency across the Orphans' Court Rules.

With respect to the Explanatory Comment, a new paragraph was added expressly indicating that it need not be shown that the birth parents of the foreign born child were given the PACA-notice pursuant to Section 2733(c) of the Adoption Act, because the adoption was completed in the native country of the foreign-born adopted child, pursuant to the laws and rules of that country.

In addition to changes to Rule 15.8, minor revisions were made to the form Petition to Register Foreign Adoption Decree Pursuant to 23 Pa.C.S. § 2908 and the accompanying instructions. An additional change was made relative to providing a certified English translation of adoption decrees issued by a foreign government that are not in English. The documentation for the foreign born child issued by the foreign government often contains an English translation, with a stamp or separate page certifying the translation to be true and correct. It is not required to obtain a new and separate verification signed under oath by one residing in the United States who is certified to translate the language appearing on the birth certificate or adoption decree.

*Rule 15.15 Petition for Adoption of a Foreign Born Child*

With a few exceptions to be noted below, Rule 15.15 is nearly identical to former Rule 15.9. Changes generally reflect style, use of defined terms, and an effort to achieve consistency across the Orphans' Court Rules.

Former Rule 15.9(b)(1) (requiring standalone verifications by petitioners, intermediary, and translators) was eliminated in favor of verification requirements embedded in filings, e.g., Petition for Adoption of a Foreign Born Child and the Report of the Intermediary. See Rule 15.15(b)(3) and (9). Similarly, Rule 15.15(b)(6) and (7) (regarding documents translated into English) requires the certification of the translator filed with the documents. This change will eliminate the need for separate verifications and certifications.

*Rule 15.16 Notice and Service in Subsequent Petitions Regarding Contact Agreements*

As previously discussed, Rule 15.12 addresses how and when Contact Agreements are presented to the court, how interested parties are informed an agreement has been submitted to and is being considered by the court, and how the court should proceed when presented with an agreement. Rules 15.16—15.19 establish procedures for proceedings that can arise with respect to the Contact Agreement after the adoption is finalized, i.e., petitions to modify, enforce, or discontinue. Rule 15.16 is an entirely new rule and establishes means for notifying all interested parties of the commencement of a proceeding to modify, enforce, or discontinue a Contact Agreement. Pursuant to Rules 15.17, 15.18, and 15.19, any one of these three proceedings must be commenced by a petition filed with the court.

Rule 15.16(a)(1) provides that the party filing the petition must mail the petition along with a copy of a notice to plead to (i) every person who is a party to the Contact Agreement; (ii) the adopted child if he or she has attained age 12 by the time of the petition's filing; (iii) any sibling of the adopted child who has continuing

contact or communication with the adopted child under the terms of the Contact Agreement; and (iv) the counsel who represented or is presently representing any such party, including any guardian *ad litem* who previously represented the adopted child. The service requirements of Rule 15.16(a)(1) are modeled after Pa. O.C. Rules 2.5 and 3.5(b). Rule 15.16(a)(2) requires the petitioner to file a certificate of service with the court indicating when the petition and notice to plead was mailed to the individuals entitled to service.

Rule 15.16(b) establishes a procedure for notifying interested parties of the date when the court will conduct a hearing on the petition. Paragraph (b) requires the petitioner to provide notice of the hearing to the individuals who received service of the petition pursuant to paragraph (a)(1) regardless of whether any individual filed an objection or responsive pleading. Normally, notice would be provided only to those who filed an objection or responsive pleading; however, all interested parties should be notified of the date of the court hearing because the individuals involved likely will not be represented, even if they were represented when the Contact Agreement was negotiated, and if they attend the hearing, may have information for the court to consider. The evidentiary standard to modify, enforce, or discontinue the Contact Agreement is clear and convincing evidence that the requested relief will serve the needs, welfare, and best interest of the child.

Rule 15.16(b)(2) allows the petitioner to send the hearing notice by United States mail, electronic transmission, or any other means that will effectively inform the recipient of the date, time and place of the hearing. Pursuant to paragraph (b)(3), a certificate of service shall be presented at the start of the hearing indicating who received notice of the hearing date, how notice was transmitted to the recipient, and attaching a copy of the notice.

*Rule 15.17 Petition to Modify a Contact Agreement*

Rule 15.17 is an entirely new rule and implements Section 2737 of the Adoption Act, which provides for the modification of a Contact Agreement. Rule 15.17(a) establishes who may file a petition to modify the Contact Agreement and where the modification petition must be filed.

Paragraph (b) sets forth the averments that must be contained in a petition to modify a Contact Agreement. The averment required by paragraph (b)(1) identifies adopted child's present age. Through the averments required by paragraphs (b)(2) and (b)(4), the court can confirm that the subject Contact Agreement was approved as provided by Sections 2734 and 2735 of the Adoption Act. Paragraph (b)(3) will assist the court in determining whether any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement should receive notice of the petition to modify the Contact Agreement. Similarly, paragraph (b)(5) informs the court whether any siblings of the adopted child have continuing contact or communication with the adopted child pursuant to the Contact Agreement, and whether the siblings were represented by any guardians *ad litem* who should also receive notice of the petition's filing. Finally, paragraphs (b)(6) and (b)(7) require the petitioner to describe the proposed modification and explain why modification will serve the needs, welfare, and best interest of the adopted child. Pursuant to Section 2737(b) of the Adoption Act, the court may modify the Contact Agreement only if it finds by clear and

convincing evidence that the modification will serve “the needs, welfare and best interest of the child.”

Rule 15.17(c) requires the Contact Agreement to be attached to the petition as an exhibit. This requirement reflects Pa. O.C. Rule 3.3(j) and ensures all individuals receiving the modification petition will have a copy of the Contact Agreement that is sought to be modified.

Paragraph (d) implements the service requirements of Rule 15.16. Rule 15.17(e) requires a hearing in order for the court to determine whether the evidence presented meets the standard of clear and convincing evidence that the modification serves the needs, welfare and best interest of the child.

#### *Rule 15.18 Petition to Enforce a Contact Agreement*

Rule 15.18, another entirely new rule, implements Section 2738 of the Adoption Act, which addresses enforcement of a Contact Agreement. As provided in Section 2738(a) of the Adoption Act, Rule 15.18(a) establishes who may file a petition to modify the Contact Agreement. Unlike Rules 15.17(a) and 15.19(a), Rule 15.18(a) does not indicate where such enforcement petition must be filed because Section 2738(a) provides that an action to enforce the Contact Agreement is to be brought “in the court that finalized the adoption”; however, Section 2738(e)(2) provides that “[t]he court issuing final approval of an agreement shall have continuing jurisdiction over enforcement of the agreement until the child turns 18 years of age, unless the agreement otherwise stipulates or is modified by the court.” The Explanatory Comment advises the practitioner of this statutory conflict.

Rule 15.18(b) sets forth the averments in a petition seeking to enforce a Contact Agreement. The averment in paragraph (b)(1) indicates whether the adopted child should receive notice of the filing of the enforcement petition and an opportunity to be heard before the court. The information sought by paragraphs (b)(2) and (b)(4) enables the court to confirm the subject Contact Agreement was approved as provided by Section 2735 of the Adoption Act and, where applicable, that the adopted child consented to the agreement pursuant to Section 2734 of the Adoption Act. Similar to paragraph (b)(1), the averments required by paragraphs (b)(3) and (b)(5) assist the court in determining whether certain individuals should receive notice of the enforcement petition and an opportunity to be heard, specifically any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement, any siblings of the adopted child who have continuing contact or communication with the adopted child pursuant to the Contact Agreement, and in this latter instance, any guardians *ad litem* representing minor siblings. Paragraph (b)(6) requires the petitioner to affirm that he or she is in substantial compliance with the Contact Agreement. Finally, paragraphs (b)(7) and (b)(8) require the petitioner to identify the party who is breaching the Contact Agreement, describe breach, and explain why enforcement will serve the needs, welfare, and best interest of the adopted child. Section 2738(d) of the Adoption Act provides that the court may enforce the Contact Agreement only if the court makes two findings: first, that the petitioning party is in substantial compliance with the terms of the Contact Agreement, and second, by clear and convincing evidence that enforcement will serve “the needs, welfare and best interest of the child.”

Rule 15.18(c) requires the Contact Agreement to be an exhibit to the petition. Requiring the Contact Agreement

as an exhibit to the petition implements Pa. O.C. Rule 3.3(j) and ensures that all individuals receiving the petition have a copy of the Contact Agreement sought to be enforced. Paragraph (d) implements the service requirements of Rule 15.16.

Lastly, paragraph (e) requires a hearing so the court can receive evidence as to whether the petitioning party is in substantial compliance with the terms of the Contact Agreement and how enforcement will serve “the needs, welfare and best interest of the child.” See 23 Pa.C.S. § 2738(d). This latter finding must be established by clear and convincing evidence.

#### *Rule 15.19 Petition to Discontinue a Contact Agreement*

Rule 15.19 is an entirely new rule and implements Section 2739 of the Adoption Act, which provides for discontinuing a Contact Agreement. In accordance with Section 2739(a) of the Adoption Act, paragraph (a) establishes who may file a petition seeking to discontinue a Contact Agreement and where the petition must be filed.

