

**CHAPTER 1915. ACTIONS FOR CUSTODY
OF MINOR CHILDREN**

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Source

The provisions of these Rules 1915.1—1915.25 adopted December 10, 1981, effective July 1, 1982, 12 Pa.B. 867; by order of June 25, 1982 and November 8, 1982, the effective date was extended to January 1, 1983, 12 Pa.B. 2169 and 12 Pa.B. 4040, unless otherwise noted.

Rule 1915.1. Scope. Definitions.

(a) These rules govern the practice and procedure in all actions for legal and physical custody of minor children, including habeas corpus proceedings and claims for custody asserted in an action of divorce.

Official Note: The term custody includes shared legal custody, sole legal custody, partial physical custody, primary physical custody, shared physical custody, sole physical custody and supervised physical custody. See 23 Pa.C.S. § 5322(a). Rule 1920.32(a) provides that when a claim for custody is joined with the action of divorce, the practice and procedure governing the claim for custody shall be in accordance with these rules.

(b) As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

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“action,” all proceedings for legal and physical custody and proceedings for modification of prior orders of any court;

“child,” an unemancipated individual under 18 years of age;

“conference officer,” an individual who presides over an office conference pursuant to Pa.R.C.P. No. 1915.4-2(a) or the initial non-record proceeding under Pa.R.C.P. No. 1915.4-3(a). For purposes of these rules, a conciliator is synonymous with a conference officer;

“custody,” the legal right to keep, control, guard, care for, and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody;”

“hearing officer,” a lawyer who conducts a record hearing on partial custody cases pursuant to Pa.R.C.P. No. 1915.4-2(b);

“home county,” the county in which the child lived with either or both parents, a person acting as a parent, or in an institution for at least six consecutive months immediately preceding the filing of the action, and in the case of a child less than six months old, the county in which the child lived from birth with any of the persons mentioned. A period of temporary absence of the child from the physical custody of the parent, institution, or person acting as parent shall not affect the six-month or other period;

“*in loco parentis*,” a person who puts himself or herself in the situation of a lawful parent by assuming the obligations incident to the parental relationship without going through the formality of a legal adoption. The status of *in loco parentis* embodies two ideas: (1) the assumption of a parental status; and (2) the discharge of parental duties;

Official Note: See *A.S. v. I.S.*, 130 A.3d 763, 766 n.3 (Pa. 2015).

“legal custody,” the right to make major decisions on behalf of the child, including, but not limited to, medical, religious, and educational decisions;

“mediator,” an individual qualified under Pa.R.C.P. No. 1940.4 and who assists custody litigants independently from the procedures set forth in Pa.R.C.P. Nos. 1915.1—1915.25 by engaging the litigants in the alternative dispute principles in Pa.R.C.P. No. 1940.2 to resolve custody matters in whole or in part;

“mediation,” the confidential process by which a neutral mediator assists the parties in attempting to reach a mutually acceptable agreement on issues arising in a custody action. Mediation is not a court proceeding; rather, it is an independent, non-record proceeding in lieu of court involvement for the purpose of assisting the parties to address the child’s best interest. An agreement reached by the parties must be based on the voluntary decisions of the parties and not the decision of the mediator. The agreement may resolve all or only some of the disputed issues. The parties are required to mediate in good faith, but are not compelled to reach an agreement. While mediation is an alternative means of conflict resolution, it is not a substitute for the benefit of legal advice.

The participants in mediation shall be limited to the parties to the custody action, primarily the child's parents and persons acting as parents. Except as provided in Pa.R.C.P. No. 1940.5(c), non-parties, including children, grandparents, and the parties' attorneys, shall not participate in the mediation.

"non-record proceeding," the initial office conference set forth in Pa.R.C.P. No. 1915.4-3. Mediation, as outlined in Pa.R.C.P. No. 1940.1—1940.9, shall not be construed as a non-record proceeding;

"partial physical custody," the right to assume physical custody of the child for less than a majority of the time;

"person acting as a parent," a person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody. *See also* the definition of *in loco parentis*;

"physical custody," the actual physical possession and control of a child;

"primary physical custody," the right to assume physical custody of the child for the majority of time;

"relocation," a change in a residence of the child that significantly impairs the ability of a non-relocating party to exercise custodial rights;

"shared legal custody," the right of more than one individual to legal custody of the child;

"shared physical custody," the right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child;

"sole legal custody," the right of one individual to exclusive legal custody of the child;

"sole physical custody," the right of one individual to exclusive physical custody of the child; and

"supervised physical custody," custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

Official Note: The term "supervised visitation" in the prior statute has been replaced by the term "supervised physical custody."

Official Note: The definitions of the terms of the various forms of legal custody and physical custody are taken from 23 Pa.C.S. § 5322(a).

For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5402.

Source

The provisions of this Rule 1915.1 amended November 8, 1982, effective January 1, 1983, 12 Pa.B. 4040; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5323; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended November 19, 2008, effective immediately, 38 Pa.B. 6595; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended February 8, 2018, effective April 1, 2018, 48 Pa.B. 1095. Immediately preceding text appears at serial pages (381079) to (381080) and (390109).

Rule 1915.2. Venue.

- (a) An action may be brought in any county
- (1) (i) which is the home county of the child at the time of commencement of the proceeding, or
 - (ii) which had been the child's home county within six months before commencement of the proceeding and the child is absent from the county but a parent or person acting as parent continues to live in the county; or
 - (2) when the court of another county does not have venue under subdivision (1), and the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with the county other than mere physical presence and there is available within the county substantial evidence concerning the child's protection, training and personal relationships; or
 - (3) when all counties in which venue is proper pursuant to subdivisions (1) and (2) have found that the court before which the action is pending is the more appropriate forum to determine the custody of the child; or
 - (4) when it appears that venue would not be proper in any other county under prerequisites substantially in accordance with paragraph (1), (2) or (3); or
 - (5) when the child is present in the county and has been abandoned or it is necessary in an emergency to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.
- (b) Physical presence of the child or a party, while desirable, is not necessary or sufficient to make a child custody determination except as provided in subdivision (a)(5) above.
- (c) The court at any time may transfer an action to the appropriate court of any other county where the action could originally have been brought or could be brought if it determines that it is an inconvenient forum under the circumstances and the court of another county is the more appropriate forum. It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred certified copies of the docket entries, process, pleadings and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

Official Note: Under the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § 5401 et seq., the court may decline to exercise its jurisdiction in a particular action despite the action having been brought in a county of proper venue. Section 5426 of the act, relating to simultaneous proceedings in other courts, provides for the mandatory refusal by the court to exercise its jurisdiction in an action. Section 5427 of the act, relating to inconvenient forum, and § 5428 of the act, relating to jurisdiction declined by reason of conduct, provide for the discretionary refusal by the court to exercise its jurisdiction.

Explanatory Comment—2008

Subdivision (a) of Rule 1915.2 incorporates the categories of jurisdiction for initial custody determinations and temporary emergency proceedings in the Uniform Child Custody Jurisdiction and Enforcement Act at 23 Pa.C.S.A. §§ 5421 and 5424 as the venue provisions for these rules, restating them in rule form without change in substance. Subdivision (a) follows the policy of § 5471 of the Uniform Child Custody Jurisdiction and Enforcement Act, which provides that the provisions of the act "allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among courts of common pleas of this Commonwealth."

Subdivision (b), relating to the effect of the physical presence of the child or a party within a county, follows § 5421(c) without substantial change.

Subdivision (c) follows the inconvenient forum provisions of 23 Pa.C.S.A. § 5427.

Source

The provisions of this Rule 1915.2 amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended November 19, 2008, effective immediately, 38 Pa.B. 6596. Immediately preceding text appears at serial pages (285551) to (285552).

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided in subdivision (c), the plaintiff shall commence a custody action by filing a verified complaint substantially in the form provided by Pa.R.C.P. No. 1915.15(a).

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(b) An order shall be attached to the complaint or petition for modification directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by Pa.R.C.P. No. 1915.15(c).

Official Note: See Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5430(d), relating to costs and expenses for appearance of parties and child, and 23 Pa.C.S. § 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

(c) A custody claim that is joined with a divorce action shall be asserted in the divorce complaint or a subsequent petition, which shall be substantially in the form provided by Pa.R.C.P. No. 1915.15(a).

Official Note: See Pa.R.C.P. No. 1920.13(b) (claims that are joined in a divorce action shall be raised in a complaint or a subsequent petition).

(d) If the child's mother is not married and the child has no legal or presumptive father, a putative father initiating a custody action shall file a paternity claim pursuant to 23 Pa.C.S. § 5103 and attach a copy to the custody complaint.

Official Note: If a putative father is uncertain of paternity, the correct procedure is to commence a civil action for paternity pursuant to the procedures set forth at Pa.R.C.P. No. 1930.6.

(e) *Pleading Facts Establishing Standing.*

(1) An individual seeking physical or legal custody of a child, who is *in loco parentis* to the child, shall plead facts establishing standing under 23 Pa.C.S. § 5324(2) in Paragraph 9(a) of the complaint in Pa.R.C.P. No. 1915.15(a).

(2) A grandparent seeking physical or legal custody of a grandchild, who is not *in loco parentis* to the child, shall plead facts establishing standing under 23 Pa.C.S. § 5324(3) in Paragraph 9(b) of the complaint in Pa.R.C.P. No. 1915.15(a).

(3) An individual seeking physical or legal custody of a child, who is not *in loco parentis* to the child, shall plead facts establishing standing under 23 Pa.C.S. § 5324(4) and (5) in Paragraph 9(c) of the complaint in Pa.R.C.P. No. 1915.15(a).

(4) A grandparent or great-grandparent seeking partial physical custody or supervised physical custody of a grandchild or great-grandchild shall plead facts establishing standing under 23 Pa.C.S. § 5325 in Paragraph 9(d) of the complaint in Pa.R.C.P. No. 1915.15(a).

(f) An unemancipated minor parent may commence, maintain, or defend a custody action of the minor parent's child without the requirement of the appointment of a guardian for the minor parent.

Comment—2020

Act of May 4, 2018, P.L. 112, No. 21, amended 23 Pa.C.S. § 5324 by adding a new class of third-party standing for individuals seeking custody of a child whose parents do not have care and control of the child. The individual seeking custody may or may not be related to the child. Subject to Section 5324(5), the newly added standing provision requires that: (1) the individual has assumed or is willing to assume responsibility for the child; (2) the individual has a sustained, substantial, and sincere interest in the child's welfare; and (3) the child's parents do not have care and control of the child. A plaintiff proceeding under Section 5324(4) shall satisfy the requirements of that provision by clear and convincing evidence. Additionally, if a juvenile dependency proceeding has been initiated, or is ongoing, or there is an order for permanent legal custody, Section 5324(5) provides that an individual cannot assert standing under Section 5324(4).

