

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Proposed Adoption of Pa.R.Crim.P. 124

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court the adoption of Pa.R.Crim.P. 124 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

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

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All communications in reference to the proposal should be received by Monday, May 1, 2023. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Criminal Procedural
Rules Committee*

STEFANIE SALAVANTIS,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART B. Counsel

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

Rule 124. Waiver of Fees and Costs.

A defendant may seek or obtain a waiver of any fees or costs pursuant to Pa.R.J.A. 1990 except for fees, costs, or other financial assessments imposed as a result of conviction.

Comment:

Pennsylvania Rule of Judicial Administration 1990 (Application to Waive Fees and Costs) sets forth the procedure for seeking or obtaining a waiver of the

payment of filing fees. The eligibility criteria at Pa.R.J.A. 1990(b) should inform the defendant whether to proceed by application or *praecipe*.

For an expungement, an application for a waiver or a *praecipe* of counsel should be filed at the same docket containing the records the defendant seeks to expunge.

SUPREME COURT OF PENNSYLVANIA CRIMINAL PROCEDURAL RULES COMMITTEE

Publication Report

Proposed Pa.R.Crim.P. 124

The Committee previously published proposed amendments to Pa.R.Crim.P. 460, 490, 490.1, 790, and 790.1. Those proposed amendments would have extended the application of proposed Pa.R.J.A. 1990 to permit the waiver of fees and costs for a notice of appeal from a magisterial district court and for expungement and limited access proceedings. *See* 52 Pa.B. 2561 (April 30, 2022). Comments indicated there are myriad filing fees imposed in criminal proceedings throughout Pennsylvania, including fees to file a motion, a PCRA petition, a *habeas* petition, for *certiorari*, and to obtain copies of criminal records. Instead of the previously proposed amendments, the adoption of a general rule that would permit the application of Pa.R.J.A. 1990 to obtain a waiver of fees and costs—with exceptions for costs, fees, and other financial assessments imposed as a result of a conviction—was suggested.

In response to this suggestion, the Committee is considering an alternative proposal for the adoption of Pa.R.Crim.P. 124 (Waiver of Fees and Costs). The Committee believes the proffered language, “imposed as a result of conviction,” would exclude fines, fees, costs, and restitution imposed at sentencing or as a consequence of being convicted. However, the Committee questioned how the rule would apply to financial obligations as a condition of an accelerated rehabilitative disposition (ARD) program or imposed by a problem-solving court, *e.g.*, veterans treatment court, or other program.

In *Commonwealth v. Melnyk*, 548 A.2d 266 (Pa. Super. 1988), the Superior Court opined that the conditions of admittance into ARD must take into consideration a defendant's ability to meet any financial obligations resulting from those conditions. A defendant's indigency cannot be used to deny entry into an ARD program, and alternative conditions must be considered where the defendant is unable to meet those financial conditions despite “sufficient *bona fide* efforts to do so.” *Id.* at 272; *see also* Pa.R.Crim.P. 316, cmt. at ¶ 2. Therefore, it appears Pa.R.Crim.P. 124, as herein proposed, would apply Pa.R.J.A. 1990 to the fees and costs of ARD programs. Please note that restitution is neither a fee nor a cost so it would not be subject to Pa.R.Crim.P. 124.

The Committee specifically invites comment on this aspect of the proposal. If admission into an ARD program and the conditions of the program were to be specifically excluded from Pa.R.Crim.P. 124, then suggestions for a uniform alternative to Pa.R.J.A. 1990, consonant with *Melnyk*, are welcome.

Regarding specialty courts, *see* 42 Pa.C.S. § 916, such courts have been described as deferred proceedings after a plea of guilty. *See Commonwealth v. McCabe*, 265 A.3d 1279 1287-88 (Pa. 2021). “A plea of guilty (when accepted and entered by the Court) is the equivalent of a convic-

tion and a verdict of guilty by a jury.” *Com. ex rel. Hough v. Maroney*, 229 A.2d 913, 914-15 (Pa. 1967). Insofar as admission into a specialty court is conditioned on a plea, the post-plea financial obligations imposed by the specialty court are “a result of conviction.” Accordingly, those financial obligations would not be subject to Pa.R.J.A. 1990 *vis-à-vis* Pa.R.Crim.P. 124.

The Act of November 3, 2022, P.L. 163 substantially amended 42 Pa.C.S. § 9730 (payment of court costs, restitution, and fines). The Committee contemplates separate rulemaking to implement that Act.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 23-424. Filed for public inspection March 31, 2023, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11, 12, 13, 14, 15 AND 16]

Order Amending Rules 1120, 1149, 1154, 1242, 1330, 1409, 1512, 1514, 1515, 1608, 1609, 1610, 1611, and 1631 of the Pennsylvania Rules of Juvenile Court Procedure; No. 943 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 22nd day of March, 2023, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Juvenile Court Procedure 1120, 1149, 1154, 1242, 1330, 1409, 1512, 1514, 1515, 1608, 1609, 1610, 1611, and 1631 are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on October 1, 2023.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

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Comment:

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The definition of “family finding” is derived from 67 Pa.C.S. § [3102] **7502**.

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See also 67 Pa.C.S. §§ [3101] **7501** *et seq.* and 42 U.S.C. § 675 (Fostering Connections) to comply with state and federal regulations.

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PART B(1). EDUCATION AND HEALTH OF CHILD

Rule 1149. Family Finding.

A. Court’s inquiry and determination.

1) The court shall inquire as to the efforts made by the county agency to comply with the family finding requirements pursuant to 67 Pa.C.S. §§ [3101] **7501** *et seq.*

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Comment:

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See 67 Pa.C.S. § [3101] **7501** for legislative intent regarding family finding and promotion of kinship care.

Family finding is required for every child when a child is accepted for services by the county agency. See 67 Pa.C.S. § [3103] **7503**. It is best practice to find as many kin as possible for each child. These kin may help with care or support for the child. The county agency should ask the guardian, the child, and siblings about relatives or other adults in the child’s life, including key supporters of the child or guardians.

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PART B(2). COUNSEL

Rule 1154. Duties of Guardian *Ad Litem*.

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Comment:

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Pursuant to [**paragraph**] **subdivision** (7), the guardian *ad litem* is to make specific recommendations to the court regarding the appropriateness of the child’s placement, giving consideration to the proximity and appropriateness of the child’s school. See 42 Pa.C.S. § 6311(b)(7) and 42 U.S.C. § 675(1)(G). Inquiries into the child’s education should include the right to: 1) educational stability, including the right to remain in the same school regardless of a change in placement when in the child’s best interest and the right to immediate enrollment when a school change is in the child’s best interest, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services, 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child’s transition to [**independent living**] **successful adulthood**, 42 Pa.C.S. § 6351 if a child is [**sixteen**] **14** or older; and 5) a transition plan that addresses the child’s educational needs, 42 U.S.C. § 675(5)(H), if the child will age out of care in the next [**ninety**] **90** days.

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[*Official Note*: Rule 1154 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended April 6, 2017, effective September 1, 2017.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 1154 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1154 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).]

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

PART C. SHELTER CARE

Rule 1242. Shelter Care Hearing.