Paragraph (b) lists the averments for a petition seeking to discontinue a Contact Agreement. The purpose of paragraph (b)(1) is three-fold: first, to determine if the adopted child needed to consent to the Contact Agreement at the time it was approved by the court; second, to determine if the adopted child could be a petitioner in the present action; and third, in the discretion of the court, whether the adopted child should testify at the hearing. Paragraphs (b)(2) and (b)(4) enable the court to confirm the Contact Agreement was approved in accordance with Sections 2734 and 2735 of the Adoption Act. The averments required by paragraphs (b)(3), and (b)(5) assist the court in determining whether other individuals should receive notice of the petition to discontinue and an opportunity to be heard at the hearing, specifically any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement, any siblings of the adopted child who have continuing contact with the adopted child pursuant to the Contact Agreement, and in this latter instance, any guardians *ad litem* who represented the minor siblings during the negotiation and court approval of the Contact Agreement. Finally, paragraphs (b)(6) and (b)(7) require the petitioner to describe the reasons for requesting the Contact Agreement be discontinued and why the action will serve the needs, welfare and best interest of the adopted child. Section 2739(b) of the Adoption Act provides that the court may discontinue the Contact Agreement only if the court finds by clear and convincing evidence that discontinuing the Contact Agreement will serve “the needs, welfare and best interest of the child.”

Rule 15.19(c) requires the Contact Agreement to be an exhibit to the petition. As explained above with respect to Rule 15.17, requiring the Contact Agreement as an exhibit to the petition implements Pa. O.C. Rule 3.3(j) and ensures all individuals receiving the petition will have a copy of the Contact Agreement that the petitioner is seeking to discontinue.

Paragraph (d) implements the service requirements of Rule 15.16.

Finally, paragraph (e) of Rule 15.19 requires a hearing so the court can determine whether the evidence clearly and convincingly establishes that discontinuing the Contact Agreement will serve the needs, welfare, and best interest of the adopted child.

*Rule 15.20 Collection of Documents and Maintenance of Court File*

Rule 15.20 is an entirely new rule, designed to implement in part the provisions of 23 Pa.C.S. §§ 2911—2916, 2931—2938, governing the collection and dissemination of information about birth parents, the adopted child, and siblings of the adopted child. If the adopting parents reside in the same county as the birth parent(s) or if the termination of parental right proceeding and the adoption proceeding were brought in the county where the agency maintained its office, then only one clerk is involved and the file of both proceedings is maintained together. However, it is commonplace for the adopting parents and the birth parent(s) to reside in different counties, in which case one clerk is maintaining the files pertaining to the termination of parental rights and the clerk in another county is maintaining court records pertaining to the adoption. Also, it is possible that the birth parents reside in different counties, and proceedings to terminate the parental rights of each parent were conducted in the county of the parent's residence.

Rule 15.20(a) requires the clerk where parental rights were terminated and the clerk where the adoption decree is entered to maintain the court records as part of a permanent court file. "Court records" is defined in Section 2911 of the Adoption Act as the "petition, exhibits, reports, notes of testimony, decrees, and other papers pertaining to a proceeding." 23 Pa.C.S. § 2911. Rule 15.20 uses the term "court file" because, as explained below, the clerk could receive additional papers and information after the proceeding terminating parental rights is concluded or the adoption finalized. Thus, court records are only some of the documents that may be part of the court file. Paragraphs (b) and (c) lists the other documents the clerk must accept and make part of the court file.

Rule 15.20(b) lists documents that must be accepted by both the clerk where parental rights were terminated and the clerk where the adoption was finalized, depending on where the documents are presented. Paragraphs (b)(1)—(b)(4) are the same documents referenced in Rule 15.11; they include (i) a statement by the birth parent of his or her medical, personal, or social history information, regardless of whether this information is provided in the official form promulgated by the Department or explained in an informal letter or other writing; (ii) any updated statement about the birth parent's medical, personal, or social history information; (iii) a birth parent's signed authorization or consent permitting the release of identifying information, regardless of whether the birth parent provides a written statement or uses forms promulgated by the Department or the Department of Health; and (iv) an informal statement or an official form signed by birth parent withholding the release of identifying information or revoking a previously given consent or authorization.

Rule 15.20(c) lists additional documents that must be accepted and maintained as part of the court file by the clerk of the county where the adoption was finalized. As provided in Rule 15.20(c)(2), the clerk should accept and file any request for non-identifying or identifying information only if the adoption was completed in the county. If an adopted individual wishes to place in the court file an official form or an informal statement authorizing the release of his or her identifying information, withholding the release of identifying information, or revoking a previously given consent or authorization, any statement or completed forms signed by the adopted individual should be accepted only by the clerk in the county where the adoption was finalized.

Section 2916 of the Adoption Act allows an attorney who represented any party to the adoption proceeding or acted as counsel or guardian *ad litem* for a child in the adoption proceeding to forward to the court that finalized the adoption the attorney's records and information pertaining to the child, birth family, or the adopting parents. Rule 15.20(c)(3) implements this provision, requiring the clerk where the adoption was finalized to accept records and information provided the remitting attorney submits the documents in the format dictated by local rule and pays any filing fee.

Rule 15.20(d) addresses situations when the proceedings to terminate parental rights and the adoption proceeding occurred in more than one county. Rule 15.20(d) directs the clerk where the parental rights were terminated to copy and forward the forms and information to both the Department of Human Services and to the clerk of the court where the adoption was finalized if the court is known or reasonably can be ascertained from information appearing in the clerk's court file.

Finally, with one exception, Rule 15.20(e) directs the clerk receiving documents to time-stamp the documents before placing them in the court file and to send an acknowledgement of receipt to the filing party or remitting clerk. The one exception is written requests for non-identifying and identifying information because these requests will be handled pursuant to Rule 15.22, as discussed below.

*Rule 15.21 Privacy; Withholding the Court File from Inspection*

Rule 15.21 is derived from former Rule 15.7, but has been revised in light of amendments to the Adoption Act and the Supreme Court's promulgation of the *Public Access Policy*, which took effect on January 1, 2018.

Rule 15.21(a) provides for the impounding of all proceedings, dockets, Intermediary reports, and certificates of adoption. However, as explained in the discussion concerning Rule 15.20, the court file may contain documents in addition to these items. Thus, Rule 15.21(a) updates the description of documents withheld from inspection and the statutory cross-references. Rule 15.21(a) expressly mandates that all items in the court file shall be withheld from inspection unless disclosure is permitted by 20 Pa.C.S. §§ 2931—2937 of the Adoption Act, and the implementing procedural rule, Rule 15.22.

*Rule 15.22 Dissemination and Release of Information in the Court File*

Rule 15.22 is a new rule designed to implement 23 Pa.C.S. §§ 2931—2938, regarding who can request non-identifying or identifying information about other parties in an adoption process.

Rule 15.22(a)(2) requires one requesting information from the court file to establish that he or she is an adult individual permitted to make a request under Section 2931 of the Adoption Act and in certain situations, that other preconditions have been satisfied. Rule 15.22(a)(3) requires one requesting information to describe the relationship between the requester and the individual who is the subject of the request, and in certain instances, that age requirements and other preconditions have been met.

Pursuant to Section 2933(a) of the Adoption Act, only an "Authorized Representative" can handle a request for identifying information; thus, the court must appoint an Authorized Representative whenever a request is received for identifying information. As defined in Section 2911, an Authorized Representative is an individual who has com-

pleted a standardized training program developed by the Department of Human Services.

In accordance with Section 2931(a) of the Adoption Act, Rule 15.22(a) provides that one seeking non-identifying or identifying information shall file a written request with the clerk where the adoption decree was entered. Pursuant to Rule 15.22(h), the local court may develop a reasonable fee schedule for these requests.

By local rule, a judicial district may require a particular format for these requests, develop a standardized form, or require the filing of a petition. Except in the case of birth parents, there is additional information that needs to be provided by the requester in order to determine if the requester is allowed to make his or her request for information. See Rule 15.22(a)(2)(A)—(a)(2)(F).

The written request must state who is the subject of the request. Section 2931(b) provides that the following individuals may be the subject of a request for information: (i) an adopted individual if the adopted individual has attained 21 years of age; (ii) the birth parent of an adopted individual; (iii) the parent of a birth parent if the birth parent consents, has been adjudicated incapacitated, or is deceased; and (iv) the birth sibling of an adopted individual if both the adopted individual and the birth sibling have attained 21 years of age, and if the birth sibling, remained in the custody of the birth parent, then the birth parent must consent to the request for information or contact, have been adjudicated incapacitated, or have died. Paragraphs (a)(3)(A)—(a)(3)(C) identifies individuals who may be the subject of a request for information and other special conditions that apply when the request pertains to an adopted individual, parent of a birth parent, or birth sibling of an adopted individual.

Rule 15.22(b) provides that the clerk shall accept and date stamp the written request before forwarding it to the court for review. The judge or court personnel experienced in adoptions is able to address requests for non-identifying information; only an Authorized Representative will address requests for identifying information.

As provided in Rule 15.22(c), upon receiving the request, the judge or other court personnel shall review the request, determining: (i) if it is the appropriate court to handle the request; (ii) if the requester is permitted by the statute to proceed with his or her requested inquiry; and (iii) if the person about whom information is sought or with whom contact is requested can be the subject of a request pursuant to 23 Pa.C.S. § 2931(b). If the answer to any one of these questions is “no”, then the court should inform the requester that his or her request is being denied and the reasons thereof. The response to the requester can be a letter and need not be a court order as it is not an appealable decision of the court. If the answer to all of the three above questions is “yes”, then, if the request seeks only non-identifying information, the request shall be handled in accordance with Rule 15.22(d), and if the request seeks identifying information or contact with an individual, it shall be assigned to an Authorized Representative who shall proceed as provided in Rule 15.22(e).

While Section 2932 of the Adoption Act imposes deadlines for acknowledging and responding to requests, such deadlines are not incorporated in Rule 15.22. The deadlines are aspirational or directory, but not mandatory.

Finally, Section 2934 of the Adoption Act concerns the filing of a statement of medical, personal, or social history information, acknowledging receipt of the filing to the person who filed the statement, and disseminating the

statement to others. Once filed, the statement of medical, personal, or social history information becomes part of the court file subject to impounding and confidentiality; this information should not be disseminated by the clerk absent a later filed request for such information approved by the court.