Consistent with the Act 21 of 2018 statutory changes, subdivision (e) has been revised to include a third party seeking custody of a child under 23 Pa.C.S. § 5324(4). The subdivision has been reorganized to sequentially follow the statutory provisions in 23 Pa.C.S. §§ 5324(2)—(4) and 5325. Similarly, the Complaint for Custody Paragraph 9 in Pa.R.C.P. No. 1915.15(a) has been reorganized to sequentially follow the statutory provisions and rules sequence, as well. *See* Pa.R.C.P. No. 1915.15(a).

Source

The provisions of this Rule 1915.3 amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended July 20, 2015, effective September 1, 2015, 45 Pa.B. 4158; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3520; amended July 27, 2020, effective October 1, 2020, 50 Pa.B. 4019. Immediately preceding text appears at serial pages (392629) to (392630).

Rule 1915.3-1. Withdrawal of Pleading. Discontinuance of Action.

(a) *Withdrawal of Pleading.* A custody pleading cannot be withdrawn after the issuance of a scheduling order or notice of conference regarding claims made in the pleading except

- (1) by leave of court after notice to the non-moving party, or
- (2) by written agreement of the parties.

(b) *Discontinuance of a Custody Action.*

(1) A custody action may be discontinued by praecipe only upon a verified statement by the moving party that the complaint has not been served.

(2) A custody action cannot be discontinued after the complaint has been served except

- (A) by leave of court after notice to the non-moving party, or
- (B) by written agreement of the parties.

Source

The provisions of this Rule 1915.3-1 adopted June 25, 2013, effective in 30 days on July 25, 2013, 43 Pa.B. 3936.

Rule 1915.3-2. Criminal Record or Abuse History.

(a) *Criminal Record or Abuse History Verification.* A party must file and serve with the complaint, any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim a verification regarding any criminal record or abuse history of that party and anyone living in that party's household. The verification shall be substantially in the form set forth in subdivision (c) below. The party must attach a blank verification form to a complaint, counterclaim or petition served upon the other party. Although the party served need not file a responsive pleading pursuant to Rule 1915.5, he or she must file with the court a verification regarding his or her own criminal record or abuse history and that of anyone living in his or her household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not later than 30 days after service of the complaint or petition. A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party. Both parties shall file and serve updated verifications five days prior to trial.

(b) *Initial Evaluation.* At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the existence of a criminal or abuse history of either party or a party's household member poses a threat to the child and whether counseling is necessary. The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, the court may enter a temporary custody order on behalf of a party with a criminal history or a party with a household member who has a criminal history, pending the party's or household member's evaluation and/or counseling.

Official Note: The court shall consider evidence of criminal record or abusive history presented by the parties. There is no obligation for the court to conduct an independent investigation of the criminal record or abusive history of either party or members of their household. The court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling, or whether a party or household member poses a threat to a child, the court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member and whether the offense involved violence.

(c) *Verification.* The verification regarding criminal or abuse history shall be substantially in the following form:

(Caption)
CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2901 (relating to kidnapping)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2902 (relating to unlawful restraint)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

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GENERAL

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 2903 (relating to false imprisonment)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3121 (relating to rape)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3122.1 (relating to statutory sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3124.1 (relating to sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3125 (relating to aggravated indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3126 (relating to indecent assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3127 (relating to indecent exposure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3129 (relating to sexual intercourse with animal)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

CUSTODY OF MINOR CHILDREN

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<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 3301 (relating to arson and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4302 (relating to incest)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4303 (relating to concealing death of child)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4304 (relating to endangering welfare of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 4305 (relating to dealing in infant children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6301 (relating to corruption of minors)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6312 (relating to sexual abuse of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

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GENERAL

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	18 Pa.C.S. § 6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. § 6320 (relating to sexual exploitation of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	23 Pa.C.S. § 6114 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

<i>Check all that apply</i>	<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction			

<i>Check all that apply</i>		<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<input type="checkbox"/>	Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction. Where?: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse: _____

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child. _____

5. If you are aware that the other party or members of the other party's household has or have a criminal record/abuse history, please explain: _____

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Signature

Printed Name

Source

The provisions of this Rule 1915.3-2 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended May 14, 2014, effective in 30 days on June 13, 2014, 44 Pa.B. 3233; amended July 20, 2015, effective September 1, 2015, 45 Pa.B. 4158. Immediately preceding text appears on serial pages (368263) to (368266) and (372079) to (372080).

Rule 1915.4. Prompt Disposition of Custody Cases.

(a) *Initial Contact With the Court.* Depending upon the procedure in the judicial district, the parties' initial in-person contact with the court (including, but not limited to a conference with a conference officer pursuant to Rule 1915.4-2, a conference with a judge, conciliation, mediation and/or class/seminar) shall be scheduled to occur not later than 45 days from the filing of a complaint or petition.

(b) *Listing Trials Before the Court.* Depending upon the procedure in the judicial district, within 180 days of the filing of the complaint either the court shall automatically enter an order scheduling a trial before a judge or a party shall file a praecipe, motion or request for trial, except as otherwise provided in this subdivision. If it is not the practice of the court to automatically schedule trials

and neither party files a praecipe, motion or request for trial within 180 days of filing of the pleading, the court shall, sua sponte or on motion of a party, dismiss the matter unless a party has been granted an extension for good cause shown, or the court finds that dismissal is not in the best interests of the child. The extension shall not exceed 60 days beyond the 180 day limit. A further reasonable extension may be granted by the court upon agreement of the parties or when the court finds, on the record, compelling circumstances for a further reasonable extension. If an extension is granted and, thereafter, neither party files a praecipe, motion or request for trial within the time period allowed by the extension, the court shall, sua sponte or on the motion of a party, dismiss the matter unless the court finds that dismissal is not in the best interests of the child. A motion to dismiss, pursuant to this rule, shall be filed and served upon the opposing party. The opposing party shall have 20 days from the date of service to file an objection. If no objection is filed, the court shall dismiss the case. Prior to a sua sponte dismissal, the court shall notify the parties of an intent to dismiss the case unless an objection is filed within 20 days of the date of the notice.

(c) *Trial.* Trials before a judge shall commence within 90 days of the date the scheduling order is entered. Trials and hearings shall be scheduled to be heard on consecutive days whenever possible but, if not on consecutive days, then the trial or hearing shall be concluded not later than 45 days from commencement.

(d) *Prompt Decisions.* The judge's decision shall be entered and filed within 15 days of the date upon which the trial is concluded unless, within that time, the court extends the date for such decision by order entered of record showing good cause for the extension. In no event shall an extension delay the entry of the court's decision more than 45 days after the conclusion of trial.

(e) *Emergency or Special Relief.* Nothing in this rule shall preclude a party from seeking, nor a court from ordering, emergency or interim special relief at any time after the commencement of the action.

Official Note: For service of original process in custody, partial custody and visitation matters, see Rule 1930.4.

Rescinded June 20, 1985, effective Jan 1, 1986. Note amended Oct. 2, 1995, effective Jan.1, 1996. Replaced by new rule.

Explanatory Comment—2000

A new rule requiring prompt custody trials was recommended by a special committee established by the Pennsylvania Superior Court. That committee concluded that the interests of children who are the subjects of custody litigation would best be served by a requirement that the litigation be concluded within specific time frames.

Source

The provisions of this Rule 1915.4 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended October 2, 1995, effective January 1, 1996, 25 Pa.B. 4518; amended November 30, 2000, effective March 1, 2001, 30 Pa.B. 6423; amended July 8, 2010, effective September 6, 2010,

40 Pa.B. 4140; amended June 25, 2013, effective in 30 days on July 25, 2013, 43 Pa.B. 3936. Immediately preceding text appears at serial pages (351631) to (351632).

Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions.

(a) A custody action shall proceed as prescribed by Pa.R.C.P. No. 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by Pa.R.C.P. No. 1915.4-2 pursuant to which an action for partial custody may be heard by a hearing officer, except as provided in subdivision (b).

(b) Promptly after the parties' initial contact with the court as set forth in Pa.R.C.P. No. 1915.4(a), a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody where:

- (1) there are complex questions of law, fact or both; or
- (2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either Pa.R.C.P. No. 1915.4-2 or Pa.R.C.P. No. 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that _____ County conducts its custody proceedings in accordance with Pa.R.C.P. No. _____.

(President Judge)

(Administrative Judge)

Official Note: For a complete list of the Alternative Hearing Procedures for each county: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/domestic-relations-procedural-rules-committee>.

Explanatory Comment

These rules provide an optional procedure for using hearing officers in partial custody cases. The procedure is similar to the one provided for support cases in Pa.R.C.P. No. 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms "conference officer" and "hearing officer" have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Pa.R.C.P. Nos. 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means.

The intent of the 2007 amendments to Pa.R.C.P. Nos. 1915.4-1 and 1915.4-2, and Pa.R.C.P. No. 1915-4.3, was to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a de novo hearing may be made.

In lieu of continuing the practice of including in the Note a 67-county list identifying the hearing procedure selected by the local county court, the list can now be found on the Domestic Relations Procedural Rules Committee website.

Source

The provisions of this Rule 1915.4-1 adopted July 15, 1994, effective January 1, 1995, 24 Pa.B. 3803; amended November 30, 2000, effective March 1, 2001, 30 Pa.B. 6423; amended October 30, 2007, effective immediately, 37 Pa.B. 5974; amended April 18, 2008, effective immediately, 38 Pa.B. 1815; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended November 18, 2014, effective in 30 days on December 18, 2014, 44 Pa.B. 7514; amended March 4, 2016, effective April 1, 2016, 46 Pa.B. 1412; amended October 14, 2016, effective December 1, 2016, 46 Pa.B. 6819. Immediately preceding text appears at serial pages (380178) to (380180).

Rule 1915.4-2. Partial Custody. Office Conference. Hearing. Record. Exceptions. Order.

(a) *Office Conference.*

(1) The office conference shall be conducted by a conference officer.

(2) If the respondent fails to appear at the conference before the conference officer as directed by the court, the conference may proceed without the respondent.