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Comment:
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The court's order should address the child's educational stability, including the right to an educational decision maker. The order should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 et seq.; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 et seq.; 4) the educational services necessary to support the child's transition to [independent living] successful adulthood pursuant to 42 Pa.C.S. § 6351 if the child is [sixteen] 14 or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within [ninety] 90 days.

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[Official Note: Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended May 16, 2017, effective July 1, 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1242 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).]

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

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

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Comment:

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If a petition is filed after the county agency has discontinued family finding for non-court cases, the county agency is to aver reasons for the discontinuance in the petition. See 67 Pa.C.S. § [3104(a)] 7503.

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CHAPTER 14. ADJUDICATORY HEARING

Rule 1409. Adjudication of Dependency and Court Order.

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Comment:
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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ [3101] 7501 et seq. See also [Rules] Pa.R.J.C.P. 1242(E)(3) and 1609(D), and Comments to [Rules] Pa.R.J.C.P. 1242, 1408, 1512, 1514, 1515, and 1608—1611.

CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1512. Dispositional Hearing.

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Comment:
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Pursuant to [paragraph] subdivision (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ [3101] 7501 et seq. See also [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1514, 1515, and 1608—1611.

Pursuant to [paragraph] subdivision (D)(1)(i), the court is to address the child's educational stability, including the right to an educational decision maker, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519. The court's findings should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 et seq.; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 et seq.; 4) the educational services necessary to support the child's transition to [independent living] successful adulthood pursuant to 42 Pa.C.S. § 6351 if the child is [sixteen] 14 or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within [ninety] 90 days.

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Rule 1514. Dispositional Finding Before Removal from Home.

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

- 1) Continuation of the child in the home would be contrary to the welfare, safety, or health of the child;
- 2) The child's placement is the least restrictive placement that meets the needs of the child, supported by reasons why there is no less restrictive alternative available;
- 3) If the child has a sibling who is subject to removal from the home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling;
- 4) The county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding; [and]
- 5) One of the following:

[a] (i) Reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from the home, if the child has remained in the home pending such disposition; or

[b] (ii) If preventive services were not offered due to the necessity for emergency placement, whether such lack of services was reasonable under the circumstances; or

[c] (iii) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home[.]; and

6) The county agency has provided a permanency plan and services pursuant to 67 Pa.C.S. § 7504.

[B.] (b) *Aggravated [circumstances] Circumstances.* If the court has previously found aggravated circumstances to exist and that reasonable efforts to remove the child from the home or to preserve and reunify the family are not required, a finding [under paragraphs (A)(5)(a) through (c) is not necessary] pursuant to subdivision (a)(5)(i)—(a)(5)(iii) is unnecessary.

Comment:

See 42 Pa.C.S. § 6351(b).

Pursuant to [paragraph (A)(3)] subdivision (a)(3), the court is to utilize reasonable efforts in placing siblings together unless it is contrary to the safety or well-being of a child or sibling. See 42 U.S.C. § 675 (Fostering Connections).

Pursuant to [paragraph (A)(4)] subdivision (a)(4), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ [3101] 7501 et seq. See also [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1515, and 1608—1611.

Pursuant to subdivision (a)(6), specific requirements for a permanency plan and services exist when the court orders the temporary transfer of a child's legal custody pursuant to 42 Pa.C.S. § 6351(a)(2). See 67 Pa.C.S. § 7504.

Rule 1515. Dispositional Order.

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Comment:
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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ [3101] 7501 et seq. See also [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, and 1608—1611. 45 C.R.F. § 1356.21 provides a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.

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CHAPTER 16. POST-DISPOSITIONAL PROCEDURES
PART B(2). PERMANENCY HEARING

(Editor's Note: The "Official Note" and "Committee Explanatory Reports" are not codified in Pa.R.J.C.P. 1608 as printed in 237 Pa. Code.)

Rule 1608. Permanency Hearing.

[A.] (a) *Purpose and [timing of hearing] Timing of Hearing.* For every case, the court shall conduct a permanency hearing at least every six months for purposes of determining or reviewing:

- 1) the permanency plan of the child;
- 2) the date by which the goal of permanency for the child might be achieved; and
- 3) whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

[B.] (b) *Recording.* The permanency hearing shall be recorded.

[C.] (c) *Evidence.*

1) Any evidence helpful in determining the appropriate course of action, including evidence that was not admissible at the adjudicatory hearing, shall be presented to the court.

2) If a report was submitted pursuant to Rule 1604, the court shall review and consider the report as it would consider all other evidence.

[D.] (d) *Court's Findings.*

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

[a] (i) the appropriateness of the placement;

[b] (ii) the appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child;

[c] (iii) the appropriateness and feasibility of the current permanency goal for the child provided that, at no time may a goal be changed from reunification unless notice has been provided in accordance with Rule 1601(B);

[d] (iv) the likely date by which the permanency goal for the child might be achieved;

[e] (v) whether reasonable efforts were made to finalize the permanency plan in effect;

[f] (vi) whether the county agency has made services available to the guardian, and if not, why those services have not been made available;

[g] (vii) the continued appropriateness of the permanency plan and the concurrent plan;

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

[i] (ix) whether the child is safe;

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

[k] (xi) the services needed to assist a child who is [**fourteen**] 14 years of age or older to make the transition to a successful adulthood, including:

(A) whether services are being provided as required under 67 Pa.C.S. § 7505 (relating to transition plan and services);

[i] (B) the specific independent living services or instructions that are currently being provided by the county agency or private provider;

[ii] (C) the areas of need in independent living instruction that have been identified by the independent living assessment completed pursuant to the Chafee Act, 42 U.S.C. §§ 671 *et seq.*;

[iii] (D) the independent living services that the child will receive prior to the next permanency review hearing;

[iv] (E) whether the child is in the least restrictive, most family-like setting that will enable him to develop independent living skills;

[v] (F) the efforts that have been made to develop and maintain connections with supportive adults regardless of placement type;

[vi] (G) whether the child is making adequate educational progress to graduate from high school or whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency;

[vii] (H) the job-readiness services that have been provided to the child and the employment/career goals that have been established;

[viii] (I) whether the child has physical health or behavioral health needs that will require continued services into adulthood; and

[ix] (J) the steps being taken to ensure that the youth will have stable housing or living arrangements when discharged from care;

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

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

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

[o] (xv) whether sufficient steps have been taken by the county agency to ensure the caregiver is exercising the reasonable and prudent parent standard;

[p] (xvi) whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including:

[i] (A) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and

[ii] (B) identifying and addressing any barriers to participation; and

[q] (xvii) whether the visitation schedule for the child with the child's guardian is adequate, unless a finding is made that visitation is contrary to the safety or well-being of the child.