Pursuant to Rule 15.22(g) if a statement of medical, personal, or social history is filed, updated, or sent from the clerk of the court where parental rights were terminated because a birth parent recently filed a statement with that clerk, then the clerk of the court finalizing the adoption shall include the statement as part of the court file. The Rule sets establishes provisions for processing the statement, including contact with persons who have previously filed requests for information.

[Pa.B. Doc. No. 21-1231. Filed for public inspection August 6, 2021, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART II. ORPHANS’ COURT RULES

#### [ 231 PA. CODE PART II ]

#### Review and Vacatur of Local Orphans’ Court Rules; No. 875 Supreme Court Rules Doc.

#### Order

*Per Curiam*

And Now, this 22nd day of July, 2021, upon the recommendation of the Orphans’ Court Procedural Rules Committee, it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) The continued necessity of existing local orphans’ court rules governing proceedings subject to the Adoption Act, 23 Pa.C.S. §§ 2101—2938, as of July 1, 2022 shall be reviewed by the President Judge or his or her designee in light of the Order of this Court, *see* No. 874 Supreme Court Rules Docket (July 22, 2021), rescinding Rules 15.1 through 15.9 of the Pennsylvania Orphans’ Court Rules and replacing them with Rules 15.1 through 15.22, amending Rule 1.5 of the Pennsylvania Orphans’ Court Rules, rescinding and replacing the Pennsylvania Orphans’ Court Forms 15.6, 15.8, and 15.9, and rescinding and replacing Paragraph (F) of the Index to the Appendix of the Forms of the Pennsylvania Orphans’ Court Rules.

2) A local orphans’ court rule deemed necessary shall be submitted to the Orphans’ Court Procedural Rules Committee no later than February 1, 2022 for review in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d).

3) A local orphans’ court rule governing proceedings subject to the Adoption Act, 23 Pa.C.S. §§ 2101—2938, not adopted in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d) shall be vacated effective July 1, 2022.

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

(*Editor’s Note:* See 51 Pa.B. 4267 for an Order relating to this Order.)

### Adoption Report

#### **Amendment of Pa. O.C. Rule 1.5; Rescission of Pa. O.C. Rules 15.1—15.9, Orphans' Court Forms 15.6, 15.8, and 15.9, and Paragraph (F) of the Appendix of Forms; Adoption of New Pa. O.C. Rules 15.1—15.22, Orphans' Court Forms A-05 through A-09, and Paragraph (F) of the Appendix of Forms**

On July 22, 2021, the Supreme Court of Pennsylvania adopted a comprehensive rewrite of the Pennsylvania Orphans' Court Rules related to adoption proceedings pursuant to the Adoption Act, 23 Pa.C.S. §§ 2101—2938. The Rules were published for comment at 46 Pa.B. 332 (January 16, 2016); earlier versions of the Rules were published at 41 Pa.B. 2932 (June 11, 2011) and 43 Pa.B. 6321 (October 26, 2013.)

This is the Orphans' Court Procedural Rules Committee's Adoption Report related to the new rules. Please note that the Court does not adopt the Committee's Report.

#### *Rule 1.5 Local Rules*

Through amendment of Rule 1.5 and operation of Order, No. 874 Supreme Court Rules Docket (July 22, 2021), all previously promulgated local rules concerning adoption proceedings are vacated, effective July 1, 2022. For a local rule of procedure to be effective on July 1, 2022, it must be deemed necessary by the judicial district in light of the new statewide rules and be submitted to the Orphans' Court Procedural Rules Committee no later than February 1, 2022. This deadline is intended to afford the Committee sufficient time to review the local rules, respond to the judicial district, and permit publication in the *Pennsylvania Bulletin* pursuant to Pa.R.J.A. No. 103(d). Submissions after February 1, 2022 will be accepted; however, the Committee may not be able to give late submissions sufficient priority to clear the review process before July 1, 2022. The effective date of the new local rules and new Chapter XV rules should coincide, *i.e.*, July 1, 2022.

#### *Rule 15.1 Local Adoption Rules*

Rule 15.1 is derived from former Rule 15.1 but with substantial amendments. Unlike the former Rule, new Rule 15.1 elevates statewide rules over local rules and provides parity between statewide rules and the statutory provisions of the Adoption Act. By having the Adoption Act and the statewide rules under Chapter XV govern the practice of adoptions in the first instance, adoption practice throughout the Commonwealth is standardized. Any judicial district seeking to promulgate local rules must follow Pa. O.C. Rule 1.5, which in turn cross-references Pa.R.J.A. 103.

#### *Rule 15.2 Definitions*

Rule 15.2 is an entirely new rule, defining terms thereafter used throughout Chapter XV. If a term is defined in the Adoption Act, then the definition in Rule 15.2 cross-references the statutory provision.

#### *Rule 15.3 Prerequisites for any Petition to Terminate Parental Rights or Petition to Adopt*

Rule 15.3 is an entirely new rule; it has no counterpart in the former Adoption Rules. Paragraph (a) of Rule 15.3 requires the filing of a separate adoption petition for each child or any adult adoptee as well as separate parental rights termination petitions for each child whose birth parent, presumptive father, or putative father is the subject of the petition. While there are efficiencies in preparing one petition listing multiple children, other

concerns and issues outweigh this benefit, such as more accurate data collection of children involved in dependency proceedings, enhanced privacy and confidentiality, and facilitating appeals. The one child/one petition rule may result in increased filing fees as additional petitions will need to be filed in cases involving siblings or half-siblings. A county agency unduly burdened by the costs of filing separate petitions for a group of siblings may petition the court for relief from the filing costs. It is anticipated that such petitions for relief would be made when the costs are burdensome.

#### *Rule 15.4 Notice of Hearing to Terminate Parental Rights; Method and Time*

Rule 15.4 establishes notice procedures for petitions seeking to terminate parental rights. Although Rule 15.4 is derived from former Rule 15.6(a), new Rule 15.4 reorganizes and augments the notice procedures in proceedings to terminate parental rights. Rule 15.4 is organized into three concepts: (i) who is to receive notice of the hearing to terminate parental rights and the form of notice; (ii) how the notice is transmitted; and (iii) when the notice is provided.

Notably, Rule 15.4(b)(3) includes an additional requirement for a proceeding pursuant to Rule 15.10 (Involuntary Termination of Parental Rights). If the identity and location of the person whose parental rights are sought to be involuntarily terminated are known or can be determined after reasonable investigation, a copy of the petition for involuntary termination of parental rights shall be attached to the notice required by 23 Pa.C.S. § 2513(b).

#### *Rule 15.5 Certification Filed with the Clerk Maintaining the Dependency Docket*

Rule 15.5 is identical to former Rule 15.6(b). Pursuant to Rule 15.5 and former Rule 15.6(b), when pursuing termination of parental rights for a child who has been declared dependent by the juvenile court or when filing an adoption petition for such a child, the county agency must file *praecipis* with the clerk of the juvenile court so the juvenile court docket shows the status of the case in Orphans' Court.

#### *Rule 15.6 Filing of Termination Petitions when an Agency is Not Involved*

Rule 15.6 is an entirely new rule. It is intended to implement the long-standing precedent of the Court, namely that a parent cannot petition to terminate the parental rights of the other parent unless there is a present plan for the child's adoption either by a step-parent or another person. *In re Adoption of M.R.D.*, 145 A.3d 1117, 1120 (Pa. 2016); *In re T.R.*, 465 A.2d 642, 644 n.10 (Pa. 1983); *In re B.E.*, 377 A.2d 153 (Pa. 1977). *See also* 23 Pa.C.S. § 2512(b) ("If the petitioner is an agency it shall not be required to aver that an adoption is presently contemplated nor that a person with a present intent to adopt exists."). However, pursuant to Act 95 of 2020, a parent seeking the involuntary termination of the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to grounds for termination of the basis of a child conceived as a result of rape or incest) may proceed without identifying an adoptive parent. *See* 23 Pa.C.S. §§ 2512(b)(2) and 2514.

#### *Rule 15.7 Voluntary Relinquishment to Agency*

Rule 15.7 is derived from former Rule 15.2 and addresses terminating parental rights by a petition to voluntarily relinquish the child to the care and custody of an agency. Rule 15.7, like the other rules covering

termination petitions, is structured in the following manner: paragraph (a) sets forth the petition averments; paragraph (b) lists the exhibits that must be attached to the petition; and paragraph (c) addresses the hearing and serving notice of the hearing.

With respect to the required averments in Rule 15.7(a), a number of averments are substantially similar to averments in former Rule 15.2. Three averments were not carried over from former Rule 15.2: (1) the religious affiliation of the petitioning birth parent, the other known or alleged birth parent, and the child; (2) the names of the birth mother's former husbands (expect when the birth mother was married at the time of the child's birth or during the one year prior to the child's birth); and (3) whether the child was born out of wedlock, and if so, whether the parents intend to marry. Three new averments were added to Rule 15.7(a) on the subjects of counseling services, contact agreements, and consents.

Rule 15.7(b) lists exhibits to a petition to voluntarily relinquish a child to an agency. It retains one of the exhibits required by former Rule 15.2(b), eliminates three exhibits previously required, and adds three new exhibits. Both rules require the petition to include the joinder or consent of the agency having care of the child, including its consent to accept custody until the child is adopted. See 23 Pa.C.S. § 2501(b).

With respect to the child's birth certificate or a certification of registration of the child's birth, required by former Rule 15.2(b)(2), it is relevant and should be part of the court's file. However, the child's birth certificate or a certification of registration of the child's birth does not need to be attached to every parental termination rights petition presented to the court. It is sufficient that the birth certificate or a certification of registration of the child's birth be filed once and made a part of the court's file, as reflected by Rule 15.3(b).