(3) The conference officer may make a recommendation to the parties relating to partial custody or supervised physical custody of the child or children. If an agreement for partial custody or supervised physical custody is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter an order in accordance with the agreement without hearing the parties.

(4) At the conclusion of the conference, if an agreement relating to partial custody or supervised physical custody has not been reached, the parties shall be given notice of the date, time and place of a hearing before a hearing officer, which may be the same day, but in no event shall be more than forty-five days from the date of the conference.

(b) *Hearing.*

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. A hearing officer who is a lawyer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, or judge of the same judicial district.

(2) The hearing officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or the subject child or children submit to examination and evaluation by experts pursuant to Rule 1915.8.

(3) Within ten days of the conclusion of the hearing, the hearing officer shall file with the court and serve upon all parties a report containing a recommendation with respect to the entry of an order of partial custody or supervised physical custody. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or supervised physical custody.

(4) Within twenty days after the date the hearing officer's report is mailed or received by the parties, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions.

(5) If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter a final order.

(6) If exceptions are filed, the court shall hear argument on the exceptions within forty-five days of the date the last party files exceptions, and enter an appropriate final order within fifteen days of argument. No motion for Post-Trial Relief may be filed to the final order.

Explanatory Comment—2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Source

The provisions of this Rule 1915.4-2 adopted July 15, 1994, effective January 1, 1995, 24 Pa.B. 3803; amended November 30, 2000, effective March 1, 2001, 30 Pa.B. 6423; amended August 8, 2006, effective immediately, 36 Pa.B. 4709; amended October 30, 2007, effective immediately, 37 Pa.B. 5974; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended March 4, 2015, effective in 30 days on April 3, 2015, 45 Pa.B. 1354; amended October 19, 2021, effective January 1, 2022, 51 Pa.B. 6764. Immediately preceding text appears at serial pages (390562) to (390563).

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

(a) *Non-Record Proceedings.* In judicial districts utilizing an initial non-record proceeding, *i.e.*, office conference, if an agreement is not finalized by the conclusion of the proceeding, the conference officer shall promptly notify the court that the matter should be listed for trial. A lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a confer-

ence officer to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, or judge of the same judicial district.

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

Explanatory Comment—2018

The amendment to this rule, in conjunction with the amendment to Pa.R.C.P. No. 1915.1, standardizes terminology used in the custody process and identifies court personnel by title and in some cases qualifications. Of note, the term “mediator,” which had been included in the rule, has been omitted and is specifically defined in Pa.R.C.P. No. 1915.1.

As in the support rules, custody conference officers preside over conferences and hearing officers preside over hearings. Regardless of the individual’s title, presiding over a conference or a hearing triggers the family law attorney practice preclusion in this rule and in Pa.R.C.P. No. 1915.4-2(b) in the case of a hearing officer. Mediators, as defined in Pa.R.C.P. No. 1915.1 and as qualified in Pa.R.C.P. No. 1940.4, do not preside over custody conferences or hearings; rather, mediators engage custody litigants in alternative dispute resolution methods pursuant to Chapter 1940 of the Rules of Civil Procedure and, as such, the preclusion from practicing family law in the same judicial district in which an attorney/mediator is appointed is inapplicable.

Source

The provisions of this Rule 1915.4-3 amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended March 4, 2015, effective in 30 days on April 3, 2015, 45 Pa.B. 1354; amended February 8, 2018, effective April 1, 2018, 48 Pa.B. 1095; amended October 19, 2021, effective January 1, 2022, 51 Pa.B. 6764. Immediately preceding text appears at serial pages (390563) to (390564).

Rule 1915.4-4. Pre-Trial Procedures.

A pre-trial conference in an initial custody or modification proceeding shall be scheduled before a judge at the request of a party or sua sponte by the court and the procedure shall be as set forth in this rule. If a party wishes to request a pre-trial conference, the praecipe set forth in subdivision (g) shall be filed. The scheduling of a pre-trial conference shall not stay any previously scheduled proceeding unless otherwise ordered by the court.

(a) The praecipe may be filed at any time after a custody conciliation or conference with a conference officer unless a pre-trial conference has already been scheduled or held. The pre-trial conference may be scheduled at any time, but must be scheduled at least 30 days prior to trial.

(b) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary’s office and serve a copy upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) the name and address of each expert whom the party intends to call at trial as a witness;

(2) the name and address of each witness the party intends to call at trial and the relationship of that witness to the party. Inclusion of a witness on the pre-trial statement constitutes an affirmation that the party’s counsel or the self-represented party has communicated with the witness about the substance of the witness’s testimony prior to the filing of the pre-trial statement; and

(3) a proposed order setting forth the custody schedule requested by the party.

In addition to the above items included in the pre-trial statement, any reports of experts and other proposed exhibits shall be included as part of the pre-trial statement served upon the other party or opposing counsel, but not included with the pre-trial statement served upon the court.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(c) If a party fails to file a pre-trial statement or otherwise comply with the requirements of subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c)(2) and (4) governing sanctions.

(d) Unless otherwise ordered by the court, the parties may amend their pre-trial statements at any time, but not later than seven days before trial.

(e) At the pre-trial conference, the following shall be considered:

- (1) issues for resolution by the court;
- (2) unresolved discovery matters;
- (3) any agreements of the parties;
- (4) issues relating to expert witnesses;
- (5) settlement and/or mediation of the case;
- (6) such other matters as may aid in the disposition of the case; and
- (7) if a trial date has not been scheduled, it shall be scheduled at the pre-trial conference.

(f) The court shall enter an order following the pre-trial conference detailing the agreements made by the parties as to any of the matters considered, limiting the issues for trial to those not disposed of by agreement and setting forth the schedule for further action in the case. Such order shall control the subsequent course of the action unless modified at trial to prevent manifest injustice.

(g) The praecipe for pre-trial conference shall be substantially in the following form:

(Caption)
PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:
Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa.R.C.P. No. 1915.4-4.

The parties’ initial in-person contact with the court (conference with a conference officer or judge, conciliation or mediation) occurred on _____.

Plaintiff/Defendant/Attorney for Plaintiff/Defendant

Source

The provisions of this Rule 1915.4-4 adopted June 25, 2013, effective in 30 days on July 25, 2013, 43 Pa.B. 3937; amended October 28, 2015, effective January 1, 2016, 45 Pa.B. 6587; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3520. Immediately preceding text appears at serial pages (390564) and (390113) to (390114).

Rule 1915.5. Question of Jurisdiction, Venue, or Standing. Counterclaim Discovery. No Responsive Pleading by Defendant Required.

(a) *Question of Jurisdiction, Venue, or Standing.*

(1) A party shall raise jurisdiction of the person or venue by preliminary objection.

(2) A party may raise standing by preliminary objection or at a custody hearing or trial.

(3) The court may raise standing *sua sponte*.

(4) In a third-party plaintiff custody action in which standing has not been resolved by preliminary objection, the court shall address the third-party plaintiff's standing and include its standing decision in a written opinion or order.

Official Note: The court may raise at any time a question of (1) jurisdiction over the subject matter of the action or (2) the exercise of its jurisdiction pursuant to Section 5426 of the Uniform Child Custody Jurisdiction and Enforcement Act, relating to simultaneous proceedings in other courts, Section 5427, relating to inconvenient forum, and Section 5428, relating to jurisdiction declined by reason of conduct. The Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5407, provides that, upon request of a party, an action in which a question of the existence or exercise of jurisdiction is raised shall be given calendar priority and handled expeditiously.

(b) A party may file a counterclaim asserting the right of physical or legal custody within 20 days of service of the complaint upon that party or at the time of hearing, whichever first occurs. The claim shall be in the same form as a complaint as required by Pa.R.C.P. No. 1915.3.

(c) There shall be no discovery unless authorized by special order of court.

Official Note: The rule relating to discovery in domestic relations matters generally is Pa.R.C.P. No. 1930.5.

(d) Except as set forth in subdivisions (a) and (b), a responsive pleading shall not be required. If a party files a responsive pleading, it shall not delay a hearing or trial.

Explanatory Comment—1994

Under subdivision (a), the defendant may but is not required to plead to the complaint. All averments may be disputed by the defendant at the custody hearing. An attorney who wished to file another pleading may do so. However, the action is not to be delayed to permit its filing.

Comment—2020

Act of May 4, 2018, P.L. 112, No. 21, amended 23 Pa.C.S. § 5324 by adding a new class of third-party standing for individuals seeking custody of a child whose parents do not have care and control of the child. Subject to the limitations in 23 Pa.C.S. § 5324(5), the newly added standing provision requires that: (1) the individual has assumed or is willing to assume responsibility for the child; (2) the individual has a sustained, substantial, and sincere interest in the child's welfare; and (3) the

child's parents do not have care and control of the child. A plaintiff proceeding under Section 5324(4) shall satisfy the requirements of that provision by clear and convincing evidence.

Typically, when a third party is seeking custody of a child, the child's parents can raise the issue of the third party's standing to pursue custody. However, Section 5324(4) permits a party to seek custody of a child only when the child's parents do not have care and control of the child. If the parents' lack of care and control also results in their non-participation in the custody litigation, the third party's standing may go unchallenged. Subdivision (a) has been amended by including two new subdivisions to address this circumstance. Subdivision (a)(3) permits the court to raise standing *sua sponte* and, if third-party standing is not resolved by preliminary objection, the court shall address the standing issue in its written opinion or order as required by subdivision (a)(4).

Source

The provisions of this Rule 1915.5 amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended November 19, 2008, effective immediately, 38 Pa.B. 6596; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended July 7, 2014, effective in 30 days on August 6, 2014, 44 Pa.B. 4477; amended July 27, 2020, effective October 1, 2020, 50 Pa.B. 4019. Immediately preceding text appears at serial page (392632).

Rule 1915.6. Joinder of Parties.

(a)(1) If the court learns from the pleadings or any other source that a parent whose parental rights have not been previously terminated or a person who has physical custody of the child is not a party to the action, it shall order that the person be joined as a party. Such person shall be served with a copy of all prior pleadings and notice of the joinder substantially in the form prescribed by Rule 1915.16(a).

(2) The person joined must file any objection to the order of joinder within twenty days after notice of the order.

(3) The person joined may file a counterclaim asserting a right to physical or legal custody in the form required for a complaint by Rule 1915.3. A copy of the counterclaim shall be served upon all other parties to the action as provided by Rule 440.