2) *Another Planned Permanent Living Arrangement (APPLA) for Children [**Sixteen**] 18 Years of Age or Older.* APPLA shall not be utilized for any child under the age of [**sixteen**] 18. At each permanency hearing for a child who is [**sixteen**] 18 years or older and has a permanency goal of APPLA, the following additional considerations, inquiry, and findings shall be made by the court:

[a] (i) *Court's APPLA Considerations.* Before making its findings pursuant to [**paragraph (D)(2)(c)**] **subdivision (d)(2)(iii)**, the court shall consider evidence, which is obtained as of the date of the hearing, and entered into the record concerning:

[i] (A) the intensive, ongoing, and unsuccessful efforts made to:

[A] (I) return the child home; or

[B] (II) secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent;

[ii] (B) the specific services, including the use of search technology and social media to find biological family members and kin, as well as permanency services that have been provided to the child that serve as the intensive ongoing, and unsuccessful efforts to achieve reunification, adoption, or placement with a guardian or a fit and willing relative;

[**iii**] (C) the full names of at least [**one**] **two** identified supportive adults with whom the child has significant connections;

[**iv**] (D) how each identified supportive adult has formalized the connection with the child;

[**v**] (E) the specific services that will be provided by the agency to support and maintain the connection between the child and identified supportive adult(s); and

[**vi**] (F) the specific planned, permanent placement or living arrangement for the child that will provide the child with stability.

[**b**] (ii) *Court's Inquiry of Child's Desired Permanency Outcome*. Before making its findings pursuant to [**paragraph (D)(2)(c)**] **subdivision (d)(2)(iii)**, the court shall ask the child about the child's desired permanency outcome.

[**c**] (iii) *Court's APPLA Findings*. After making all the findings of [**paragraph (D)(1)**] **subdivision (d)(1)** and before assigning the permanency goal of APPLA, at each subsequent permanency hearing, based upon the considerations and inquiry provided in [**paragraph (D)(2)(a) & (b)**] **subdivision (d)(2)(i)-(ii)** and any other evidence deemed appropriate by the court, the court shall state in open court on the record the following:

[**i**] (A) reasons why APPLA continues to be the best permanency plan for the child; and

[**ii**] (B) compelling reasons why it continues not to be in the best interests of the child to:

[**A**] (I) return home;

[**B**] (II) be placed for adoption;

[**C**] (III) be placed with a legal guardian;

[**D**] (IV) be placed with a fit and willing relative; and

[**iii**] (C) the full names of at least [**one**] **two** identified supportive adults with whom the child has significant connections[.]; and

(D) the identity of the specific APPLA approved by the court.

(3) *Additional [findings for fifteen of last twenty-two months] Findings for 15 of Last 22 Months*. If the child has been in placement for [**fifteen**] **15** of the last [**twenty-two**] **22** months, the court may direct the county agency to file a petition [**to terminate**] **for involuntary termination of** parental rights.

[**E**] (e) *Advanced Communication Technology*. Upon good cause shown, a court may utilize advanced communication technology pursuant to Rule 1129.

[**F**] (f) *Family Service Plan or Permanency Plan*.

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

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

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

4) The parties and when requested, the court, shall be provided with the modified plan at least [**fifteen**] **15** days prior to the permanency hearing.

Comment:

See 42 Pa.C.S. §§ 6341, 6351.

Permanency planning is a concept whereby children are not relegated to the limbo of spending their childhood in foster homes, but instead, dedicated effort is made by the court and the county agency to rehabilitate and reunite the family in a reasonable time, and failing in this, to free the child for adoption. *In re M.B.*, 674 A.2d 702, 704 (Pa. Super. 1996) (*quoting In re Quick*, 559 A.2d 42 (Pa. 1989)).

To the extent practicable, the judge or juvenile court hearing officer who presided over the adjudicatory and original dispositional hearing for a child should preside over the permanency hearing for the same child.

Pursuant to [**paragraph (A)**] **subdivision (a)**, courts are to conduct a permanency hearing every six months. Courts are strongly encouraged to conduct more frequent permanency hearings, such as every three months, when possible.

The court may schedule a three-month hearing or conference. At the three-month hearing, the court should ensure that: 1) services ordered at the dispositional hearing pursuant to Rule 1512 are put into place by the county agency; 2) the guardian who is the subject of the petition is given access to the services ordered; 3) the guardian is cooperating with the court-ordered services; and 4) a concurrent plan is developed if the primary plan may not be achieved.

A three-month hearing or conference is considered best practice for dependency cases and is highly recommended. The court should not wait until six months has elapsed to determine if the case is progressing. Time to achieve permanency is critical in dependency cases. In order to seek reimbursement under Title IV-E of the Social Security Act, 42 U.S.C. §§ 601 *et seq.*, a full permanency hearing is to be conducted every six months, including required findings and conclusions of law on the record pursuant to [**paragraph (D)**] **subdivision (d)**.

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences that address specific issues based on the circumstances of the case and assist the court in ensuring timely permanency.

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

[**Paragraph (D)(1)(c)**] **Subdivision (d)(1)(iii)** is intended to provide adequate notice and the opportunity to be heard when a goal is being changed from reunification. If the court intends to change the child's goal from reunification without a prior notice provided by a party

pursuant to Rule 1601(B), then the court shall direct the county agency to provide such notice in accordance with Rule 1601(B).

Pursuant to [**paragraph (D)(1)(h)**] **subdivision (d)(1)(viii)**, the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ [**1301**] **7501** *et seq.* See also [**Rules**] **Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to [**Rules**] **Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, 1515, 1609, and 1611.

When making its determination for reasonable efforts made by the county agency, the court is to consider family finding. See also [**Rules**] **Pa.R.J.C.P.** 1240(B)(6), [**1242(C)(2) & (3)(b) & (c)**] **1242(C)(2), (C)(3)(b)-(c)**, and 1330(B)(6), and Comments to [**Rules**] **Pa.R.J.C.P.** 1242, 1330, 1409, 1515, 1609, and 1611 for reasonable efforts determinations.

See 42 U.S.C. § 675(5)(A)—(I) and 67 Pa.C.S. § 7505 for development of a transition plan pursuant to [**paragraph (D)(1)(k)**] **subdivision (d)(1)(xi)**.

Pursuant to [**paragraph (D)(1)(o)**] **subdivision (d)(1)(xv)**, the county agency is to testify and enter evidence into the record on how it took sufficient steps to ensure the caregiver is exercising the reasonable and prudent parent standard. For the definition of “caregiver” and the “reasonable and prudent parent standard,” see Rule 1120. Pursuant to [**paragraph (D)(1)(p)**] **subdivision (d)(1)(xvi)**, when documenting its steps taken, the county agency is to include how it consulted with the child in an age-appropriate or developmentally-appropriate manner about the opportunities of the child to participate in activities. For the definition of “age-appropriate or developmentally-appropriate,” see Rule 1120. These additions have been made to help dependent children have a sense of normalcy in their lives. These children should be able to participate in extracurricular, enrichment, cultural, and social activities without having to consult caseworkers and ask the court’s permission many days prior to the event. See also Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), 42 U.S.C. §§ 675 and 675a (2014).

Pursuant to [**paragraph (D)(2)**] **subdivision (d)(2)**, there are additional considerations, inquiries, and findings when the court conducts a permanency hearing for a child, who is [**sixteen**] **18** years of age or older and has a permanency plan of APPLA. APPLA should only be utilized as a permanency plan when all other alternatives have been exhausted. Even after exhaustive efforts have been made, the county agency should identify at least [**one**] **two** supportive adults to be involved in the life of the child. Diligent efforts to search for relatives, guardians, adoptive parents, or kin are to be utilized. [**See**] **See** Rule 1149 on family finding. Independent living services should also be addressed. Under [**paragraph (D)(2)(a)(i)(B)**] **subdivision (d)(2)(i)(A)(II)**, a fit and willing relative may include adult siblings.