The exhibit required by former Rule 15.2(b), written consent of the parent or guardian of a minor petitioning birth parent, was eliminated because requiring its attachment is directly contrary to Section 2501(b) of the Adoption Act.

Three new exhibits are required to be attached to the voluntary relinquishment petition. First, the parent relinquishing care and custody of the child to an agency must sign a document indicating his or her present intent to transfer custody of the child to the agency. Next, to ensure that the petitioning birth parent received a notice regarding post-adoption contact and communication agreements ("PACA-notice"), a verified statement from the person who provided the notice, attesting that the PACA-notice was provided to the petitioning birth parent and the manner and date it was presented to this birth parent must be attached as an exhibit. The statement also requires that the PACA-notice be in writing and attached to the verification statement. Lastly, if there is a putative father and his rights may be terminated as part of the hearing on the voluntary relinquishment petition, a verification statement and the PACA-notice directed to the putative father must be attached as an exhibit to the petition. See Rule 15.7(b)(3).

Rule 15.7(c) addresses notice of the hearing and what must be presented at the hearing. Rule 15.7(c)(1) cross-references the statutory provisions setting forth the time for serving notice and those entitled to receive notice of the hearing on the voluntary relinquishment petition, as well as cross-referencing Rule 15.4 regarding permitted means of service. Rule 15.7(c) requires a certificate of

service to be presented to the court at the hearing, attesting that notice was given to everyone entitled to notice under 23 Pa.C.S. § 2503 and in a manner permitted under Rule 15.4(b)(1). Paragraph (c)(3) is derived from former Rule 15.2(c), requiring the petitioning birth parent to appear at the hearing and be available to testify.

The requirement in former Rule 15.2(c) that anyone who filed a joinder or consent to the petition must be present at the hearing was eliminated from Rule 15.7. It is implicit that when a joinder is filed by the other birth parent or putative father, then that individual is a petitioner and likewise needs to be present at the hearing.

The PACA-notice may not have been provided to a putative father at the time of the petition's filing. Regardless of the reason, when the rights of an alleged father may be terminated as part of the hearing on the birth mother's voluntary relinquishment petition and the PACA-notice was not previously sent to the putative father, then Rule 15.7(c) requires a verified statement to be presented to the court at the hearing indicating that an agency representative or counsel sent a PACA-notice to the putative father. As required by Rule 15.7(b)(3), a copy of the written PACA-notice must be attached to the verified statement.

#### *Rule 15.8 Voluntary Relinquishment to Adult Intending to Adopt Child*

Rule 15.8 is derived from former Rule 15.3 and addresses terminating parental rights by a petition to voluntarily relinquish the child to the care and custody of an adult who has, by a filing with a court, indicated his or her intent to adopt the child. Similar to Rule 15.7, Rule 15.8 is structured in the following manner: paragraph (a) sets forth the petition averments; paragraph (b) lists the exhibits that must be attached to the petition; and paragraph (c) addresses the hearing and service of notice of the hearing. Given that Rules 15.7 and 15.8 concern voluntary relinquishments, there is substantial overlap and duplication between the two rules.

#### *Rule 15.9 Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption*

Rule 15.9 is an entirely new rule; however, it is structured in the same manner as Rules 15.7 and 15.8. The new rule implements an alternative procedure whereby parental rights can be voluntarily relinquished through the court's confirmation of a consent to adoption. Pursuant to Act 174 of 1982, this procedure became a third option for voluntary relinquishments.

Unlike the previously discussed voluntary relinquishment petitions, the alternative procedure for relinquishment by confirmation of consent to adoption does not require the birth parent to be either the petitioner or present at the hearing. After the birth parent signs a consent agreeing to relinquish parental rights and have the child adopted, the agency coordinating the adoption or the adopting parents, through counsel, files a petition seeking to have the court confirm the birth parent's previously executed consent to adoption, thereby terminating the parent's parental rights to the child. The contents and language of the consent are statutorily mandated by Section 2711(d) of the Adoption Act and must include the date and location of its execution as well as the names, addresses and signatures of two witnesses and an explanation of their relationship to the consenter.

Rule 15.9(a) sets forth the averments that must be contained in the petition to confirm the consent. Para-

graphs (a)(1)—(4) are modeled after the averments required in the voluntary relinquishment petitions; however, the terminology is changed because the petitioner will not be the consenter, *i.e.*, person who signed the consent to adopt. Paragraphs (a)(5) and (6) establish the consent was signed by the consenter in accordance with the statutory requirements under Sections 2711(c) and 2712 of the Adoption Act as well as informing the court that the requisite number of days has elapsed so that the previously executed consent to adoption is now irrevocable. Similarly, trying to establish that the consenter has not revoked the consent, paragraph (a)(7) asks whether the petitioner, counsel for the petitioner, the agency, or intermediary has received any revocation or attempt to revoke the previously executed consent to adoption. Paragraphs (a)(8)—(10) address counseling services, contact agreements, and consent.

Rule 15.9(b) lists the exhibits that must be attached to the petition to confirm consent and mirrors the exhibits required by Rules 15.7(b) and 15.8(b). Specifically, Rule 15.9(b)(1) requires that the original consent to adoption be attached to the petition, as mandated by Section 2504(a) of the Adoption Act. Rule 15.9(b)(2) and (b)(3) requires attachment of verified statements from an agency representative or counsel indicating that the PACA-notice was given first to the consenter and then also to the putative father, if there is a putative father and if the PACA-notice was provided to him prior to the filing of the petition to confirm consent. If a PACA-notice cannot be given to a putative father, Rule 15.9(b)(3) allows the agency representative or counsel to set forth in a verified statement why the PACA-notice could not be given to the putative father and the efforts that were made to identify or locate the subject person. Lastly, Rule 15.9(b)(4) requires that the consent of the agency or the Prospective Adoptive Parents be attached to the petition as the final exhibit, which shall provide that the agency or individuals agree to accept custody of the child until the adoption is completed.

Rule 15.9(c) addresses the hearing and what must be presented at the hearing. Rule 15.9(c)(1) cross-references statutory provisions regarding who must be served with notice, when service shall occur, and the form of notice about the hearing's scheduling. It also cross-references Rule 15.4 regarding how service is accomplished. Rule 15.9(c)(2) requires a certificate of service presented to the court at the hearing, attesting that notice of the hearing was given to everyone entitled to notice under Section 2504(b) of the Adoption Act and in a manner permitted under Rule 15.4(b)(2).

If there is an alleged father and his rights may be terminated as part of the hearing to confirm the consent executed by the consenting birth parent, and if the putative father did not receive a written PACA-notice prior to the petition's filing, Rule 15.9(c)(3) requires that a verified statement must be presented to the court during the hearing attesting that the written PACA-notice was provided to the putative father.

#### *Rule 15.10 Involuntary Termination of Parental Rights*

Rule 15.10 is modeled after former Rule 15.4 and establishes the petition averments, exhibits, and procedures for conducting a hearing to involuntarily terminate parental rights.

In Rule 15.10(a), the first eleven averments are substantially similar to the averments required under former Rule 15.4. Because standing is crucial in involuntary termination proceedings, the basis for the petitioner's

standing is set forth as a distinct averment. Pursuant to Section 2512 of the Adoption Act, a petition to involuntarily terminate a person's parental rights may only be filed by (i) the other birth parent; (ii) an agency; (iii) an individual having custody of the child or standing *in loco parentis* to the child and who also has filed a report of intention to adopt; or (iv) an attorney or guardian of a child who has been adjudicated dependent. Rule 15.4(a)(1) was slightly reworded to require the petitioner to provide the basis of his, her, or its standing under one of the four categories listed above.

The averments required by paragraph (a)(3) and paragraph (a)(4) are substantially similar to the second and third averments under former Rule 15.4, except the requirement to provide an averment as to the religious affiliation of the child or the subject birth parent was eliminated as discussed earlier in this Report with respect to Rules 15.7 and 15.8.

Paragraph (a)(5) is new and satisfies Section 2512(c) of the Adoption Act, which provides that the petition shall state whether a claim of paternity has been filed if the petition otherwise does not identify the child's father.

Rule 15.10(a)(6) is modeled after former Rule 15.4(a)(4); however, for the reasons previously set forth in this Report, the need to present an averment as to the names of the birth mother's former husbands was eliminated.

Rule 15.10(a)(7) is identical to former Rule 15.4(a)(5). Rule 15.10(a)(8) is new and relates to the date the child was removed from the parent who is the subject of the petition, if different than the date of placement with the petitioner. It seeks information that may not be provided to the court if the petitioner does not have custody of the child, such as the attorney or guardian *ad litem* representing a dependent child, and or if someone else had custody of the child before the petitioner obtained custody. Even though the date when the child is removed from the parent is rarely different from the date when the child is placed with the petitioner, it is important for this information to be conveyed to the court. This new pleading averment will provide the court with information as to why the child did not remain with his or her custodial parent. This information may be different than the information sought in paragraph (a)(10), which requires specificity in pleading facts to support the termination.

Rule 15.10(a)(10) is substantially similar to former Rule 15.4(a)(6). Likewise, Rule 15.10(a)(11) is identical to former Rule 15.14 (a)(7), except that the name of the federal legislation has been changed to reflect its current title.

As previously discussed in the context of Rule 15.7(a)(10), Rule 15.10(a)(12) addresses whether the petitioner has or will provide the PACA-notice, required by Section 2733(c) of the Adoption Act, to the birth parent who is the subject of the petition. This paragraph varies from its counterparts under Rules 15.7, 15.8, and 15.9 regarding whether the PACA-notice has been provided. (*See e.g.*, Rules 15.7(a)(10), 15.8(a)(10), and 15.9(a)(10)). The averment under this paragraph permits the petitioner to explain why the PACA-notice cannot be given to the subject birth parent and the requirement waived by the court.