(b) If the court learns from the pleadings or any other source that any other person who claims to have custodial rights with respect to the child is not a party to the action, it shall order that notice be given to that person of the pendency of the action and of the right to intervene therein. The notice shall be substantially in the form prescribed by Rule 1915.16(b).

Explanatory Comment—1994

The position taken by the rules is that a person in physical custody of the child and a parent whose parental rights have not been terminated are necessary parties to a custody determination. While it may be desirable to have other persons who claim custody rights as parties to the action, their joinder is not a prerequisite to a custody determination.

Source

The provisions of this Rule 1915.6 amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended November 19, 2008, effective immediately, 38 Pa.B. 6598; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702. Immediately preceding text appears at serial page (352461).

Rule 1915.7. Consent Order.

If the parties have an agreement regarding custody and request that the court enter a consent order incorporating the agreement's terms:

(a) the parties shall submit to the court a proposed custody order bearing the parties' written consent; or

(b) the parties may state the agreement on the record, provided that:

(1) within ten days of placing the agreement on the record, the parties comply with subdivision (a); or

(2) the court memorializes the oral agreement from the record into a written custody order.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

See Pa.R.C.P. No. 1915.10(b) regarding written custody order requirements.

Explanatory Comment—2019

The rule has been amended to ensure that when a custody agreement is orally placed on the record that a written custody order prepared by the parties memorializing the parties' agreement is timely submitted to the court or the court memorializes the oral agreement into a written custody order. The amendment avoids the untenable circumstance that the only written record of the parties' oral agreement is a transcription of what had been placed on the record. Transcription agreements are often cumbersome and difficult to discern as to the custody terms and provisions, which makes enforcement difficult. This amendment is consistent with the holding in *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015).

Source

The provisions of this Rule 1915.7 amended November 8, 1982, effective January 1, 1983, 12 Pa.B. 4040; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48

Pa.B. 3520; amended June 3, 2019, effective October 1, 2019, 49 Pa.B. 3058. Immediately preceding text appears at serial page (392633).

Rule 1915.8. Physical and Mental Examination of Persons.

(a) The court may order the child(ren) and/or any party to submit to and fully participate in an evaluation by an appropriate expert or experts. The order, which shall be substantially in the form set forth in Rule 1915.18, may be made upon the court's own motion, upon the motion of a party with reasonable notice to the person to be examined, or by agreement of the parties. The order shall specify the place, manner, conditions and scope of the examination and the person or persons by whom it shall be made and to whom distributed. In entering an order directing an evaluation pursuant to this rule, the court shall consider all appropriate factors including the following, if applicable:

- (1) the allocation of the costs, including insurance coverage, if any, attendant to the undertaking of the evaluation and preparation of the resultant report and court testimony of any appointed expert;
- (2) the execution of appropriate authorizations and/or consents to facilitate the examination;
- (3) any deadlines imposed regarding the completion of the examination and payment of costs;
- (4) the production of any report and of underlying data to counsel and/or any unrepresented party upon the completion of the examination; and
- (5) any additional safeguards that are deemed appropriate as a result of the alleged presence of domestic violence and/or child abuse.

(b) Unless otherwise directed by the court, the expert shall deliver to the court, to the attorneys of record for the parties, to any unrepresented party, and to the guardian ad litem and/or counsel for the child, if any, copies of any reports arising from the evaluation setting out the findings, results of all tests made, diagnosis and conclusions. No reports shall be filed of record or considered evidence unless and until admitted by the court. Any report which is prepared at the request of a party, with or without a court order, and which a party intends to introduce at trial, must be delivered to the court and the other party at least thirty days before trial. If the report or any information from the evaluator is provided to the court, the evaluator shall be subject to cross-examination by all counsel and any unrepresented party without regard to who obtains or pays for the evaluation.

(c) If a party refuses to obey an order of court made under subdivision (a) of this rule, the court may make an order refusing to allow the disobedient party to support or oppose designated claims or defenses, prohibiting the party from introducing in evidence designated documents, things or testimony, prohibiting the party from introducing evidence of physical or mental condition, or making such other order as is just. The willful failure or refusal of a party to comply with an order entered pursuant to this rule may also give rise to a finding of contempt and the imposition of such sanctions as may be deemed appropriate by the court, including, but not limited to, an adverse inference against the non-complying party.

(d) A petition for contempt alleging failure to comply with an order entered pursuant to subdivision (a) of this rule shall be treated in an expedited manner.

Explanatory Comment—2007

This rule addresses the process for any number of expert evaluations a court may order in a custody case, including, but not limited to, physical, mental health, custody and/or drug and alcohol evaluations, and/or home studies. Since the initial promulgation of this rule in 1981, the frequency of utilizing professionals as expert witnesses in child custody litigation has increased considerably. In appropriate cases, evaluations have served as a means to provide the court with a full and complete record and to facilitate settlement of the litigation.

The proposed revisions to Rule 1915.8 are intended to afford the trial court and the parties a more flexible and case-sensitive means of determining the scope and parameters of a physical and/or mental examination, including deadlines, costs, underlying data, and access. In many instances, the previous sixty-day deadline was impractical and ignored. While some cases demanded that the evaluation be completed in less than 60 days, others demanded far more time than that. The revisions to this rule also specifically permit the trial court to draw an adverse inference from one party's failure to comply with an order pursuant to this rule.

Source

The provisions of this Rule 1915.8 amended May 16, 1994, effective July 1, 1994, 24 Pa.B. 2882; amended May 23, 2007, effective August 1, 2007, 37 Pa.B. 2602; amended August 2, 2010, effective immediately, 40 Pa.B. 4634. Immediately preceding text appears at serial pages (340200) to (340201).

Rule 1915.9. No Default Judgment.

No judgment may be entered by default or on the pleadings.

Rule 1915.10. Decision. Order.

(a) The court may make the decision before the testimony has been transcribed. The court shall state the reasons for its decision on the record in open court or in a written opinion or order.

Official Note: See 23 Pa.C.S. § 5323(d).

(b) The court shall enter a custody order as a separate written order or in a separate section of a written opinion.

(1) The court's order shall state sufficiently specific terms to enforce the order.

(2) If the court has made a finding that a party or child is at risk of harm, the court's order shall include safety provisions for the endangered party's or child's protection.

(3) The court may order that the case caption use the parties' initials rather than the parties' names based on the sensitive nature of the facts in the case record and the child's best interest.

Official Note: See Pa.R.C.P. No. 1930.1(a).

(4) When drafting a written opinion or order in an action having the parties' initials in the case caption, the court shall:

(i) avoid using specific identifiers for people, places, or things that may indirectly reveal the child's identity; and

(ii) use generalized identifiers when describing a child's school, activities, affiliated organizations, or other similar terms.

(c) A custody order shall include a notice outlining the parties' obligations under 23 Pa.C.S. § 5337, regarding a party's intention to relocate with a minor child.

Official Note: See 23 Pa.C.S. § 5323(c) and Pa.R.C.P. No. 1915.17.

(d) A party may not file a motion for post-trial relief to an order of legal or physical custody.

Explanatory Comment—2019

Subdivision (b) further defines and reinforces the requirements in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to, supervised physical custody, a supervised or neutral custody exchange location, a neutral third-party present at custody exchanges, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation, and designating a secure, neutral location as respository for a child's passport.

Additionally, subdivision (b) requires a court to enter a custody order as a separate written order or in a separate section of a written opinion. The subdivision also addresses the practice of orally entering a custody order on the record without formalizing the custody order in writing. In such circumstances, the parties' only documentation of the custody order is a transcription of the oral record. In *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015), the Superior Court held that "in order to be sufficiently specific to be enforced, an order of custody must be entered as a separate written order, or as a separate section of a written opinion." *Id.* at 206. Despite the Superior Court's decision, the practice of placing custody orders on the record without subsequently entering a written order has continued, which has been problematic for enforcement and understanding of the agreement's or order's terms.

Explanatory Comment—2021

Subdivision (b)(3) allows the court discretion to initialize a custody action's case caption when the child's privacy may be compromised by the sensitive nature of the facts in the case record. When the court determines that the case caption should be initialized, additional privacy safeguards are required under subdivision (b)(4).

Subdivision (b)(4) recognizes that inadvertent disclosure of the child's identity and privacy may occur if the written custody order or opinion provides specific details of the child's life (*i.e.*, school, extracurricular activities). Subdivision (b)(4) requires that the court refrain from using specific identifiers; instead, the court should use general terms (*i.e.*, high school, not John F. Kennedy High School). In circumstances in which name specificity is required, such as school choice, the court should consider a separate order for that issue.

Source

The provisions of this Rule 1915.10 amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5323; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended June 3, 2019, effective October 1, 2019, 49 Pa.B. 3058; amended October 22, 2020, effective January 1, 2021, 50 Pa.B. 6199. Immediately preceding text appears at serial pages (396977) to (396978).

Rule 1915.11. Appointing Child's Attorney. Child Interview. Child Attending Proceedings.**(a) Appointing Child's Attorney.**

(1) Upon its own motion or a party's motion, the court may appoint an attorney to represent a child who is the subject of the action.

(2) The court's order appointing the child's attorney, as provided in Pa.R.Civ.P. 1915.19, may apportion to the parties the reasonable cost of the child's attorney.

(3) The child's attorney:

- (i) shall represent the child's legal interest;
- (ii) shall zealously represent the child as any other client in an attorney-client relationship; and
- (iii) shall not act as the child's guardian *ad litem* or best interest attorney as provided in Pa.R.Civ.P. 1915.11-2.

(b) Child Interview.

(1) The court may interview a child in open court or in chambers.

(2) If the court interviews the child, the court shall conduct the child's interview on the record.

- (3) If permitted by the court, a party's attorney or a party may observe the interview.
- (4) As part of the interview process, the court shall permit either:
- (i) the parties' attorneys to question the child under the court's supervision, provided that all parties are represented by an attorney; or
 - (ii) a party's attorney or a self-represented party to submit to the court written questions, which the court may include in its interview.
- (c) *Child Attending Proceedings*. Unless ordered by the court or otherwise compelled to testify on the record, a child's attendance at a conference, hearing, or trial is not required.

Comment—1991

Pa.R.Civ.P. 1915.15(c) provides a form of order to appear at a conference or hearing in a custody action.

However, the presence of a child in court is not always necessary or desirable. The experience may be traumatic and disruptive. Consequently, the child should not be required to attend a hearing or conference in every case. When the presence of a child is required and the custodial party does not voluntarily bring the child, the court may issue an order for the child's attendance.