Pursuant to [**paragraph (D)(2)(b)**] **subdivision (d)(2)(ii)**, the court is to engage the child in conversation

to ascertain the child’s desired permanency outcome. The conversation is to be between the child and the court, not the guardian *ad litem* answering for the child.

After all the requirements of [**paragraph (D)(1) and (D)(2)(a) and (b)**] **subdivision (d)(1) and (d)(2)(i)-(ii)** have been made, the court is to state in open court on the record the specific reasons why APPLA continues to be the best permanency plan for the child, the compelling reasons why it continues not to be in the best interests of the child to return home or be placed for adoption, with a legal guardian, or with a fit and willing relative, and the full names of at least [**one**] **two** identified supportive adults with whom the child has significant connections. See [**paragraph (D)(2)(c)**] **subdivision (d)(2)(iii)**. The standards of this rule make choosing the plan of APPLA difficult to ensure that it is the last alternative available for the child. Additionally, this rule requires the court to state its finding in open court on the record. If the court takes a case under advisement, it is to continue the hearing until it is ready to make these findings. The time requirements of the Rules are to be followed when taking a case under advisement.

[Pursuant to paragraph (D)(3), a “petition to terminate parental rights” is a term of art used pursuant to 23 Pa.C.S. § 2511 and Pa.O.C. Rule 15.4 to describe the motion terminating parental rights. This does not refer to the “petition” as defined in Pa.R.J.C.P. 1120.] **Concerning subdivision (d)(3), a petition for involuntary termination of parental rights is authorized by 23 Pa.C.S. §§ 2511—2514 and proceeds in accordance with Chapter 15 of the Pennsylvania Rules of Orphans’ Court Procedure.**

The court is to move expeditiously towards permanency. A goal change motion may be filed at any time.

A President Judge may allow Common Pleas Judges to “wear multiple hats” during a proceeding by conducting a combined hearing on dependency and Orphans’ Court matters. See 42 Pa.C.S. § 6351(i); see also *In re Adoption of S.E.G.*, 901 A.2d 1017 (Pa. 2006), where involuntary termination occurred prior to a goal change by the county agency.

For family service plan requirements, see 55 Pa. Code §§ 3130.61 and 3130.63.

[**See**] **See** Rule 1136 regarding *ex parte* communications.

[**See**] **See** Rule 1610 for permanency hearing for children over the age of eighteen.

[**Official Note: Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective October 1, 2016.**]

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1608 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006).

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Final Report explaining the amendments to Rule 1608 published with the Court's Order at 45 Pa.B. 7289 (December 26, 2015).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at Pa.B. (-).

Rule 1609. Permanency Hearing Orders.

* * * * *
Comment:
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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. *See* 67 Pa.C.S. §§ [3101] 7501 *et seq.* *See also* [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), and 1409(C), and *Comments* to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1610, and 1611.

Pursuant to [paragraph] subdivision (E), the court's order is to address the child's educational stability, including the right to an educational decision maker. The order should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to [independent living] **successful adulthood** pursuant to 42 Pa.C.S. § 6351 if the child is [sixteen] 14 or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within [ninety] 90 days.

* * * * *
Rule 1610. Permanency Hearing for Children over Eighteen.
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Comment:
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Pursuant to [paragraph] subdivision (D), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to

meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. *See* 67 Pa.C.S. §§ [3101] 7501 *et seq.* *See also* [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and *Comments* to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1611.

* * * * *
Rule 1611. Permanency Hearing Orders for Children over Eighteen.
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Comment:
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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. *See* 67 Pa.C.S. §§ [3101] 7501 *et seq.* *See also* [Rules] Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), and 1409(C), and *Comments* to [Rules] Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1610.

* * * * *

PART D. CESSATION OR RESUMPTION OF COURT SUPERVISION OR JURISDICTION

Rule 1631. Termination of Court Supervision.

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

- 1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;
- 2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;
- 3) the child **is under 18 years of age and** has been placed with a ready, willing, and able parent who was not previously identified by the county agency;
- 4) the child has been adopted and services from the county agency are no longer needed;
- 5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;
- 6) the child has been placed in the physical and legal custody of a fit and willing relative and services from the county agency are no longer needed;
- 7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed and a hearing has been held pursuant to [paragraph (E)] **subdivision (e)** for a child who is age eighteen or older;
- 8) the child has been adjudicated delinquent and services from the county agency are no longer needed because all dependency issues have been resolved;
- 9) the child has been emancipated by the court;
- 10) the child is [**eighteen**] 18 years of age or older and a hearing has been held pursuant to [paragraph (E)] **subdivision (e)**;
- 11) the child has died;
- 12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

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

[**C.**] (c) *Objection*. Any party may object to a motion under [**paragraph (A)**] **subdivision (a)** and request a hearing.

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

[**E.**] (e) *Children [eighteen years of age or older] 18 Years of Age or Older*.

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

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

[**a**] (i) the specific plans for housing;

[**b**] (ii) a description of the child's source of income;

[**c**] (iii) the specific plans for pursuing educational or vocational training goals;

[**d**] (iv) the child's employment goals and whether the child is employed;

[**e**] (v) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

[**f**] (vi) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;

[**g**] (vii) verification that all vital identification documents and records have been provided to the child;

[**h**] (viii) a description of any other needed support services; [**and**]

(ix) **a list, with contact information, of supportive adults and family members; and**

[**i**] (x) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns [**twenty-one**] **21** years of age if specific conditions are met.

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

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

unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

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

Comment:

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

For guidelines under [**paragraph (A)**] **subdivision (a)**, see 42 Pa.C.S. §§ 6301(b) [**&**] **and** 6351(f.1).

Pursuant to [**paragraph (A)(8)**] **subdivision (a)(8)**, if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, [**422 Pa. Super. 439**,] 619 A.2d 758 (Pa. Super. 1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

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

For procedures on emancipation pursuant to [**paragraph (A)(9)**] **subdivision (a)(9)**, see *Berks County Children and Youth Services v. Rowan*, [**428 Pa. Super. 448**,] 631 A.2d 615 (Pa. Super. 1993). See also [,] 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

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

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, [**422 Pa. Super. 439**,] 619 A.2d 758 (Pa. Super. 1993).

[**A**] Pursuant to **subdivision (b)**, a child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. See *In re M.L.*, [**562 Pa. 646**,] 757 A.2d 849 (Pa. 2000). [See **paragraph (B). Paragraph (B)**] **Subdivision (b)** does not apply to resumption of jurisdiction cases.

[Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a] **A** court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. See 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, [**375 Pa. Super. 88**,] 543 A.2d 1192 (Pa. Super. 1988).

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

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

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

[Official Note: Rule 1613 adopted August 21, 2006, effective February 1, 2007. Amended July 29, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013 and renumbered from Rule 1613 to Rule 1631, effective December 1, 2013.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1613 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1613 published with the Court's Order at 39 Pa.B. 4887 (August 15, 2009).

Final Report explaining the amendments to Rule 1613 published with the Court's Order at 41 Pa.B. 2430 (May 14, 2011).