Rule 15.10(a)(13) is derived from former Rule 15.4(a)(8). Rather than an averment in the petition that the petitioner will accept custody of the child until the child is adopted, this paragraph is reworded to require that a consent to this affect be attached as an exhibit to the petition. Paragraph (a)(13) also requires an additional

avermment, namely that a Report of Intention to Adopt or an adoption petition has been filed if it is an individual who is assuming custody of the child. This additional averment ensures compliance with Section 2512(b) of the Adoption Act and Rule 15.6. The averment is not required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). *See* 23 Pa.C.S. § 2514.

Lastly, Rule 15.10(a)(14) requires an averment that the petitioner has read the petition and believes its filing to be in the child's best interests. Because the court must consider and determine the child's best interests before involuntarily terminating parental rights, the petitioner should represent to the court whether he, she or it believes the child's best interests are served by a termination.

Rule 15.10(b) lists the exhibits that need to be attached to a petition to involuntarily terminate parental rights. Paragraph (b) eliminates the exhibits previously required by former Rule 15.4(b) and adds two new exhibits. To ensure the PACA-notice is provided to the parent who is the subject of the involuntary termination petition, a verified statement from the person who provided the notice, attesting that the PACA-notice was provided to the subject birth parent, together with how and when it was presented, must be attached as an exhibit. Rule 15.10(b)(1) also requires the written PACA-notice delivered to the subject birth parent be attached to the verification statement that is submitted with the petition as an exhibit. Requiring the PACA-notice in writing further ensures the birth parent is informed of the opportunity for post-adoption contact or communication, and is intended to minimize possible disputes between the birth parent and the representative providing the PACA-notice as to whether the notice was effectively given. If a PACA-notice is not provided, then paragraph (b)(1) requires the verified statement to attest to the efforts made to locate or identify the subject birth parent.

Lastly, in order to implement the requirement under Section 2512(b) of the Adoption Act, the signed consent of the petitioner, person, or agency that is accepting custody of the child until the child's adoption must be attached as an exhibit to the petition. Former Rule 15.4 required this consent to accept custody to be an averment set forth in the petition. Because consents are usually submitted as exhibits, the requirement was moved from the averments to the exhibits. It is not required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). *See* 23 Pa.C.S. § 2514.

Rule 15.10(c) addresses service of the hearing notice upon the appropriate individuals and other documents that must be presented at the hearing. This paragraph is modeled on former Rule 15.4(d). By cross-referencing Section 2513(b) of the Adoption Act and Rule 15.3(b)(3), Rule 15.10(c) requires the involuntary termination petition to be served 10 days in advance of the hearing on the parent who is the subject of the petition and for a copy given to the other parent, putative father, or parent or guardian of a minor parent whose rights are being involuntarily terminated. Rule 15.10(d)(2) requires a certificate of service to be presented to the court at the hearing, attesting that notice was given to everyone entitled to notice under Section 2513(b) of the Adoption Act and in a manner permitted under Rule 15.3(b)(3).

If the PACA-notice was not provided to the subject birth parent before the time of the petition's filing, then, pursuant Rule 15.10(c)(3), a verified statement must be presented to the court at the hearing indicating that counsel or a representative of the agency or intermediary sent a written PACA-notice to the subject birth parent. Similar to Rule 15.10(b)(2) when the verified statement is attached to the petition, Rule 15.10(c)(3) requires the written PACA-notice to be attached to the verified statement. Finally, if a PACA-notice is not being provided, then the verified statement from counsel or the representative of the agency or intermediary needs to attest to the efforts made to identify or locate the subject birth parent.

Rule 15.10(d)(1) addresses the appointment of counsel for the child in a contested proceeding. If the court determines the child requires counsel to represent both the best interests and legal interests of the child, the court shall determine on the record whether counsel can represent both interests without conflict before appointing an individual to serve as both guardian *ad litem* and counsel for the child. *See In re: Adoption of K.M.G.*, 240 A.3d 1218 (Pa. 2020). The court may appoint counsel for a parent whose rights are subject to termination if it determines that the parent is unable to pay for counsel or that payment would result in substantial financial hardship.

*Rule 15.11 Notice of Right to File Statement of Medical, Personal, or Social History Information*

Rule 15.11 is new and implements requirements under Sections 2503(e), 2504(d), and 2511(c) of the Adoption Act. Pursuant to each of these statutory sections, at the time of issuing the decree terminating parental rights, the court shall advise the parent, in writing, of the parent's continuing right to provide and update medical, personal, or social history information with the court and with the Department of Human Services.

In order to inform birth parents of their rights post-termination, Rule 15.11 sets forth information that should be provided to a birth parent in the mailing with the termination decree. It directs the clerk to include a reference to information and instructions for the parent to file medical, personal, or social history information with the clerk and the Department. Rule 15.11 also requires the clerk to include information and instructions to redact the birth parent's name from the child's original birth certificate.

A new form was developed to provide information about: (i) providing and updating medical, personal, or social history information; (ii) the right to file forms with the court and the Department authorizing or not authorizing the release of identifying information; and (iii) the need to separately file a redaction request with the Department of Health to prevent the release of the original birth certificate to the child once the adopted child reaches adulthood. The form is titled "Notice to Provide Medical Information and Determine Access to Identifying Information (A-05)."

*Rule 15.12 Court Review and Approval of Contact Agreement*

Rule 15.12 is an entirely new rule designed to implement the provisions of 23 Pa.C.S. §§ 2731—2742, providing for voluntary post-adoption agreements for continuing contact or communication. Statutory sections 2731—2742 set forth various requirements and considerations; however, these provisions do not specify how a written agreement for post-adoption contact or communication ("Contact Agreement") is presented to the court, when it

is to be presented to the court, and by whom. Rule 15.12(a) addresses these matters.

A proposed written Contact Agreement may be presented to the same court that has or will conduct the parental termination hearing if prospective adoptive parents have been identified by the time of the termination hearing. If the prospective adoptive parents are not identified until after a birth parent's parental rights have been terminated, then the Rule provides that the proposed written Contact Agreement be presented to the court that will be presented with the adoption petition.

The Rule does not dictate which party is responsible for filing the petition to have a proposed written Contact Agreement reviewed and approved by the court. The Rule provides that any party to the proposed written Contact Agreement, the agency or intermediary, or the guardian representing the child, may file the necessary petition depending upon which of these parties can do so most efficiently and expeditiously.

Rule 15.12(b) sets forth averments that must be contained in the petition to approve a proposed written Contact Agreement. The first four averments set forth information about the child who will be the subject of the proposed written Contact Agreement, whether the child is represented by a guardian *ad litem*, and whether the child has minor siblings who also should be represented by a guardian *ad litem*, pursuant to Section 2733(b) of the Adoption Act. Seven of the remaining averments are derived from the factors set forth in Section 2735(b)(2) that the court must consider in determining whether the Contact Agreement is in the best interest of the child. The averments set forth in Rule 15.12(b)(7), namely the length of time the child has been in the care and custody of the prospective adoptive parents, is relevant to a determination of the child's best interest. Finally, the petitioner is required to aver to the court that it is the petitioner's belief that the proposed written Contact Agreement is in the best interest of the child.

Rule 15.12(c) sets forth the exhibits that must be attached to the petition. A copy of the fully-executed proposed written Contact Agreement must be attached to the petition. This paragraph also requires the child's signed consent be attached to the petition if consent is required by Section 2734 of the Adoption Act (*i.e.*, a child who is 12 years of age or older must provide his or her consent to the proposed written Contact Agreement). Finally, the last required exhibit is the affidavit of all parties to the proposed Contact Agreement; these affidavits are required pursuant to Section 2735(b) of the Adoption Act.

Rule 15.12(d) provides the petition must be both filed with the court and served upon various individuals and entities set forth in paragraphs (d)(1)(A) through (d)(1)(E). This requirement provides notice of the filing of a petition to have the court approve a proposed written Contact Agreement to any person or entity that may have an interest in being heard before the court on the petition. The time to file a responsive pleading is within 10 days of the date on the petition or notice letter, which is consistent with the 10-day notice provided for holding a parental termination hearing.

Rule 15.12(e) provides for the appointment of a guardian *ad litem* for the child who is the subject of the proposed written Contact Agreement and any minor siblings entitled to representation pursuant to 23 Pa.C.S. § 2733(b). Finally, Rule 15.12(f) provides for court review, and if necessary, the holding of a hearing on the petition

with notice to those who receive service of the petition. If the court is unable to make a determination based solely upon the pleading and exhibits, then it can schedule a hearing to determine if the proposed written Contact Agreement is in the child's best interest.

The Explanatory Comment to this Rule suggests that the court conduct a hearing any time a child has signed the proposed written Contact Agreement or signed a separate consent agreeing to the proposed written Contact Agreement. In such instances, or where minor siblings are parties to the Agreements, the court is encouraged to conduct an evidentiary hearing to observe and question the minor participants. The court must also conduct a hearing if a responsive pleading opposing the petition has been filed.

#### Rule 15.13 Adoption

Rule 15.13 is modeled after former Rule 15.5. However, instead of merely cross-referencing the statutory section as in former Rule 15.5(a), new Rule 15.13(a) sets forth each averment statutorily required under Section 2701 of the Adoption Act. In addition to the required averments, this rule requires additional information and averments in order to implement other statutory sections. Rule 15.13(a)(2) contains a new averment; it requires the adoption petition to state the adoptee's name as it appears on the birth certificate, rather than the full name of the adoptee per Section 2701 of the Adoption Act. In all other respects, paragraphs (a)(1)—(a)(9) and paragraph (a)(16) track the statutory requirements under Section 2701 for an adoption petition.

In addition to the averments required by Section 2701 of the Adoption Act, there are additional averments contained in paragraphs (a)(10)—(a)(15) of Rule 15.13. These additional averments are explained briefly below.