Subdivision (c) has been added to Pa.R.Civ.P. 1915.11 to provide that, in the absence of an order of court, a child who is the subject of the action need not be brought to a conference or a hearing before the court. The form of order to appear provided by Pa.R.Civ.P. 1915.15(c) has been revised to implement this policy.

Comment—2022

Although the rule states that a child is not required to attend a conference, hearing, or trial, the terminology used by a judicial district may vary for these court proceedings. The rule's intent is to limit the child's participation to only those proceedings in which the child will actively participate as a witness or in the court's interview.

Source

The provisions of this Rule 1915.11 amended April 29, 1991, effective July 1, 1991, 21 Pa.B. 2337; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended May 18, 2016, effective July 1, 2016, 46 Pa.B. 2854; amended January 20, 2022, effective April 1, 2022, 52 Pa.B. 826. Immediately preceding text appears at serial pages (403250) to (403251).

Rule 1915.11-1. Parenting Coordination.

If a judicial district implements a parenting coordination program, the court shall maintain a roster of qualified individuals to serve as parenting coordinators and establish the hourly rate at which parenting coordinators shall be compensated. The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parties and, if unable to reach an agreement, recommend a resolution to the court.

(a) *Appointment of a Parenting Coordinator.*

- (1) After a final custody order has been entered, a judge may appoint a parenting coordinator to resolve parenting issues in cases involving repeated or intractable conflict between the parties affecting implementation of the final custody order. A parenting coordinator should not be appointed in every case. The appointment may be made on the motion of a party or the court's motion.

1915-22.1

(2) Unless the parties consent and appropriate safety measures are in place to protect the participants, including the parenting coordinator and other third parties, a parenting coordinator shall not be appointed if:

(i) the parties to the custody action have a protection from abuse order in effect;

(ii) the court makes a finding that a party has been the victim of domestic violence perpetrated by a party to the custody action, either during the pendency of the custody action or within 36 months preceding the filing of the custody action; or

(iii) the court makes a finding that a party to the custody action has been the victim of a personal injury crime, as defined in 23 Pa.C.S. § 3103, which was perpetrated by a party to the custody action.

(iv) If a party objects to the appointment of a parenting coordinator based on an allegation that the party has been the victim of domestic violence perpetrated by a party to the custody action, the court shall have a hearing on the issue and may consider abuse occurring beyond the 36 months provided in subdivision (a)(2)(ii).

(3) The appointment of a parenting coordinator shall be for a specified period, which shall not exceed 12 months. A party may petition the court for an extension of the appointment or the court in its discretion may extend the appointment for an additional period.

(4) If the parenting coordinator seeks to withdraw from service in a case, the parenting coordinator shall petition the court and provide a copy of the petition to the parties or the parties' attorneys.

(5) The parenting coordinator shall set forth in a separate written agreement with the parties:

(i) the amount of any retainer;

(ii) the hourly rate to be charged;

(iii) the process for invoices and payment for services;

(iv) information on the parenting coordination process; and

(v) provide a signed copy of the agreement to the parties before initiating any services.

Official Note: The parenting coordinator shall include in the parties' written agreement the hourly rate established by the judicial district.

(b) *Qualifications of the Parenting Coordinator.*

(1) A parenting coordinator shall be licensed to practice in the Commonwealth of Pennsylvania as either an attorney or a mental health professional with a master's degree or higher. At a minimum, the parenting coordinator shall have:

(i) practiced family law for five years or have five years of professional post-degree experience in psychiatry, psychology, counseling, family therapy, or other comparable behavioral or social science field; and

(ii) specialized training by a provider approved or certified by the American Psychological Association, Pennsylvania Psychological Association,

tion, American Bar Association, Pennsylvania Bar Association, Pennsylvania Bar Institute, or American Academy of Matrimonial Lawyers. The training shall include:

- (A) five hours in the parenting coordination process;
- (B) ten hours of family mediation;
- (C) five hours of training in domestic violence; and
- (D) in each two-year period after the initial appointment, ten continuing education credits on any topic related to parenting coordination with a minimum of two hours on domestic violence.

(2) An attorney or a mental health professional seeking an appointment as a parenting coordinator:

- (i) shall sign an affidavit attesting that he or she has met the qualifications outlined in (b)(1);
- (ii) shall submit the affidavit to the president judge or administrative judge of the judicial district where the parenting coordinator is seeking appointment; and
- (iii) after submission of the initial affidavit, a parenting coordinator shall submit a new affidavit every two years attesting that he or she continues to meet the qualifications for a parenting coordinator outlined in (b)(1).

(c) *Appointment Order.* The parenting coordinator's authority as delineated in subdivision (d) shall be included in the order appointing the parenting coordinator, which shall be substantially in the form set forth in Pa.R.C.P. No. 1915.22.

(d) *Scope of Authority of the Parenting Coordinator.* The parenting coordinator shall have the authority to recommend resolutions to the court on issues related to the custody order if the parties are unable to reach an agreement.

(1) To implement the custody order and resolve related parenting issues about which the parties cannot agree, the parenting coordinator is authorized to recommend resolutions to the court about issues that include, but are not limited to:

- (i) places and conditions for custodial transitions between households;
- (ii) temporary variation from the custodial schedule for a special event or particular circumstance;
- (iii) school issues, apart from school selection;
- (iv) the child(ren)'s participation in recreation, enrichment, and extracurricular activities, including travel;
- (v) child-care arrangements;
- (vi) clothing, equipment, toys, and personal possessions of the child(ren);
- (vii) information exchanges (e.g., school, health, social) between the parties and communication with or about the child(ren);
- (viii) coordination of existing or court-ordered services for the child(ren) (e.g., psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management);
- (ix) behavioral management of the child(ren); and

(x) other related custody issues that the parties mutually have agreed in writing to submit to the parenting coordinator, which are not excluded in subdivision (d)(2).

(2) The following issues are excluded from the parenting coordinator's scope of authority:

- (i) a change in legal custody as set forth in the custody order;
- (ii) a change in primary physical custody as set forth in the custody order;
- (iii) except as set forth in subdivision (d)(1)(ii), a change in the court-ordered custody schedule that reduces or expands the child(ren)'s time with a party;
- (iv) a change in the residence (relocation) of the child(ren);
- (v) determination of financial issues, other than allocation of the parenting coordinator's fees as set forth in subdivision (g)(1);
- (vi) major decisions affecting the health, education, or religion of the child(ren); and
- (vii) other issues limited by the appointing judge.

(3) Unless the parties consent, the parenting coordinator shall not contact collateral sources or speak with the child(ren) and to effectuate this provision, the parties shall execute releases, as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals. Any communication with the collateral sources or child(ren) shall be limited to the issue(s) currently before the parenting coordinator.

(e) *Communications. No Testimony.*

(1) Communication between the parties or the parties' attorneys and the parenting coordinator is not confidential.

(2) A party or a party's attorney may communicate in writing with the parenting coordinator, but shall contemporaneously send a copy of the written communication to the other party or the other party's attorney. Documents, recordings, or other material that one party gives to the parenting coordinator shall be promptly made available to the other party or the other party's attorney for inspection and copying.

(3) The parties and their attorneys may receive, but not initiate, oral *ex parte* communication with the parenting coordinator. A parenting coordinator may initiate oral communication with a party or party's attorney, but shall promptly advise the other party or the other party's attorney of the communication.

(4) Communication between the parenting coordinator and the court shall be in writing and copies of the written communication shall be sent contemporaneously to the parties or the parties' attorneys.

(5) A party cannot compel the testimony of a parenting coordinator without an order of court.

(f) *Recommendations. Objecting to the Recommendation. Judicial Review. Record Hearing.*

(1) The parenting coordinator shall provide to the parties notice and an opportunity to be heard on the issues.

(2) The parenting coordinator's recommendation shall be in writing on the Summary and Recommendation of the Parenting Coordinator form set forth in Pa.R.C.P. No. 1915.23 and sent to the court for review within two days after hearing from the parties on the issues. The parenting coordinator shall serve a copy of the Summary and Recommendation on the parties or the parties' attorneys.

(3) A party objecting to the recommendation shall file a petition for a record hearing before the court within five days of service of the Summary and Recommendation of the Parenting Coordinator form. The petition must specifically state the issues to be reviewed and include a demand for a record hearing. A copy of the recommendation shall be attached to the petition. In accordance with Pa.R.C.P. No. 440, the objecting party shall serve the petition on the other party or the other party's attorney and the parenting coordinator.

(4) If the parties do not file an objection within five days of service of the parenting coordinator's recommendation, the court shall:

- (i) approve the recommendation;
- (ii) approve the recommendation in part and conduct a record hearing on issues not approved;
- (iii) remand the recommendation to the parenting coordinator for more specific information; or
- (iv) not approve the recommendation and conduct a record hearing on the issues.

(5) As soon as practical, the court shall conduct a record hearing on the issues specifically set forth in the petition. The court shall render a decision within the time set forth in Pa.R.C.P. No. 1915.4(d).

(6) If a party makes a timely objection, the recommendation shall become an interim order of court pending further disposition by the court.

(g) *Fees.*

(1) The appointing judge shall allocate between the parties the fees of the parenting coordinator. The parenting coordinator may reallocate the fees, subject to the approval of the court, if one party has caused a disproportionate need for the services of the parenting coordinator.

(2) To limit the financial burden on the parties, a parenting coordinator should meet with the parties only upon a request of a party to resolve an issue about which the parties disagree.

(3) *Waiver of fees or reduced fees.* Judicial districts implementing a parenting coordination program shall effectuate a policy or program by local rule so that indigent or low-income parties may participate in the parenting coordination program at a reduced fee or no fee.

Source

The provisions of this Rule 1915.11-1 adopted April 23, 2013, effective in 30 days on May 23, 2013, 43 Pa.B. 2559; amended August 9, 2018, effective March 1, 2019, 48 Pa.B. 5346. Immediately preceding text appears at serial page (381082).

Rule 1915.11-2. Guardian Ad Litem.(a) *Appointment.*

(1) On its own motion or a party's motion, the court may appoint a guardian *ad litem* if the court finds that the appointment is necessary for determining the child's best interest.

(2) As set forth in Pa.R.Civ.P. 1915.21, the court's order appointing the guardian *ad litem* may apportion to the parties the reasonable cost of the guardian *ad litem*.

(b) *Qualifications.* The guardian *ad litem* shall be a licensed attorney or licensed mental health professional.