Final Report explaining the amendments to Rule 1631 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013).]

**JUVENILE COURT PROCEDURAL RULES
COMMITTEE ADOPTION REPORT**

**Amendment of Pa.R.J.C.P. 1120, 1149,
1154, 1242, 1330, 1409, 1512, 1514, 1515, 1608,
1609, 1610, 1611, and 1631**

On March 22, 2023, the Supreme Court amended Pennsylvania Rules of Juvenile Court Procedure 1120, 1149, 1154, 1242, 1330, 1409, 1512, 1514, 1515, 1608, 1609, 1610, 1611, and 1631 to, *inter alia*, implement the Act of November 3, 2022, P.L. 1765, No. 118. This Act amended Title 67 concerning family finding, permanency and transition plans, and amended the Juvenile Act concerning permanency hearings. The Juvenile Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Act is intended to improve the transition of a child leaving foster care at 18 years of age or older. The Act, *inter alia*, repealed the current family finding statutes and relocated them to Chapter 75 within Title 67. See 67 Pa.C.S. §§ 7501—7509. Further, the Act included a requirement that the county agency develop a permanency plan and provide services to facilitate that plan. See 67 Pa.C.S. § 7504. Additionally, the county agency is required to plan for, and provide services related to, a

child's transition out of foster care. See *id.* § 7505. The Act also amended the Juvenile Act concerning the disposition of dependent children at 42 Pa.C.S. § 6351(f)(8), (f)(8.2), and (f.1).

For children 14 years of age or older, the Act requires the court to determine at the permanency review hearing whether transition planning and services are being provided in accordance with 67 Pa.C.S. § 7505. See 42 Pa.C.S. § 6351(f)(8). Whether the required services are being provided is addressed in the amendment of Pa.R.J.C.P. 1608(d)(1)(xi)(A). There is no proposed requirement for planning because the rule text currently does not require a transition plan pursuant to 42 U.S.C. § 675(5)(A). Instead, the transition plan requirement of 67 Pa.C.S. § 7505 is referenced in the same Comment currently referencing the transition plan required by 42 U.S.C. § 675(5)(A).

The county agency is also required to develop a permanency plan and provide permanency services pursuant to 67 Pa.C.S. § 7504 when a child's legal custody is temporarily transferred pursuant to 42 Pa.C.S. § 6351(A)(2). Section 7504 contains specific requirements for the plan and services. Given that these requirements apply when a child is removed from home, *i.e.*, legal custody is temporarily transferred, subdivision (a)(6) has been added to Pa.R.J.C.P. 1514 (Dispositional Finding Before Removal from Home).

For children 18 years of age or older whose supervision is being terminated, a transition plan that complies with 67 Pa.C.S. § 7505 is required in addition to the present requirement that the transition plan comply with 42 U.S.C. § 675(5)(H). See 42 Pa.C.S. § 6351(f)(8.2). The stated requirements for a transition plan under § 7505 are:

- (1) Identification of or detailed options for a suitable place of intended residence.
- (2) A list, with contact information, of supportive adults and family members.
- (3) Identification of local opportunities for mentorships and continuing social support.
- (4) A plan or detailed options for employment, job training or continuing education.
- (5) Documentation of the child's possession of relevant documents or, if the child does not have possession of the documents, an explanation of the reasons why the child does not have the documents and detailed instructions on how the child may obtain the documents.

67 Pa.C.S. § 7505(B).

Permanency hearings for children over 18 are governed by Pa.R.J.C.P. 1610. Subdivision (A)(2) of that rule requires the court to determine whether the transition plan is consistent with Pa.R.J.C.P. 1631(e)(2). Turning to that rule, subdivision (e)(2)(i) ("specific plans for housing") appears to satisfy § 7505(B)(1). Subdivision (e)(2)(vi) ("a description of any programs that would provide mentors or assistance in establishing positive adult connections") and subdivision (e)(2)(viii) ("a description of any other needed support services") appear to satisfy § 7505(B)(3). Subdivision (e)(2)(iii) ("the specific plans for pursuing educational or vocational training goals") and subdivision (e)(2)(iv) ("the child's employment goals and whether the child is employed") appear to satisfy § 7505(B)(4). Subdivision (e)(2)(vii) ("verification that all vital identification documents and records have been provided to the child") appears to satisfy § 7505(B)(5).

There is one item in § 7505(B) that is not included in subdivision (e)(2): “A list, with contact information, of supportive adults and family members.” 67 Pa.C.S. § 7505(B)(2). Accordingly, Pa.R.J.C.P. 1631 has been amended to add subdivision (e)(2)(ix).

The Act also changes the applicability of another planned permanent living arrangement (“APPLA”) from children 16 years old to children 18 years old. *See* 42 Pa.C.S. § 6351(f.1)(5)(i). This is addressed by the amendment of Pa.R.J.C.P. 1608(d)(2). Further, for APPLA, two, rather than one, supportive adults with significant connections to the child’s life must be identified. *See id.* § 6351(f.1)(5)(ii) and (f.1)(5)(iv)(D). This is addressed by the amendment of Pa.R.J.C.P. 1608(d)(2)(i)(C) and (d)(2)(iii)(C). Finally, the court must also identify the specific approved APPLA. *See id.* § 6351(f.1)(5)(iv)(E). This is addressed by the amendment of Pa.R.J.C.P. 1608(d)(2)(iii)(D).

In addition, the Comments accompanying Pa.R.J.C.P. 1154, 1242, 1512, and 1609 have been amended to reflect the Act of December 28, 2015, P.L. 559, No. 94.

Aside from stylistic revisions, the following commentary has been removed:

Pa.R.J.C.P. 1154

Official Note: Rule 1154 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended April 6, 2017, effective September 1, 2017.

Committee Explanatory Reports: Final Report explaining the amendments to Rule 1154 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1154 published with the Court’s Order at 47 Pa.B. 2313 (April 22, 2017).

Pa.R.J.C.P. 1242

Official Note: Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended May 16, 2017, effective July 1, 2017.

Committee Explanatory Reports: Final Report explaining the provisions of Rule 1242 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1242 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011). Final Report explaining the amendments to Rule 1242 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1242 published with the Court’s Order at 45 Pa.B. 3987 (July 25, 2015). Final Report explaining the amendments to Rule 1242 published with the Court’s Order at 47 Pa.B. 3078 (June 3, 2017).

Pa.R.J.C.P. 1608

Official Note: Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective October 1, 2016.

Committee Explanatory Reports: Final Report explaining the provisions of Rule 1608 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1608 published with

the Court’s Order at 40 Pa.B. 21 (January 2, 2010). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at 41 Pa.B. 2430 (May 14, 2011). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at 43 Pa.B. 6658 (November 9, 2013). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at 45 Pa.B. 3987 (July 25, 2015). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at 45 Pa.B. 7289 (December 26, 2015). Final Report explaining the amendments to Rule 1608 published with the Court’s Order at Pa.B. - (-).

Pa.R.J.C.P. 1631

Official Note: Rule 1613 adopted August 21, 2006, effective February 1, 2007. Amended July 29, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013 and renumbered from Rule 1613 to Rule 1631, effective December 1, 2013.