Paragraph (a)(10) requires an affirmative averment that criminal history records and child abuse clearance certificates for each prospective adoptive parent are attached to the adoption petition as exhibits. Paragraph (a)(11) requires the petitioner to inform the court if there are any previously issued court orders impacting the ability of the court to grant the adoption petition. The existence of court orders establishing guardianship or custody of the adoptee in a person or entity other than the birth parent or court orders concerning placement, custody, guardianship or adoption of the adoptee also are pertinent to the court because previously issued orders might impede the court's ability to grant the adoption petition pending before it. In those situations where the adoptee was born in a state other than Pennsylvania, paragraph (a)(12) informs the court whether there has been compliance with the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to the placement.

Paragraph (a)(13) of the rule, implements the Court's holding in *In re Adoption of R.B.F. and R.C.F.*, 803 A.2d 1195 (Pa. 2002). If a particular report or exhibit cannot be attached to the adoption petition for any reason, the petitioner should have the opportunity to explain to the court why the report or exhibit is not attached and request that the court waive the required attachment in the particular instance.

Paragraph (a)(14) requires the court to be advised as to whether the prospective adoptive parents received the PACA-notice, and if required by Section 2733(c) of the Adoption Act, whether the adoptee received the same information.

Paragraph (a)(15) applies when the prospective adoptive parents and one or more birth relatives have negotiated a Contact Agreement. If an agreement exists, paragraph (a)(15) requires that the court before which the adoption petition is pending either be informed and given a copy of the order and Contact Agreement or be advised that a petition to approve the proposed Contact Agreement has been submitted and is pending before the court.

Rule 15.13(b) lists all exhibits that must be attached to the adoption petition. The exhibits include the adoptee's birth certificate if not previously filed with the court before which the adoption petition is pending, the consents required under Section 2711 of the Adoption Act, where necessary a report of the intermediary unless previously filed, criminal history background checks and child abuse clearance certificates, copies of court orders terminating parental rights and other court's orders involving the guardianship, custody, placement or adoption of the adoptee, written approval by the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to the placement, a verified statement that the PACA-notice was provided to the prospective adoptive parents and the adoptee, if required by Section 2733(c) of the Adoption Act along with a copy of the PACA-notice attached to the verified statement, and if previously approved, the Contact Agreement and the court order approving the Contact Agreement.

Rule 15.13(c)(1) is modeled after former Rule 15.5(b). Notice of the hearing on the adoption petition must be given to any birth parent, putative father and presumptive father whose parental rights have not been terminated in earlier proceedings. If the parental rights of these individuals have been terminated, then there is no need to provide notice of the adoption hearing to such birth parent, putative father, or presumptive father. Paragraph (c)(2) is new and applies when the petitioners, as part of the adoption hearing, are seeking court approval of a proposed executed Contact Agreement. In that situation, by cross-referencing the applicable provisions of Rule 15.12, paragraph (c)(2) requires the necessary parties to receive notice of the filing of the petition to approve a Contact Agreement and notice of the date of the adoption hearing when the petition will be considered by the court.

Rule 15.13(d) is identical to former Rule 15.5(c) except that cross-references to the Adoption Act have been revised and updated.

Rule 15.13(e) is derived from former Rule 15.5(d) and cross-references applicable statutory provisions regarding the adoption hearing. Section 2721 of the Adoption Act requires a hearing on the adoption petition, and Section 2723 requires the adopting parents and the adoptee to attend.

Paragraph (e)(1) establishes that the petitioner shall have the opportunity at the hearing to present evidence to the court if for any reason one or more of the statutory requirements have not been satisfied or one or more reports and exhibits is not attached to the adoption petition. Paragraph (e)(2) is modeled after former Rule 15.5(d), requiring disclosure of all fees and costs incurred in connection with the adoption. Unlike former Rule 15.5(d) (requiring the disclosure statement to be verified by petitioner's counsel), paragraph (e)(2) provides that the report disclosing fees and costs may be verified by the petitioner or petitioner's counsel. The disclosure of fees and costs must be verified if the petitioners are proceeding without representation by counsel.

Rule 15.13(f) is identical to former Rule 15.5(e).

#### *Rule 15.14 Registration of Foreign Adoption Decree*

With a few exceptions, Rule 15.14 is identical to former Rule 15.8. Changes generally reflect style, use of defined terms, and an effort to achieve consistency across the Orphans' Court Rules.

With respect to the Explanatory Comment, a new paragraph was added expressly indicating that it need not be shown that the birth parents of the foreign born child were given the PACA-notice pursuant to Section 2733(c) of the Adoption Act, because the adoption was completed in the native country of the foreign-born adopted child, pursuant to the laws and rules of that country.

In addition to changes to Rule 15.8, minor revisions were made to the form Petition to Register Foreign Adoption Decree Pursuant to 23 Pa.C.S. § 2908 and the accompanying instructions. An additional change was made relative to providing a certified English translation of adoption decrees issued by a foreign government that are not in English. The documentation for the foreign born child issued by the foreign government often contains an English translation, with a stamp or separate page certifying the translation to be true and correct. It is not required to obtain a new and separate verification signed under oath by one residing in the United States who is certified to translate the language appearing on the birth certificate or adoption decree.

#### *Rule 15.15 Petition for Adoption of a Foreign Born Child*

With a few exceptions to be noted below, Rule 15.15 is nearly identical to former Rule 15.9. Changes generally reflect style, use of defined terms, and an effort to achieve consistency across the Orphans' Court Rules.

Former Rule 15.9(b)(1) (requiring standalone verifications by petitioners, intermediary, and translators) was eliminated in favor of verification requirements embedded in filings, *e.g.*, Petition for Adoption of a Foreign Born Child and the Report of the Intermediary. *See* Rule 15.15(b)(3) and (9). Similarly, Rule 15.15(b)(6) and (7) (regarding documents translated into English) requires the certification of the translator filed with the documents. This change will eliminate the need for separate verifications and certifications.

#### *Rule 15.16 Notice and Service in Subsequent Petitions Regarding Contact Agreements*

As previously discussed, Rule 15.12 addresses how and when Contact Agreements are presented to the court, how interested parties are informed an agreement has been submitted to and is being considered by the court, and how the court should proceed when presented with an agreement. Rules 15.16—15.19 establish procedures for proceedings that can arise with respect to the Contact Agreement after the adoption is finalized, *i.e.*, petitions to modify, enforce, or discontinue. Rule 15.16 is an entirely new rule and establishes means for notifying all interested parties of the commencement of a proceeding to modify, enforce, or discontinue a Contact Agreement. Pursuant to Rules 15.17, 15.18, and 15.19, any one of these three proceedings must be commenced by a petition filed with the court.

Rule 15.16(a)(1) provides that the party filing the petition must mail the petition along with a copy of a notice to plead to (i) every person who is a party to the Contact Agreement; (ii) the adopted child if he or she has attained age 12 by the time of the petition's filing; (iii) any sibling of the adopted child who has continuing contact or communication with the adopted child under

the terms of the Contact Agreement; and (iv) the counsel who represented or is presently representing any such party, including any guardian *ad litem* who previously represented the adopted child. The service requirements of Rule 15.16(a)(1) are modeled after Pa. O.C. Rules 2.5 and 3.5(b). Rule 15.16(a)(2) requires the petitioner to file a certificate of service with the court indicating when the petition and notice to plead was mailed to the individuals entitled to service.

Rule 15.16(b) establishes a procedure for notifying interested parties of the date when the court will conduct a hearing on the petition. Paragraph (b) requires the petitioner to provide notice of the hearing to the individuals who received service of the petition pursuant to paragraph (a)(1) regardless of whether any individual filed an objection or responsive pleading. Normally, notice would be provided only to those who filed an objection or responsive pleading; however, all interested parties should be notified of the date of the court hearing because the individuals involved likely will not be represented, even if they were represented when the Contact Agreement was negotiated, and if they attend the hearing, may have information for the court to consider. The evidentiary standard to modify, enforce, or discontinue the Contact Agreement is clear and convincing evidence that the requested relief will serve the needs, welfare, and best interest of the child.

Rule 15.16(b)(2) allows the petitioner to send the hearing notice by United States mail, electronic transmission, or any other means that will effectively inform the recipient of the date, time and place of the hearing. Pursuant to paragraph (b)(3), a certificate of service shall be presented at the start of the hearing indicating who received notice of the hearing date, how notice was transmitted to the recipient, and attaching a copy of the notice.

#### *Rule 15.17 Petition to Modify a Contact Agreement*

Rule 15.17 is an entirely new rule and implements Section 2737 of the Adoption Act, which provides for the modification of a Contact Agreement. Rule 15.17(a) establishes who may file a petition to modify the Contact Agreement and where the modification petition must be filed.

Paragraph (b) sets forth the averments that must be contained in a petition to modify a Contact Agreement. The averment required by paragraph (b)(1) identifies adopted child's present age. Through the averments required by paragraphs (b)(2) and (b)(4), the court can confirm that the subject Contact Agreement was approved as provided by Sections 2734 and 2735 of the Adoption Act. Paragraph (b)(3) will assist the court in determining whether any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement should receive notice of the petition to modify the Contact Agreement. Similarly, paragraph (b)(5) informs the court whether any siblings of the adopted child have continuing contact or communication with the adopted child pursuant to the Contact Agreement, and whether the siblings were represented by any guardians *ad litem* who should also receive notice of the petition's filing. Finally, paragraphs (b)(6) and (b)(7) require the petitioner to describe the proposed modification and explain why modification will serve the needs, welfare, and best interest of the adopted child. Pursuant to Section 2737(b) of the Adoption Act, the court may modify the Contact Agreement only if it finds by clear and convincing evidence that the modification will serve "the needs, welfare and best interest of the child."