(c) *Duties.*

(1) As provided in 23 Pa.C.S. § 5334, which has been suspended in part by Pa.R.Civ.P. 1915.25, the guardian *ad litem* shall perform the duties as enumerated in Section 5334, including representing the child's best interest.

(2) The guardian *ad litem* shall not represent the child's legal interest or act as the child's legal counsel.

(d) *Report.* The guardian *ad litem* shall prepare a written report, which shall include specific recommendations relating to the child's best interest.

(1) *Child's Statement.*

(i) The written report may include a subject child's statement to the guardian *ad litem* that would be otherwise inadmissible as hearsay under the Pennsylvania Rules of Evidence, provided the requirements of Pa.R.E. 703 are satisfied.

(ii) A child's statement included in the written report under subdivision (d)(1)(i) shall not be considered substantive evidence.

(2) The guardian *ad litem* shall file the written report with the prothonotary, which shall become part of the record.

(3) *Confidential.* The guardian *ad litem*'s filed report and a party's filed response to the report as provided in subdivision (d)(5) shall be confidential and shall not constitute a public record.

(4) The guardian *ad litem* shall provide the report to the parties and the court when filed but not later than 20 days prior to a hearing or trial or as otherwise ordered by the court.

(5) *Comments. Objections.*

(i) Within ten days of receiving the guardian *ad litem*'s report, a party may file with the prothonotary and serve on the other party and the court:

(A) a comment to the report, which shall become part of the record; or

(B) an objection to the report's admissibility, in whole or in part, including a subject child's statement to the guardian *ad litem*.

(ii) The court shall determine the report's admissibility prior to the hearing or trial.

(6) Subject to Pa.R.Civ.P. 1915.11, a party may subpoena:

(i) an individual interviewed by the guardian *ad litem* or identified in the report to appear and testify at the hearing or trial; or

(ii) the guardian *ad litem* for the production of a document relied upon by the guardian *ad litem* in preparing the report.

(e) *Testimony.*

(1) When determined necessary by the trial court, the guardian *ad litem* shall participate in court proceedings by attending, and by providing sworn testimony if called to testify by a party or the court. The guardian *ad litem* shall not be permitted to provide argument, unsworn opinions, or unsworn testimony to the court.

(2) If called to testify by a party, the guardian *ad litem* shall be subject to cross-examination by opposing parties. If called to testify by the court, the guardian *ad litem* shall be subject to cross-examination by any party.

(3) *Child's Statement.*

(i) Except as precluded by the court in subdivision (d)(5)(ii), the guardian *ad litem*'s testimony may include the subject child's statement to the guardian *ad litem* that would be otherwise inadmissible as hearsay under the Pennsylvania Rules of Evidence, provided the requirements of Pa.R.E. 703 are satisfied.

(ii) A child's statement included in the guardian *ad litem*'s testimony under subdivision (e)(3)(i) shall not be considered substantive evidence.

(f) *Order.* The order appointing a guardian *ad litem* shall be substantially in the form set forth in Pa.R.Civ.P. 1915.21.

Comment:

Subdivision (a)(1) states that the guardian *ad litem* may be appointed when "the appointment is necessary." Such appointments should be limited to extraordinary cases in which the trial judge determines that the level of conflict is unusually high or that the parties will be absolutely unable to provide the court with the information necessary to evaluate and determine the subject child's best interests. Regardless of appointment of a GAL, the duty and responsibility to determine the best interests of the children involved lies solely with the trial judge.

The Supreme Court of Pennsylvania suspended 23 Pa.C.S. § 5334 insofar as it (1) requires that a guardian *ad litem* be an attorney, (2) permits the guardian *ad litem* to represent both the best interests and legal interests of the child, (3) provides the guardian *ad litem* the right to examine, cross-examine, present witnesses, and present evidence on behalf of the child, and (4) prohibits the guardian *ad litem* from testifying.

See 23 Pa.C.S. § 5336, prohibiting disclosure of certain records and information to parents and parties.

Subdivision (d)(1) and (e)(3) reference the requirements of Pa.R.E. 703. Rule 703 relates to the bases for expert opinion testimony. While the requirements of Rule 703 must be satisfied for any written report that includes statements made by a subject child, the guardian *ad litem* is not an expert witness and need not be qualified as an expert prior to testifying. However, the guardian *ad litem*

In addition, the guardian *ad litem* cannot serve as a mere conduit for hearsay or for the opinions of another person, including the subject child. The guardian *ad litem* cannot relate the opinion of a non-testifying witness unless the guardian *ad litem* has reasonably relied upon it. Upon appropriate objection from any party, the trial court shall strike any testimony or portion of the guardian *ad litem*'s written report that is inadmissible as hearsay if the requirements for Pa.R.E. 703 are not met.

Subdivision (d)(6) provides that a party may subpoena an individual interviewed by the guardian *ad litem*, an individual that is identified in the guardian *ad litem*'s report, or a document relied upon by the guardian *ad litem* in producing the report. The subdivision shall not be construed to limit a party's ability to subpoena other individuals or for the production of documents for a trial or hearing, or for discovery purposes, if the court had previously authorized discovery pursuant to Pa.R.Civ.P. 1915.5(c). remains subject to questions and cross-examination regarding qualifications and experience.

Source

The provisions of this Rule 1915.11-2 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended January 27, 2023, effective April 1, 2023, 53 Pa.B. 824. Immediately preceding text appears at serial pages (408808) and (377877).

Rule 1915.12. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.

(a) A petition for civil contempt shall begin with a notice and order to appear in substantially the following form:

NOTICE AND ORDER TO APPEAR

Legal proceedings have been brought against you alleging you have willfully disobeyed an order of court for custody. If you wish to defend against the claim set forth in the following pages, you may but are not required to file in writing with the court your defenses or objections. Whether or not you file in writing with the court your defenses or objections, you must appear in person in court on

_____, at _____ .M., in Courtroom _____,
(Day and Date) (Time)

(Address)

IF YOU DO NOT APPEAR IN PERSON, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

If the court finds that you have willfully failed to comply with its order, you may be found to be in contempt of court and committed to jail, fined or both.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

BY THE COURT:

_____ J.

Date: _____

(b) The petition shall allege the facts which constitute willful failure to comply with the custody order, a copy of which shall be attached to the petition.

(c) The petition shall be in substantially the following form:

(Caption)

PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER

The Petition of _____, respectfully represents:

1. That on _____, Judge _____ entered an Order awarding (Petitioner) (Respondent) (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the minor child(ren)

(Name(s) of Child(ren))

A true and correct copy of the order is attached to this petition.

2. Respondent has willfully failed to abide by the order in that _____

3. Petitioner has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

WHEREFORE, Petitioner requests that Respondent be held in contempt of court.

(Attorney for Petitioner) (Petitioner)

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

Petitioner

(d) The petition shall be served upon the respondent by personal service or regular mail. No answer to the petition shall be required. If service is by mail, the hearing on the petition shall not be held sooner than seven days after mailing of the petition unless the court for cause shown orders an earlier hearing. If the respondent fails to appear, the court shall continue the hearing and may order personal service by the sheriff or constable, or alternative service as accepted by the court, of the petition and notice of a new hearing date or the court may issue a bench warrant for production of the respondent in court and not for imprisonment.

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(e) After hearing, an order committing a respondent to jail for contempt of a custody order shall specify the condition which must be fulfilled to obtain release of the respondent.

Official Note: See the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. §§ 5443 and 5445, relating to registration and enforcement of custody decrees of another state, and 23 Pa.C.S. § 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

Source

The provisions of this Rule 1915.12 amended November 8, 1982, effective January 1, 1983, 12 Pa.B. 4040; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5323; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended December 2, 1994, effective March 1, 1995,

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24 Pa.B. 6263; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754; amended November 19, 2008, effective immediately, 38 Pa.B. 6596; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended July 20, 2015, effective September 1, 2015, 45 Pa.B. 4158. Immediately preceding text appears at serial pages (368281) to (368283).

Rule 1915.13. Special Relief.

At any time after commencement of the action, the court may on application or its own motion grant appropriate interim or special relief. The relief may include, but is not limited to, the award of temporary legal or physical custody; the issuance of appropriate process directing that a child or a party or person having physical custody of a child be brought before the court; and a direction that a person post security to appear with the child when directed by the court or to comply with any order of the court.

Official Note: This rule supplies relief formerly available by habeas corpus for production of the child.

Explanatory Comment—1981

Rule 1915.13 contains a broad provision empowering the court to provide special relief where appropriate. In a custody proceeding, such special relief might include relief in the nature of a writ of ne exeat, directing the parties not to leave the jurisdiction and not to remove the child from the jurisdiction.

The rule catalogs several types of relief which might be granted, including the entry of a temporary order of custody, partial custody or visitation. The rule specifically provides that the power of the court to grant special relief shall not be limited to the types of relief cataloged.

Source

The provisions of this Rule 1915.13 amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702. Immediately preceding text appears at serial pages (340204) to (340205).

Rule 1915.14. Disobedience of Order. Arrest. Contempt.

If a person disobeys an order of court other than a custody order, the court may issue a bench warrant for the arrest of the person and if the disobedience is willful may, after hearing, adjudge the person to be in contempt.

Official Note: For disobedience of a custody order, see Rule 1915.12.

Source

The provisions of this Rule 1915.14 amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702. Immediately preceding text appears at serial page (340205).

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

(a) The complaint in a custody action shall be substantially in the following form:

(Caption)

COMPLAINT FOR CUSTODY

1. The plaintiff is _____,
residing at _____,
(Street) (City) (Zip Code) (County)

2. The defendant is _____, residing at _____ (Street) (City) (Zip Code) (County).

3. Plaintiff seeks (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the following child(ren):

Table with 3 columns: Name, Present Residence, Age. Includes three blank rows for entry.

The child (was) (was not) born out of wedlock.

The child is presently in the custody of _____ (Name) who resides at _____ (Street) (City) (State).

During the past five years, the child has resided with the following persons and at the following addresses:

Table with 3 columns: (List All Persons), (List All Addresses), (Dates). Includes three blank rows for entry.

A parent of the child is _____, currently residing at _____. This parent is (married) (divorced) (single).

A parent of the child is _____, currently residing at _____. This parent is (married) (divorced) (single).

4. Plaintiff's relationship to the child is that of _____. Plaintiff currently resides with the following persons:

Table with 2 columns: Name, Relationship. Includes two blank rows for entry.