Committee Explanatory Reports: Final Report explaining the provisions of Rule 1613 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1613 published with the Court’s Order at 39 Pa.B. 4887 (August 15, 2009). Final Report explaining the amendments to Rule 1613 published with the Court’s Order at 41 Pa.B. 2430 (May 14, 2011). Final Report explaining the amendments to Rule 1631 published with the Court’s Order at 43 Pa.B. 6658 (November 9, 2013).

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These amendments become effective October 1, 2023.

[Pa.B. Doc. No. 23-425. Filed for public inspection March 31, 2023, 9:00 a.m.]

Title 25—LOCAL COURT RULES

WASHINGTON COUNTY

Adoption of Local Rules of Judicial Administration L-1907.2, L-4002, L-4008 and L-5000; No. 2023-1

Administrative Order

And Now, this 14th day of March, 2023, it is hereby *Ordered, Adjudged, and Decreed* that Washington County Local Rules of Judicial Administration L-1907.2, L-4002, L-4008, and L-5000 (following) are hereby adopted, effective thirty (30) days after publication of this *Order* in the *Pennsylvania Bulletin*.

It is further *Ordered* that Local Rule of Judicial Administration L-1907.1 is *Rescinded*.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(d)(5) and (6). The District Court Administrator is directed to:

1. Distribute copies of the adopted local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
2. File one (1) copy with the Administrative Office of Pennsylvania Courts;
3. Publish the local rules on the Court’s website within thirty (30) days of the effective date; and

4. Cause a copy hereof to be published in the *Washington County Reports* once a week for two (2) successive weeks at the expense of the County of Washington.

By the Court

JOHN F. DiSALLE,
President Judge

Rule L-1907.2. Constable Review Board.

(A) *Purpose.* A Constable Review Board (“CRB”) is hereby created to assist in resolving any disputes related to the performance of judicial duties by a constable in accordance with the Pennsylvania Rules of Judicial Administration and the Constable Policies, Procedures, and Standards of Conduct issued by the Administrative Office of Pennsylvania Courts.

(B) *Definitions.*

(1) “Constable” is defined as any elected or appointed constable or deputy constable performing judicial duties for any magisterial district court within the Twenty-Seventh Judicial District.

(2) “Judicial Duties” are services performed pursuant to 44 Pa.Con. Stat. §§ 7161 and 7161.1 or set forth in the Constable Policies, Procedures, and Standards of Conduct.

(C) *Scope.*

(1) The jurisdiction of the CRB extends only to constables in the performance of judicial duties.

(2) The CRB may receive complaints by or against constables regarding:

(a) the performance of judicial duties;

(b) financial or payment disputes; or

(c) other matters relevant to judicial duties including, but not limited to, Constable Policies, Procedures, and Standards of Conduct or the Unified Judicial System of Pennsylvania Policy on Non-discrimination and Equal Employment Opportunity.

(3) Nothing contained herein shall preclude any person or surety of a constable from filing a verified petition in accordance with 44 Pa.Con. Stat. § 7172 alleging that a constable is incompetent to discharge official duties.

(D) *Authority.*

(1) The CRB may make recommendations to the President Judge with respect to practices and procedures as related to constables generally and make recommendations regarding the continued use of the services of a constable by the Court.

(2) The CRB shall forward any findings of suspected criminal activity to the Washington County District Attorney or other appropriate law enforcement agency.

(3) The President Judge has the ultimate authority with regard to performance of judicial duties by a constable within Washington County. The President Judge may place a moratorium on the use of a particular constable pending the review and recommendation of the CRB on a complaint.

(E) *Membership of the Constable Review Board.* The CRB shall be comprised of the following members, who serve at the pleasure of the President Judge:

(1) a Common Pleas Judge;

(2) the District Court Administrator;

(3) a Magisterial District Judge;

(4) a certified constable and an alternate constable to be used in the case of a conflict;

(5) the County Controller (subject to the limitation set forth below); and

(6) a member of the public.

The Common Pleas Judge shall act as Chairperson. The Chairperson shall be responsible for conducting, coordinating, and overseeing the business of the CRB. The District Court Administrator shall serve as Secretary of the CRB, and is responsible for maintaining the records of all proceedings. A majority of the voting members shall constitute a quorum.

(F) In instances where a conflict of interest exists for a member of the Board, the President Judge may name a substitute for that complaint, or permit the Board to proceed without the participation of the member. The Controller shall be deemed to have a conflict of interest in every complaint where the allegations involve the expenditure of County funds for services, or where the complaint is submitted by the Controller or a person under his or her employ.

(G) *Filing Procedures.* Constables shall make every attempt to resolve their disputes with the party or agency involved prior to filing a complaint with the CRB.

(1) A complaint by or against a constable must be in writing on the form set forth below and shall be signed by the complainant and specify in detail the alleged misconduct, financial dispute, or other matter related to the performance of judicial duties.

(2) The complaint may be submitted in person or by mail, to the following contact:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 1003
Washington, PA 15301

WASHINGTON COUNTY CONSTABLE REVIEW BOARD COMPLAINT

Filing Date: _____

Complainant's Name: _____ (your name)

Address: _____

Telephone Number: _____ Email: _____

Constable's Name: _____

Type of Issue: Performance of Judicial Duties

Financial/Payment Issues

Other issues relevant to a constable's judicial duties

Was an attempt made to resolve this issue before filing the request for review?

YES NO

If yes, briefly explain:

Please describe in full detail the issue and attach all relevant documents. Attach additional pages if necessary.

Date: _____

Signature: _____

This complaint may be mailed to the following:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 1003
Washington, PA 15301

(3) If a complaint is filed with the Special Courts Administrator, he or she shall inform the Chairperson of the receipt of a complaint. The Chairperson is responsible for initially determining if the complaint falls within the jurisdiction of the CRB.

(i) If the complaint is not within the jurisdiction of the CRB, the Special Courts Administrator shall notify the complainant of the determination and that the matter is closed.

(ii) If the complaint is within the jurisdiction of the CRB, the Special Courts Administrator shall forward a date-stamped copy of the complaint to the constable by certified mail. The constable will have twenty (20) days to respond in writing to the complaint. The Special Courts Administrator shall forward the response to the Chairperson.

(4) Failure of a constable to respond to a written allegation, or failure to appear before the CRB when requested, shall be interpreted as an admission of no contest to the allegation.

(H) *Actions and Dispositions of the CRB and the President Judge.*

(1) The Chairperson shall convene the CRB upon the filing of a complaint that falls within the jurisdiction of the Board.

(2) The CRB may interview all parties involved, or designate any of its members to interview or investigate. The Chairperson shall have discretion as to whether to conduct a hearing on the matter. Any hearing shall be transcribed for use by the CRB and the President Judge.

(3) The CRB shall have the authority to act, absent the filing of a complaint, on any potential violations that may be discovered in the course of investigating a matter, or that otherwise come to its attention.

(4) A recommended decision by the CRB should be submitted to the President Judge. Individual members of the CRB may submit separate opinions in addition to the recommended decision.

(5) A copy of the recommended decision shall be promptly sent by certified mail to the affected constable and to the complainant. Accompanying the recommended decision shall be a summary of the provisions of paragraph (6) of this subsection, relating to review by the President Judge.