Rule 15.17(c) requires the Contact Agreement to be attached to the petition as an exhibit. This requirement reflects Pa. O.C. Rule 3.3(j) and ensures all individuals receiving the modification petition will have a copy of the Contact Agreement that is sought to be modified.

Paragraph (d) implements the service requirements of Rule 15.16. Rule 15.17(e) requires a hearing in order for the court to determine whether the evidence presented meets the standard of clear and convincing evidence that the modification serves the needs, welfare and best interest of the child.

#### *Rule 15.18 Petition to Enforce a Contact Agreement*

Rule 15.18, another entirely new rule, implements Section 2738 of the Adoption Act, which addresses enforcement of a Contact Agreement. As provided in Section 2738(a) of the Adoption Act, Rule 15.18(a) establishes who may file a petition to modify the Contact Agreement. Unlike Rules 15.17(a) and 15.19(a), Rule 15.18(a) does not indicate where such enforcement petition must be filed because Section 2738(a) provides that an action to enforce the Contact Agreement is to be brought "in the court that finalized the adoption"; however, Section 2738(e)(2) provides that "[t]he court issuing final approval of an agreement shall have continuing jurisdiction over enforcement of the agreement until the child turns 18 years of age, unless the agreement otherwise stipulates or is modified by the court." The Explanatory Comment advises the practitioner of this statutory conflict.

Rule 15.18(b) sets forth the averments in a petition seeking to enforce a Contact Agreement. The averment in paragraph (b)(1) indicates whether the adopted child should receive notice of the filing of the enforcement petition and an opportunity to be heard before the court. The information sought by paragraphs (b)(2) and (b)(4) enables the court to confirm the subject Contact Agreement was approved as provided by Section 2735 of the Adoption Act and, where applicable, that the adopted child consented to the agreement pursuant to Section 2734 of the Adoption Act. Similar to paragraph (b)(1), the averments required by paragraphs (b)(3) and (b)(5) assist the court in determining whether certain individuals should receive notice of the enforcement petition and an opportunity to be heard, specifically any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement, any siblings of the adopted child who have continuing contact or communication with the adopted child pursuant to the Contact Agreement, and in this latter instance, any guardians *ad litem* representing minor siblings. Paragraph (b)(6) requires the petitioner to affirm that he or she is in substantial compliance with the Contact Agreement. Finally, paragraphs (b)(7) and (b)(8) require the petitioner to identify the party who is breaching the Contact Agreement, describe breach, and explain why enforcement will serve the needs, welfare, and best interest of the adopted child. Section 2738(d) of the Adoption Act provides that the court may enforce the Contact Agreement only if the court makes two findings: first, that the petitioning party is in substantial compliance with the terms of the Contact Agreement, and second, by clear and convincing evidence that enforcement will serve "the needs, welfare and best interest of the child."

Rule 15.18(c) requires the Contact Agreement to be an exhibit to the petition. Requiring the Contact Agreement as an exhibit to the petition implements Pa. O.C. Rule 3.3(j) and ensures that all individuals receiving the

petition have a copy of the Contact Agreement sought to be enforced. Paragraph (d) implements the service requirements of Rule 15.16.

Lastly, paragraph (e) requires a hearing so the court can receive evidence as to whether the petitioning party is in substantial compliance with the terms of the Contact Agreement and how enforcement will serve “the needs, welfare and best interest of the child.” See 23 Pa.C.S. § 2738(d). This latter finding must be established by clear and convincing evidence.

*Rule 15.19 Petition to Discontinue a Contact Agreement*

Rule 15.19 is an entirely new rule and implements Section 2739 of the Adoption Act, which provides for discontinuing a Contact Agreement. In accordance with Section 2739(a) of the Adoption Act, paragraph (a) establishes who may file a petition seeking to discontinue a Contact Agreement and where the petition must be filed.

Paragraph (b) lists the averments for a petition seeking to discontinue a Contact Agreement. The purpose of paragraph (b)(1) is three-fold: first, to determine if the adopted child needed to consent to the Contact Agreement at the time it was approved by the court; second, to determine if the adopted child could be a petitioner in the present action; and third, in the discretion of the court, whether the adopted child should testify at the hearing. Paragraphs (b)(2) and (b)(4) enable the court to confirm the Contact Agreement was approved in accordance with Sections 2734 and 2735 of the Adoption Act. The averments required by paragraphs (b)(3), and (b)(5) assist the court in determining whether other individuals should receive notice of the petition to discontinue and an opportunity to be heard at the hearing, specifically any guardian *ad litem* who may have represented the adopted child at the time the court approved the Contact Agreement, any siblings of the adopted child who have continuing contact with the adopted child pursuant to the Contact Agreement, and in this latter instance, any guardians *ad litem* who represented the minor siblings during the negotiation and court approval of the Contact Agreement. Finally, paragraphs (b)(6) and (b)(7) require the petitioner to describe the reasons for requesting the Contact Agreement be discontinued and why the action will serve the needs, welfare and best interest of the adopted child. Section 2739(b) of the Adoption Act provides that the court may discontinue the Contact Agreement only if the court finds by clear and convincing evidence that discontinuing the Contact Agreement will serve “the needs, welfare and best interest of the child.”

Rule 15.19(c) requires the Contact Agreement to be an exhibit to the petition. As explained above with respect to Rule 15.17, requiring the Contact Agreement as an exhibit to the petition implements Pa. O.C. Rule 3.3(j) and ensures all individuals receiving the petition will have a copy of the Contact Agreement that the petitioner is seeking to discontinue.

Paragraph (d) implements the service requirements of Rule 15.16.

Finally, paragraph (e) of Rule 15.19 requires a hearing so the court can determine whether the evidence clearly and convincingly establishes that discontinuing the Contact Agreement will serve the needs, welfare, and best interest of the adopted child.

*Rule 15.20 Collection of Documents and Maintenance of Court File*

Rule 15.20 is an entirely new rule, designed to implement in part the provisions of 23 Pa.C.S. §§ 2911—2916,

2931—2938, governing the collection and dissemination of information about birth parents, the adopted child, and siblings of the adopted child. If the adopting parents reside in the same county as the birth parent(s) or if the termination of parental right proceeding and the adoption proceeding were brought in the county where the agency maintained its office, then only one clerk is involved and the file of both proceedings is maintained together. However, it is commonplace for the adopting parents and the birth parent(s) to reside in different counties, in which case one clerk is maintaining the files pertaining to the termination of parental rights and the clerk in another county is maintaining court records pertaining to the adoption. Also, it is possible that the birth parents reside in different counties, and proceedings to terminate the parental rights of each parent were conducted in the county of the parent’s residence.

Rule 15.20(a) requires the clerk where parental rights were terminated and the clerk where the adoption decree is entered to maintain the court records as part of a permanent court file. “Court records” is defined in Section 2911 of the Adoption Act as the “petition, exhibits, reports, notes of testimony, decrees, and other papers pertaining to a proceeding.” 23 Pa.C.S. § 2911. Rule 15.20 uses the term “court file” because, as explained below, the clerk could receive additional papers and information after the proceeding terminating parental rights is concluded or the adoption finalized. Thus, court records are only some of the documents that may be part of the court file. Paragraphs (b) and (c) lists the other documents the clerk must accept and make part of the court file.

Rule 15.20(b) lists documents that must be accepted by both the clerk where parental rights were terminated and the clerk where the adoption was finalized, depending on where the documents are presented. Paragraphs (b)(1)—(b)(4) are the same documents referenced in Rule 15.11; they include (i) a statement by the birth parent of his or her medical, personal, or social history information, regardless of whether this information is provided in the official form promulgated by the Department or explained in an informal letter or other writing; (ii) any updated statement about the birth parent’s medical, personal, or social history information; (iii) a birth parent’s signed authorization or consent permitting the release of identifying information, regardless of whether the birth parent provides a written statement or uses forms promulgated by the Department or the Department of Health; and (iv) an informal statement or an official form signed by birth parent withholding the release of identifying information or revoking a previously given consent or authorization.

Rule 15.20(c) lists additional documents that must be accepted and maintained as part of the court file by the clerk of the county where the adoption was finalized. As provided in Rule 15.20(c)(2), the clerk should accept and file any request for non-identifying or identifying information only if the adoption was completed in the county. If an adopted individual wishes to place in the court file an official form or an informal statement authorizing the release of his or her identifying information, withholding the release of identifying information, or revoking a previously given consent or authorization, any statement or completed forms signed by the adopted individual should be accepted only by the clerk in the county where the adoption was finalized.

Section 2916 of the Adoption Act allows an attorney who represented any party to the adoption proceeding or acted as counsel or guardian *ad litem* for a child in the adoption proceeding to forward to the court that finalized

the adoption the attorney's records and information pertaining to the child, birth family, or the adopting parents. Rule 15.20(c)(3) implements this provision, requiring the clerk where the adoption was finalized to accept records and information provided the remitting attorney submits the documents in the format dictated by local rule and pays any filing fee.

Rule 15.20(d) addresses situations when the proceedings to terminate parental rights and the adoption proceeding occurred in more than one county. Rule 15.20(d) directs the clerk where the parental rights were terminated to copy and forward the forms and information to both the Department of Human Services and to the clerk of the court where the adoption was finalized if the court is known or reasonably can be ascertained from information appearing in the clerk's court file.

Finally, with one exception, Rule 15.20(e) directs the clerk receiving documents to time-stamp the documents before placing them in the court file and to send an acknowledgement of receipt to the filing party or remitting clerk. The one exception is written requests for non-identifying and identifying information because these requests will be handled pursuant to Rule 15.22, as discussed below.

*Rule 15.21 Privacy; Withholding the Court File from Inspection*

Rule 15.21 is derived from former Rule 15.7, but has been revised in light of amendments to the Adoption Act and the Supreme Court's promulgation of the *Public Access Policy*, which took effect on January 1, 2018.