5. Defendant's relationship to the child is that of _____. Defendant currently resides with the following persons:

Table with 2 columns: Name, Relationship. Includes two blank rows for entry.

6. Plaintiff (has) (has not) participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child in this or another court. The court, term and number, and its relationship to this action is:

Three blank lines for providing court information.

Plaintiff (has) (has no) information of a custody proceeding concerning the child pending in a court of this Commonwealth or any other state. The court, term and number, and its relationship to this action is: _____.

Plaintiff (knows) (does not know) of a person not a party to the proceedings who has physical custody of the child or claims to have custodial rights with respect to the child. The name and address of such person is: _____.

7. The child's best interest and permanent welfare will be served by granting the relief requested because (set forth facts showing that the granting of the relief requested will be in the child's best interest and permanent welfare): _____ .

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child have been named as parties to this action. All other persons, named below, who are known to have or claim a right to custody of the child will be given notice of the pendency of this action and the right to intervene:

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

9.(a) If the plaintiff is seeking physical or legal custody of a child and is *in loco parentis* to the child, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5324(2). _____

(b) If the plaintiff is a grandparent seeking physical or legal custody of a grandchild and is not *in loco parentis* to the child, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5324(3). _____

(c) If the plaintiff is seeking physical or legal custody of a child and is not *in loco parentis* to the child, the plaintiff shall plead facts establishing standing pursuant to 23 Pa.C.S. § 5324(4) and (5). _____

(d) If the plaintiff is a grandparent or great-grandparent seeking partial physical or supervised physical custody of a grandchild or great-grandchild, the plaintiff shall plead facts establishing standing under 23 Pa.C.S. § 5325. _____

10. Plaintiff has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

Wherefore, Plaintiff requests the court to grant (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child.

Plaintiff/Attorney for Plaintiff

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Plaintiff

Official Note: The form of complaint is appropriate if there is one plaintiff and one defendant and the custody of one child is sought or the custody of several children is sought and the information required by Paragraphs 3 to 7 is identical for all of the children. If there are more than two parties, the complaint should be appropriately adapted to accommodate them. If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(b) A petition to modify a custody order shall be substantially in the following form:

(Caption)

PETITION FOR MODIFICATION OF A CUSTODY ORDER

1. Petitioner is _____ and resides at _____ .
2. Respondent is _____ and resides at _____ .
3. Petitioner respectfully represents that on _____, 20__ an Order of Court was entered for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody). A true and correct copy of the Order is attached.
4. This Order should be modified because: _____

5. Petitioner has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

WHEREFORE, Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child(ren).

(Attorney for Petitioner) (Petitioner)

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date _____
Petitioner

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

(c) The order to be attached at the front of the complaint or petition for modification shall be substantially in the following form:

(Caption)

ORDER OF COURT

You, _____, (defendant) (respondent), have been sued in court to (OBTAIN) (MODIFY) (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child(ren): _____ .

You are ordered to appear in person at _____,
(Address)

on _____, at _____, _____ .M., for
(Day and Date) (Time)

- a conciliation or mediation conference.
- a pretrial conference.
- a hearing before the court.

If you fail to appear as provided by this order, an order for custody may be entered against you or the court may issue a warrant for your arrest.

You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation) but not later than 30 days after service of the complaint or petition.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT:

J.

Date: _____

Explanatory Comment—2008

In an effort to promote uniformity of practice throughout the Commonwealth, several forms are included in the rules. Two aspects of these forms are worthy of mention. First, much of the information which must be set forth in the complaint is required by the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § 5429. Second, the complaint is verified by use of a statement that it is subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

Comment—2020

Act of May 4, 2018, P.L. 112, No. 21, amended 23 Pa.C.S. § 5324 by adding a new class of third-party standing for individuals seeking custody of a child whose parents do not have care and control of the child. The individual seeking custody may or may not be related to the child. Subject to the limitations in 23 Pa.C.S. § 5324(5), the newly added standing provision requires that: (1) the indi-

CUSTODY OF MINOR CHILDREN

231 Rule 1915.16

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

BY THE COURT:

J.

Date: _____

(b) The order for notice of the pendency of the action and the right to intervene required by Rule 1915.6(b) shall be substantially in the following form:

(Caption)
ORDER AND NOTICE

A complaint has been filed in the Court of Common Pleas of _____ County concerning custody of the following child(ren):

The Court has learned you claim custodial rights with respect to the child(ren) named.
A hearing will be held in Courtroom _____ of the Court of Common Pleas

(Address)

on _____, at _____, _____ M. If you wish to assert your claim to custodial rights with respect to the child(ren) or wish to present evidence to the Court on those matters, you should petition the Court, on or before the above date, for leave to intervene in the proceedings.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

BY THE COURT:

J.

Date: _____

Source

The provisions of this Rule 1915.16 amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended March 18, 2004, effectively June 16, 2004, 34 Pa.B. 1754; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702. Immediately preceding text appears at serial pages (340208) to (340210).

Rule 1915.17. Relocation. Notice and Counter-Affidavit.

(a) A party proposing to change the residence of a child which significantly impairs the ability of a non-relocating party to exercise custodial rights must notify every other person who has custodial rights to the child and provide a counter-affidavit by which a person may agree or object. The form of the notice and counter-affidavit are set forth in subdivisions (i) and (j) below. The notice shall be sent by certified mail, return receipt requested, addressee only or pursuant to Pa.R.C.P No. 1930.4, no later than the sixtieth day before the date of the proposed change of residence or other time frame set forth in 23 Pa.C.S. § 5337(c)(2).

(b) If the other party objects to the proposed change in the child’s residence, that party must serve the counter-affidavit on the party proposing the change by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4 within 30 days of receipt of the notice required in subdivision (a) above. If there is an existing child custody case, the objecting party also shall file the counter-affidavit with the court.

(c) If no objection to a proposed change of a child's residence is timely served after notice, the proposing party may change the residence of the child and such shall not be considered a "relocation" under statute or rule.

(d) The procedure in any relocation case shall be expedited. There shall be no requirement for parenting education or mediation prior to an expedited hearing before a judge.

(e) If the party proposing the relocation seeks an order of court, has served a notice of proposed relocation as required by 23 Pa.C.S. § 5337, has not received notice of objection to the move and seeks confirmation of relocation, the party proposing the relocation shall file:

- (1) a complaint for custody and petition to confirm relocation, when no custody case exists, or
- (2) a petition to confirm relocation when there is an existing custody case and
- (3) a proposed order including the information set forth at 23 Pa.C.S. § 5337(c)(3).

(f) If the party proposing the relocation has received notice of objection to the proposed move after serving a notice of proposed relocation as required by 23 Pa.C.S. § 5337 et seq., the party proposing relocation shall file:

- (1) a complaint for custody or petition for modification, as applicable;
- (2) a copy of the notice of proposed relocation served on the non-relocating party;
- (3) a copy of the counter-affidavit indicating objection to relocation; and
- (4) a request for a hearing.

(g) If the non-relocating party has been served with a notice of proposed relocation and the party proposing relocation has not complied with subdivision (f) above, the non-relocating party may file:

- (1) a complaint for custody or petition for modification, as applicable;
- (2) a counter-affidavit as set forth in 23 Pa.C.S. § 5337(d)(1), and
- (3) a request for a hearing.

(h) If a non-relocating party has not been served with a notice of proposed relocation and seeks an order of court preventing relocation, the non-relocating party shall file:

- (1) a complaint for custody or petition for modification, as applicable;
- (2) a statement of objection to relocation; and
- (3) a request for a hearing.

(i) The notice of proposed relocation shall be substantially in the following form:

(Caption)
NOTICE OF PROPOSED RELOCATION

You, _____, are hereby notified that _____ (party proposing relocation) _____ proposes to relocate with the following minor child(ren): _____.

To object to the proposed relocation, you must complete the attached counter-affidavit and serve it on the other party by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4 within 30 days of receipt of this notice. If there is an existing child custody case, you also must file the counter-affidavit with the court. If you do not object to the proposed relocation within 30 days, the party proposing relocation has the right to relocate and may petition the court to approve the proposed relocation and to modify any effective custody orders or agreements. FAILURE TO

CUSTODY OF MINOR CHILDREN

231 Rule 1915.17

OBJECT WITHIN 30 DAYS WILL PREVENT YOU FROM OBJECTING TO THE RELOCATION ABSENT EXIGENT CIRCUMSTANCES.

Address of the proposed new residence: _____

Check here if the address is confidential pursuant to 23 Pa.C.S. § 5336(b).

Mailing address of intended new residence (if not the same as above) _____

Check here if the address is confidential pursuant to 23 Pa.C.S. § 5336(b).

Names and ages of the individuals who intend to reside at the new residence:

Name	Age
_____	_____
_____	_____
_____	_____
_____	_____

Check here if the information is confidential pursuant to 23 Pa.C.S. § 5336(b) or (c).

Home telephone number of the new residence: _____

Check here if the information is confidential pursuant to 23 Pa.C.S. § 5336(b) or (c).

Name of the new school district and school the child(ren) will attend after relocation: _____

Check here if the information is confidential pursuant to 23 Pa.C.S. § 5336(b) or (c).

Date of the proposed relocation: _____

Check here if the information is confidential pursuant to 23 Pa.C.S. § 5336(b) or (c).

Reasons for the proposed relocation: _____

Check here if the information is confidential pursuant to 23 Pa.C.S. § 5336(b) or (c).

Proposed modification of custody schedule following relocation:

Other information: _____

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT

AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Four horizontal lines for text entry.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

(j) The counter-affidavit that must be served with the relocation notice shall be substantially in the following form as set forth in 23 Pa.C.S. § 5337(d):

(Caption) COUNTER-AFFIDAVIT REGARDING RELOCATION

This proposal of relocation involves the following child/children:

Table with 3 columns: Child's Name, Age, Currently residing at. Three rows for child information.

I have received a notice of proposed relocation and (check all that apply):

- 1. I do not object to the relocation.
2. I do not object to the modification of the custody order consistent with the proposal for modification set forth in the notice.
3. I do not object to the relocation, but I do object to modification of the custody order.
4. I plan to request that a hearing be scheduled by filing a request for hearing with the court:
a. Prior to allowing (name of child/children) to relocate.
b. After the child/children relocate.
5. I do object to the relocation.
6. I do object to the modification of the custody order.

I understand that in addition to objecting to the relocation or modification of the custody order above, I must also serve this counter-affidavit on the other party by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4, and, if there is an existing custody case, I must file this counter-affidavit with the court. If I fail to do so within 30 days of my receipt of the proposed relocation notice, I understand that I will not be able to object to the relocation at a later time.