(6) The President Judge shall have authority to approve, reject, modify, or dismiss the recommended decision. Any interested party shall have twenty (20) days from the date of the recommended decision to submit any exceptions to the President Judge. The President Judge may act on the recommended decision without further input from the constable or complainant, or conduct further proceedings including, but not limited to, argument, briefing, and/or a hearing.

(7) Notwithstanding paragraph (6) above, if the CRB considers a matter urgent, it may recommend to the President Judge that immediate action be ordered pending the filing and disposition of any exceptions and the President Judge shall have discretion to act upon any such recommendation.

(8) A copy of the decision of the President Judge shall be promptly sent by the District Court Administrator to the constable and any complainant by certified mail or by such other means as the President Judge may direct.

(9) In the event that the President Judge orders the moratorium or suspension of a constable, the constable will not be authorized to perform services in the County of Washington, including any court or political subdivision, for the specified period. Upon receipt of the suspension notice, the constable shall immediately return to all courts and agencies all warrants, writs, subpoenas, and civil papers to the proper issuing authority. Failure to do so promptly may be cause for further action by the President Judge.

(I) *Notice by President Judge.*

The District Court Administrator shall provide notice of any action taken by the President Judge in accordance with applicable authority.

(J) *Rules of Civil Procedure. Filings. Costs and Fees.*

(1) The Pennsylvania Rules of Civil Procedure shall not apply to proceedings of the CRB. The Chairperson may order the production of documents or such testimony as necessary to conduct the business of the CRB.

(2) Absent order of court, a party and/or participant in a matter before the CRB is prohibited from filing any papers with the Clerk of Courts or Prothonotary related to a proceeding before the CRB.

(3) If a finding of misconduct in the course of performing judicial duties is sustained by the President Judge, the President Judge may make the decision available to the public, including filing the decision, and any other part of the file that he or she deems appropriate, in the Office of the Prothonotary. Unless made public by the President Judge, any filing related to a complaint shall be deemed a confidential filing.

(a) Any filing fees related to a matter pending before the CRB shall be waived. Filings are to be docketed in a manner prescribed by the Court.

(4) Any costs related to the business of the CRB shall be paid by the County.

Rule L-4002. Definition of Proceeding. Digital Audio Files.

(A) As contained in these rules, the term proceeding shall be defined as a hearing or trial in which testimony is given and/or exhibits are admitted into evidence.

(B) Digital audio files are to be used only as an aid to transcription and shall not be disclosed, provided, or otherwise disseminated to attorneys, parties, participants, or the public. Digital audio files of motions or conferences shall not be transcribed absent order of court for good cause shown.

(C) Nothing in this rule shall be construed to in any way limit or modify the inherent authority of the President Judge or his/her designee, or the judge or hearing officer to whom a case is assigned, to use digital audio files as an aid in making case determinations, to review recordings for the confirmation of accurate transcription, or any other appropriate purpose.

Comment: This rule should not be interpreted to conflict with the provisions of Rules of Criminal Procedure 115, 313, 500, and 501.

Rule L-4008. Transcript Costs for a Private Individual or Entity. Waiver of Costs for the Commonwealth or a Subdivision. Economic Hardship.

(A) The transcript costs for a requesting party other than the Court and the Commonwealth shall be the maximum rate set forth in Pennsylvania Rule of Judicial Administration 4008.

(1) The rates set forth above shall include the original transcript, filed of record with the appropriate filing office, one (1) copy of the transcript for the presiding judge (if requested), and one (1) copy of the transcript to be provided to the initial requesting party. When more than one party requests the transcript, or is required by general rule to file the transcript, the cost shall be divided equally among the parties, and each party shall receive one (1) copy of the transcript.

(2) When the transcript is in bound paper format, the requesting party shall be charged a surcharge of \$0.25 per page.

(3) Payments for all transcript costs shall be made at the filing office. If paying by check or money order, the payee shall be the County of Washington. A convenience fee may be charged for payments by debit or credit card or made online.

(a) Monies collected for transcripts shall be remitted by the filing office to an account maintained by the Treasurer of the County of Washington. The monies collected shall be deposited monthly by the Treasurer to the general fund of the County of Washington to be used to supplement the County's appropriation for court reporters and court reporting services.

(b) Refunds for deposits or payments related to transcript costs may only be authorized by the District Court Administrator or his or her designee.

(4) All requests for a copy of any transcript previously ordered, transcribed, and filed of record shall be made to the filing office in which the transcript is lodged of record, unless the transcript is of a confidential matter or dissemination is prohibited by law.

(a) The cost for a copy of any transcript previously ordered, transcribed, and filed of record shall be \$0.75 per page for bound, paper format, and \$0.50 per page for an electronic copy. Copies shall be obtained from the filing office in which the transcript is lodged of record.

(b) Monies collected for copies shall be remitted by the filing office to an account maintained by the Treasurer of the County of Washington. The filing office may deduct a \$0.25 fee per page for administrative costs. The remaining monies collected for copies of transcripts shall be deposited monthly by the Treasurer to the general fund of the County of Washington to be used to supplement the County's appropriation for court reporters and court reporting services.

(B) The transcript costs for a request made by the Court or the Commonwealth, if applicable, shall be set by administrative order.

(1) For the purpose of this local rule, the Court is defined as any common pleas judge, hearing officer, master, or the District Court Administrator conducting official business of the Court. The Commonwealth is defined as the District Attorney, Public Defender, court-appointed counsel, or any other department or agency of the County of Washington that is a party to the proceeding. Officials acting in an individual capacity shall not be deemed as the Commonwealth. Any dispute concerning a waiver or modification of costs shall be determined by the President Judge or District Court Administrator.

(2) A filing office may not charge a fee to the Court or Commonwealth for a copy of a transcript previously ordered, transcribed, and filed of record.

(C) At the discretion of the trial judge, a reasonable surcharge may be imposed on a transcript request in cases such as mass tort, medical malpractice or other unusually complex litigation where there is a need for court reporters to significantly expand their dictionary. The surcharge shall be set in consultation with the District Court Administrator.

(D) At the discretion of the District Court Administrator or his/her designee, a reasonable fee may be charged for a secure electronic feed which instantaneously delivers the translated notes from the court reporter to a laptop, tablet, phone, or other portable electronic device to parties, the media, or other interested individuals. Permission to install or obtain such a feed must be received from the presiding judge and the District Court Administrator, and will be subject to the availability of the necessary court reporting resources.

(E) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the United States Department of Health and Human Services for the calendar year in which the request is made, and shall be reduced by one-half for a litigant whose income is less than 200

percent of the poverty line as defined by the United States Department of Health and Human Services for the calendar year in which the request is made.

(1) Litigants who are represented by a free legal aid service for low-income citizens shall not be required to prove economic hardship, and are entitled to obtain ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation for no cost.

(a) To receive a no-cost ordinary transcript, clients of a free legal service must demonstrate that a legal aid service attorney has entered an appearance on their behalf in the case for which a transcript is requested. Legal aid services shall provide the District Court Administrator with a letter certifying that the client meets financial eligibility and that the matter is under appeal or is necessary to advance the current litigation.