Rule 15.21(a) provides for the impounding of all proceedings, dockets, Intermediary reports, and certificates of adoption. However, as explained in the discussion concerning Rule 15.20, the court file may contain documents in addition to these items. Thus, Rule 15.21(a) updates the description of documents withheld from inspection and the statutory cross-references. Rule 15.21(a) expressly mandates that all items in the court file shall be withheld from inspection unless disclosure is permitted by 20 Pa.C.S. §§ 2931—2937 of the Adoption Act, and the implementing procedural rule, Rule 15.22.

*Rule 15.22 Dissemination and Release of Information in the Court File*

Rule 15.22 is a new rule designed to implement 23 Pa.C.S. §§ 2931—2938, regarding who can request non-identifying or identifying information about other parties in an adoption process.

Rule 15.22(a)(2) requires one requesting information from the court file to establish that he or she is an adult individual permitted to make a request under Section 2931 of the Adoption Act and in certain situations, that other preconditions have been satisfied. Rule 15.22(a)(3) requires one requesting information to describe the relationship between the requester and the individual who is the subject of the request, and in certain instances, that age requirements and other preconditions have been met.

Pursuant to Section 2933(a) of the Adoption Act, only an "Authorized Representative" can handle a request for identifying information; thus, the court must appoint an Authorized Representative whenever a request is received for identifying information. As defined in Section 2911, an Authorized Representative is an individual who has completed a standardized training program developed by the Department of Human Services.

In accordance with Section 2931(a) of the Adoption Act, Rule 15.22(a) provides that one seeking non-identifying or

identifying information shall file a written request with the clerk where the adoption decree was entered. Pursuant Rule to 15.22(h), the local court may develop a reasonable fee schedule for these requests.

By local rule, a judicial district may require a particular format for these requests, develop a standardized form, or require the filing of a petition. Except in the case of birth parents, there is additional information that needs to be provided by the requester in order to determine if the requester is allowed to make his or her request for information. See Rule 15.22(a)(2)(A)—(a)(2)(F).

The written request must state who is the subject of the request. Section 2931(b) provides that the following individuals may be the subject of a request for information: (i) an adopted individual if the adopted individual has attained 21 years of age; (ii) the birth parent of an adopted individual; (iii) the parent of a birth parent if the birth parent consents, has been adjudicated incapacitated, or is deceased; and (iv) the birth sibling of an adopted individual if both the adopted individual and the birth sibling have attained 21 years of age, and if the birth sibling, remained in the custody of the birth parent, then the birth parent must consent to the request for information or contact, have been adjudicated incapacitated, or have died. Paragraphs (a)(3)(A)—(a)(3)(C) identifies individuals who may be the subject of a request for information and other special conditions that apply when the request pertains to an adopted individual, parent of a birth parent, or birth sibling of an adopted individual.

Rule 15.22(b) provides that the clerk shall accept and date stamp the written request before forwarding it to the court for review. The judge or court personnel experienced in adoptions is able to address requests for non-identifying information; only an Authorized Representative will address requests for identifying information.

As provided in Rule 15.22(c), upon receiving the request, the judge or other court personnel shall review the request, determining: (i) if it is the appropriate court to handle the request; (ii) if the requester is permitted by the statute to proceed with his or her requested inquiry; and (iii) if the person about whom information is sought or with whom contact is requested can be the subject of a request pursuant to 23 Pa.C.S. § 2931(b). If the answer to any one of these questions is "no", then the court should inform the requester that his or her request is being denied and the reasons thereof. The response to the requester can be a letter and need not be a court order as it is not an appealable decision of the court. If the answer to all of the three above questions is "yes", then, if the request seeks only non-identifying information, the request shall be handled in accordance with Rule 15.22(d), and if the request seeks identifying information or contact with an individual, it shall be assigned to an Authorized Representative who shall proceed as provided in Rule 15.22(e).

While Section 2932 of the Adoption Act imposes deadlines for acknowledging and responding to requests, such deadlines are not incorporated in Rule 15.22. The deadlines are aspirational or directory, but not mandatory.

Finally, Section 2934 of the Adoption Act concerns the filing of a statement of medical, personal, or social history information, acknowledging receipt of the filing to the person who filed the statement, and disseminating the statement to others. Once filed, the statement of medical, personal, or social history information becomes part of the court file subject to impounding and confidentiality; this

information should not be disseminated by the clerk absent a later filed request for such information approved by the court.

Pursuant to Rule 15.22(g) if a statement of medical, personal, or social history is filed, updated, or sent from the clerk of the court where parental rights were terminated because a birth parent recently filed a statement with that clerk, then the clerk of the court finalizing the adoption shall include the statement as part of the court file. The Rule sets establishes provisions for processing the statement, including contact with persons who have previously filed requests for information.

[Pa.B. Doc. No. 21-1232. Filed for public inspection August 6, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CENTRE COUNTY

#### Local Rule in Accordance with Rule 205.4 of the Pennsylvania Rules of Civil Procedure; No. 2021-22 CM

##### Order

*And Now*, this 23rd day of July, 2021, It is Hereby Ordered as follows:

1. The following Local Rule 205.4 is Adopted by this Court and shall be effective thirty (30) days after being published in the *Pennsylvania Bulletin*.

2. The Centre County Judicial Law Clerk is Ordered and Directed to:

a. Distribute this Order and the following Local Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* by emailing a copy of this Order to [bulletin@palrb.us](mailto:bulletin@palrb.us) and sending two copies to:

Legislative Reference Bureau  
Pa. Code and Bulletin Office  
647 Main Capitol Building  
Harrisburg, PA 17120-0033

b. Amend this Court's website to include the following Local Rule within thirty (30) days after the publication in the *Pennsylvania Bulletin*.

c. File one (1) copy of this Local Rule with the Administrative Office of Pennsylvania Courts (AOPC).

*By the Court*

PAMELA A. RUEST,  
*President Judge*

#### Rule 205.4. Electronic Filing.

##### A. Electronic Filing

1. The Centre County Court of Common Pleas hereby permits the electronic filing of legal papers and the electronic service of such papers under the terms described in this Local Rule. In the context of this rule, "legal papers" which may be filed electronically do not include cases involving Domestic Relations, Protection From Abuse, Orphans' Court, and Mental Health/Intellectual Disability.

##### B. Form of Documents Electronically Filed

1. All electronic filings shall be in Portable Document Format (PDF) or any other electronic format, if any, that the Court by local rule designates. A paper presented for

filing in a format other than PDF shall be converted to PDF and maintained by the Prothonotary/Clerk of Courts in that format.

2. A legal paper filed electronically shall be deemed the original document. The Prothonotary/Clerk of Courts shall maintain a hard copy of the document filed.

3. Scanned signatures will be accepted as originals. An electronically filed document shall be deemed to have been signed by the filer if it bears a facsimile or typographical signature of the filer, e.g. Is/ John Doe. The electronic filing of a legal paper constitutes a certification by the filing party that a hard copy of the legal paper was properly signed and, where applicable, verified; and a certification as provided by the signature to a legal paper under Pa.R.C.P. 1023.1 the violation of which shall be subject to the sanction provided by Pa.R.C.P. 1023.1(d).

4. The filing party shall maintain the signed hard copy of the document filed for two (2) years after the later of: the disposition of the case; the entry of an order resolving the issue raised by the legal paper; or, the disposition by an appellate court of the issue raised by the legal paper.

5. Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen (14) days of service of the notice. The Court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant of the notice.

6. As required by Pa.R.C.P. 205.5, the filing party shall include the statewide cover sheet with the initial filing.

##### C. Access

1. The Prothonotary/Clerk of Courts shall provide electronic access at all times.

2. All legal papers that are filed electronically shall be filed through the Prothonotary/Clerk of Court's Electronic Filing System which shall be accessible at [Prothonotary/Clerk of Courts-orders@centrecountypa.gov](mailto:Prothonotary/Clerk of Courts-orders@centrecountypa.gov),

3. Prothonotary/Clerk of Courts-orders@centrecountypa.gov shall only be used for filing documents and not for any other purposes.

4. The Prothonotary/Clerk of Courts shall maintain a public access terminal available to the general public to allow access to the Court's electronic case record in all electronically filed cases in its office.

5. The Prothonotary/Clerk of Courts, Courts or Court Administrator shall not be obligated to print documents that are filed electronically. A fee will be charged for any documents exceeding 25 pages which need to be printed by the Prothonotary/Clerk of Courts, including a hard copy of any pleadings.

##### D. Filing Fees

1. The Prothonotary/Clerk of Courts will accept for payment of filing fees the following credit and debit cards: American Express, Discover, Master Card and Visa. Any convenience fee charged will be the responsibility of the filer. The Prothonotary will not accept advance deposit on account of future filing fees.

##### E. Time of Filing

1. Upon receipt of the legal paper, the Prothonotary/Clerk of Courts shall provide the filing party with an acknowledgement, which includes the date and time the legal paper was received by the Electronic Filing System. The Prothonotary/Clerk of Courts shall also provide the filing party with notice that the legal paper was accepted

for filing. All filings must be received by 4:30 p.m. to be time stamped for that business day.

2. The Prothonotary/Clerk of Courts shall affix "Filed by Email" near the time stamp.

3. If a legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the Prothonotary/Clerk of Courts shall immediately, or if the office is closed, immediately upon opening, notify the party presenting the legal paper for filing of the date of presentation, the fact the document was not accepted or was refused for filing by the system, and the reason it was not accepted or was refused.

4. A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website.

F. *Service of Legal Papers*

1. Once the electronic filing has been accepted, it shall be the responsibility of the filing party to provide the Sheriff with the proper service fee and the documents for Original Service and Writs.

[Pa.B. Doc. No. 21-1233. Filed for public inspection August 6, 2021, 9:00 a.m.]