(2) Transcript costs for ordinary transcripts in matters that are not subject to appeal or necessary to advance the litigation shall not be waived or reduced for litigants who qualify for economic hardship, unless ordered by the court for cause shown.

Note: The procedure to waive all or a portion of costs for ordinary transcripts is set forth in Local Rule of Judicial Administration 4007.

(F) Nothing in this rule shall be read to prescribe or specify a fee to be paid to a court reporter or transcriptionist for both transcripts requested by litigants and transcripts requested by the Commonwealth or a subdivision thereof. The compensation of court reporters or transcriptionists is a matter for the judicial district and county funding authority.

Rule L-5000. Court-Appointed Counsel.

(A) The President Judge shall issue a policy governing the appointment and payment of counsel in cases within any division of the Court.

(1) The policy shall set forth the following:

- (a) an hourly rate for billable activity;
- (b) standards for what activity is considered appropriate and allowable as compensable time and a reimbursable expense;
- (c) presumptive caps for fees based on the type of case; and
- (d) the process for submitting a request for payment of fees and expenses.

(2) Expenses for professional services, including but not limited to, investigators, experts, and transcription services, must be approved in advance by the presiding judge. The presiding judge shall set forth a specific amount to be expended by order of court if the request is approved. Failure to secure prior approval may lead to the denial of reimbursement or other appropriate sanctions.

(3) The invoices underlying payment shall be considered confidential and may not be released by the County or its officials without prior authorization from the Court. Absent authorization from the Court, invoices for juvenile cases may not be disclosed to the Children and Youth Services agency of the County or a solicitor for the County.

Note: Any request under the Right-to-Know-Law for invoices or billing information from court-appointed counsel should be forwarded to the open records officer (Rule 509 manager) for the judicial district to determine if the record is to be disclosed. *County of Centre v. Grine*, 138 A.3d 88 (Pa. Cmwlth. 2016).

(B) Appointment of counsel shall only occur in cases where a right to counsel exists as established by statute or rule. In appointing counsel, the presiding judge must determine that the individual is indigent and/or that the interests of justice require the appointment.

(C) Payments shall be reviewed by the District Court Administrator or his/her designee. Any unusual aspects concerning the request for fees or expenses are to be brought to the attention of the presiding judge. The President Judge may provide the District Court Administrator with authority to approve or disapprove a fee or expense subject to direction from the presiding judge; provided, however, that the President Judge retains the final authority over the payment of a fee or expense for any appointment.

(D) The determination of whether time is reasonably spent or if an expense is appropriate lies solely with the Court. In determining reasonableness, consideration may be given to whether the time spent was necessary or if less time consuming alternatives existed.

(E) Counsel should consider that appointment by the Court is a public trust and strive to keep requests for compensation and reimbursement to a fair and reasonable sum consistent with any other request for payment out of the public funds. If counsel does not feel that such a request can remain within this standard, he/she should decline the appointment.

[Pa.B. Doc. No. 23-426. Filed for public inspection March 31, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WASHINGTON COUNTY

Adoption of Local Rules of Juvenile Procedure L-205 and L-1205; No. 2023-1

Administrative Order

And Now, this 14th day of March, 2023, having received approval from the appropriate Rules Committee pursuant to Pa.R.J.A. 103(d)(4), it is hereby *Ordered, Adjudged, and Decreed* that Washington County Local Rules of Juvenile Procedure L-205 and L-1205 (following) are hereby adopted, effective thirty (30) days after publication of this *Order* in the *Pennsylvania Bulletin*.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(d)(5) and (6). The District Court Administrator is directed to:

1. Distribute copies of the adopted local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
2. File one (1) copy with the Administrative Office of Pennsylvania Courts;
3. Publish the local rules on the Court's website within thirty (30) days of the effective date; and

4. Cause a copy hereof to be published in the *Washington County Reports* once a week for two (2) successive weeks at the expense of the County of Washington.

By the Court

JOHN F. DiSALLE,
President Judge

Rule L-205. Electronic Filing and Service of Legal Papers.

(A) The Administrative Office of Pennsylvania Courts and the 27th Judicial District previously agreed to an implementation plan for electronic filing through the statewide system known as PACFile, and more than two years has passed since the use of PACFile was authorized for the filing of legal papers in delinquency proceedings.

(B) All parties represented by counsel and juvenile probation personnel are required to electronically file legal papers through PACFile with the clerk of courts, unless otherwise prohibited by Pa.R.J.C.P. 205(C), and for which PACFile has the technical capability to process. Legal papers that are exempt from filing by PACFile include:

- (1) applications for search warrants;
- (2) applications for arrest warrants;
- (3) exhibits offered into evidence, whether admitted or not, in a proceeding before a common pleas judge or hearing officer; and
- (4) submissions filed ex parte as authorized by law.

(C) Any party who is unable to participate in PACFile may file legal papers in a physical paper format with the clerk of courts, and shall be served legal papers in a physical paper format by the clerk of courts and other parties to the case. However, establishment of a PACFile account by a filing party shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed in PACFile.

(D) The clerk of courts shall maintain a physical paper file until the case is closed. Following closure, the clerk of courts may maintain an electronic file only after entering a docket notation that the electronic file is a complete and true copy of the physical file with the exception of those items identified in subsections (B)(1) through (B)(4), which must be maintained in a physical paper format only in accordance with Pa.R.J.C.P. 205(C).

(E) For the purposes of this rule, the term “clerk of courts” is defined as that person or entity designated as such in Local Rule of Juvenile Procedure 120. The Juvenile Probation Office is the clerk of courts for delinquency matters.

Rule L-1205. Electronic Filing and Service of Legal Papers.

(A) The Administrative Office of Pennsylvania Courts and the 27th Judicial District previously agreed to an implementation plan for electronic filing through the statewide system known as PACFile, and more than two years has passed since the use of PACFile was authorized for the filing of legal papers in dependency proceedings.

(B) All parties represented by counsel and guardian ad litem are required to electronically file legal papers through PACFile with the clerk of courts, unless otherwise prohibited by Pa.R.J.C.P. 1205(C), and for which PACFile has the technical capability to process. Legal papers that are exempt from filing by PACFile include:

- (1) submissions filed ex parte as authorized by law; and
- (2) exhibits offered into evidence, whether admitted or not, in a proceeding before a common pleas judge or hearing officer.

(C) Any party who is unable to participate in PACFile may file legal papers in a physical paper format with the clerk of courts, and shall be served legal papers in a physical paper format. However, establishment of a PACFile account by a filing party shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed in PACFile.

(D) The clerk of courts shall maintain a physical paper file until the case is closed. Following closure, the clerk of courts may maintain an electronic file only after entering a docket notation that the electronic file is a complete and true copy of the physical file with the exception of those items identified in subsections (B)(1) and (B)(2), which must be maintained in a physical paper format only in accordance with Pa.R.J.C.P. 1205(C).

(E) For the purposes of this rule, the term “clerk of courts” is defined as that person or entity designated as such in Local Rule of Juvenile Procedure 1120. The Juvenile Probation Office is the clerk of courts for dependency matters.

[Pa.B. Doc. No. 23-427. Filed for public inspection March 31, 2023, 9:00 a.m.]