I verify that the statements made in this counter-affidavit are true and correct. I 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)

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

Source

The provisions of this Rule 1915.17 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended July 20, 2015, effective September 1, 2015, 45 Pa.B. 4158; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3520. Immediately preceding text appears at serial pages (377885) to (377886) and (390123) to (390125).

Rule 1915.18. Form of Order Directing Expert Examination and Report.

The order of court directing expert evaluation in a custody matter pursuant to Pa.R.C.P. No. 1915.8 shall be substantially in the following form:

(Caption)
ORDER OF COURT

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED, that:

1. The evaluator shall be _____ or will be selected by the parties.
2. The evaluator shall conduct a
 - Physical Evaluation
 - Psychological Evaluation
 - Custody Evaluation
 - Drug and/or Alcohol Evaluation
 - Home Study
 - Other (Specify) _____
3. The evaluator shall shall not make specific recommendations for legal and physical custody. If the evaluator makes specific recommendations, the evaluator shall state the specific reasons for the recommendations.
4. The parties shall participate fully with the evaluator on a timely basis, including retaining the evaluator upon appropriate terms, scheduling appointments, paying promptly, participating in all sessions and in appropriate testing recommended by the evaluator and executing any reasonable consents relating to themselves and their children.
5. If the evaluation is a medical necessity, the service may be covered by insurance. If so, both parties shall promptly cooperate to maximize the use of available insurance coverage, if any, and to notify the other party of the result. The plaintiff defendant shall submit the costs to his or her insurance first. The cost of the unreimbursed portion of the evaluation shall preliminarily be allocated between the parties with the plaintiff paying _____ % and the defendant paying _____ % without prejudice to the ultimate apportionment of such costs by subsequent agreement of the parties or order of court.
6. The cost of the evaluation shall be borne by the county, subject to reimbursement by _____.
7. The cost for the evaluator's time for depositions and/or testimony for hearing shall be allocated _____ % to the plaintiff and _____ % to the defendant or paid by the party seeking the testimony.

- 8. The evaluator may consult with and/or interview any person the evaluator reasonably believes can provide relevant information, including other experts and/or fact witnesses.
- 9. The evaluator may utilize the services of another qualified professional (e.g. to perform additional services) without court approval.
- 10. Subject to the applicable rules of evidence, the evaluator’s file (including notes, exhibits, correspondence, test interpretations and, to the extent it is not a violation of copyright law or applicable professional rules, raw test data) shall promptly be made available to counsel for the parties.
- 11. Provided that the parties cooperate on a timely basis, the evaluator shall deliver his or her report to counsel for the parties, any unrepresented party, the guardian *ad litem* and/or counsel for the child, if any, and to the court at least ____ days prior to the first day of trial. The report shall not be filed of record.
- 12. Prior to and/or subsequent to the submission of the evaluator’s written report, counsel for the parties shall not be permitted to communicate with the evaluator as to substantive issues, without the consent or direct participation of counsel for the other party.
- 13. If the report or any information from the evaluator is provided to the court, the evaluator shall be subject to cross examination by all counsel and any unrepresented party regardless of who obtains or pays for the services of the evaluator.
- 14. The evaluator shall be provided with a copy of this order.
- 15. The evaluator’s report shall not be inappropriately disseminated.
- 16. Other provisions: _____

FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN FINES, IMPRISONMENT OR OTHER SANCTIONS.

BY THE COURT:

J.

Source

The provisions of this Rule 1915.18 adopted May 16, 1994, effective July 1, 1994, 24 Pa.B. 2882; amended May 23, 2007, effective August 1, 2007, 37 Pa.B. 2602; amended August 2, 2010, effective immediately, 40 Pa.B. 4634; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477. Immediately preceding text appears at serial pages (377889) to (377890).

Rule 1915.19. Form of Order Appointing Counsel for the Child.

The order appointing an attorney to represent a child in a child custody action pursuant to Rule 1915.11 shall be in substantially the following form:

(Caption)
ORDER OF COURT

AND NOW, THIS ____ day of _____, 20 ____, it is hereby ordered as follows:

Pursuant to Pa.R.C.P. No. 1915.11, _____ is appointed as attorney for the minor child _____ (D.O.B. _____) in connection with the civil proceedings related to the custody of the minor child.

Counsel for the child shall zealously represent the legal interests of the child as any other client in an attorney-client relationship and shall not act as the child’s guardian ad litem or best interests attorney. The child’s attorney shall not be called to testify and communications between the child’s attorney and the child shall be privileged, consistent with the attorney-client relationship.

It is ordered and decreed that all relevant schools, police departments, hospitals and social service agencies, including home and school agencies who have records, reports and/or information pertaining to the child relevant to the custody of the child, shall allow the child's attorney access to all files and records in its possession, custody or control and shall cooperate in responding to all relevant inquires. These files/records may include but are not limited to medical, psychological or psychiatric charts including evaluations and progress notes and records, X-rays, photographs, tests, test evaluations, intake and discharge summaries, police records, and school records including report cards, educational assessments and educational plans, relevant to this custody dispute and/or relevant to any special needs or requirements of the child. The child's attorney shall have the right to copy any part of the files and records maintained in connection with the child.

It is further ordered and decreed that the child's attorney shall be permitted to see and speak with the child, and family, medical and/or social service providers connected with this case, and take all steps appropriate to and consistent with this order.

The fees for the child's attorney shall be paid as follows: _____

This appointment shall terminate upon the entry of a final order resolving the petition pending as of the date of this order or as provided in subsequent order of court.

BY THE COURT:

J.

Source

The provisions of this Rule 1915.19 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702.

Rule 1915.21. Form of Order Appointing Guardian Ad Litem.

The order appointing a guardian *ad litem* in a child custody action pursuant to Rule 1915.11-2 shall be in substantially the following form:

(Caption)

ORDER OF COURT

AND NOW, THIS _____ day of _____, 20____, it is hereby ordered as follows:

Pursuant to Pa.R.Civ.P. No. 1915.11-2, _____ is appointed as guardian *ad litem* for the minor child _____ (D.O.B. _____) in connection with the civil proceedings related to the custody of the minor child.

The child's guardian *ad litem* shall represent the best interests of the child. The guardian *ad litem* shall not act as the child's attorney or represent the child's legal interests.

It is ordered and decreed that all relevant schools, police departments, hospitals and social service agencies including home and school agencies who have records, reports and/or information pertaining to the child relevant to the custody of the child, shall allow the guardian *ad litem* access to all files and records in its possession, custody or control and shall cooperate in responding to all relevant inquires. These files/records may include but are not limited to medical, psychological or psychiatric charts including evaluations and progress notes and records, X-rays, photographs, tests, test evaluations, intake and discharge summaries, police records, and school records including report cards, educational assessments and educational plans, relevant to this custody dispute and/or relevant to any special needs or requirements of the child. The guardian *ad litem* shall have the right to copy any part of the files and records maintained in connection with the child.

It is further ordered and decreed that the guardian *ad litem* shall be permitted to see and speak with the child, and family, medical and/or social service providers connected with this case, and take all steps appropriate to and consonant with this order.

The guardian *ad litem* shall provide copies of any reports prepared by the guardian *ad litem* to each party, or to their counsel, and to the court when filed but not later than 20 days prior to a hearing or trial or as otherwise ordered by the court.

The guardian *ad litem* shall attend all proceedings and be prepared to testify. The guardian *ad litem* shall be subject to cross-examination in accordance with Pa.R.Civ.P. 1915.11-2(e)(2) if called to testify.

The fees for the guardian *ad litem* shall be paid as follows:

This appointment shall terminate upon the entry of a final order resolving the petition pending as of the date of this order or as provided in subsequent order of court.

BY THE COURT:

J.

Source

The provisions of this Rule 1915.21 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702; amended January 27, 2023, effective April 1, 2023, 53 Pa.B. 824. Immediately preceding text appears at serial pages (397137) to (397138).

Rule 1915.22. Form of Order Appointing Parenting Coordinator.

The order appointing a parenting coordinator pursuant to Pa.R.C.P. No. 1915.11-1 shall be in substantially the following form:

(Caption)

ORDER OF COURT

AND NOW, this _____ day of _____, 20___, it is hereby ordered as follows:

1. APPOINTMENT AND TERM:

Pursuant to Pa.R.C.P. No. 1915.11-1, _____ is appointed as the parties' parenting coordinator for a term of _____ months (not exceeding 12 months).

Legal counsel for _____, or either party, if unrepresented, shall provide copies of all orders, pleadings and custody evaluations in this case to the parenting coordinator within ten (10) days of the date of this order.

2. ROLE OF THE PARENTING COORDINATOR:

(a) The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parties and, if unable to reach an agreement, recommend a resolution to the court.

(b) The parenting coordinator shall not function as the attorney, advocate, counselor, or psychotherapist for the parties, the parties' child(ren), or family. However, the parenting coordinator is permitted and encouraged to facilitate communication and agreement between the parties when conflicts arise and shall always act in a manner conducive to the best interests of the child(ren).

3. PARENTING COORDINATOR'S SCOPE OF AUTHORITY:

To implement the custodial arrangement set forth in the custody order and resolve related parenting issues about which the parties cannot agree, the parenting coordinator is authorized to recommend resolutions to the court about issues that include, but are not limited to:

- (a) places and conditions for transitions between households;
- (b) temporary variation from the schedule for a special event or particular circumstance;
- (c) school issues, apart from school selection;

- (d) the child(ren)'s participation in recreation, enrichment, and extracurricular activities, including travel;
- (e) child-care arrangements;
- (f) clothing, equipment, toys, and personal possessions of the child(ren);
- (g) information exchanges (e.g., school, health, social) and communication with or about the child(ren);
- (h) coordination of existing or court-ordered services for the child(ren) (e.g., psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management);
- (i) behavioral management of the child(ren); and
- (j) other related custody issues that the parties mutually have agreed in writing to submit to the parenting coordinator, which are not excluded in Paragraph 4.

4. EXCLUSIONS FROM PARENTING COORDINATOR'S AUTHORITY:

- (a) The following specific issues are excluded from the parenting coordinator's scope of authority:
 - (1) a change in legal custody as set forth in the custody order;
 - (2) a change in primary physical custody set forth in the custody order;
 - (3) other than as set forth in Paragraph 3(b), a change in the court-ordered custody schedule that reduces or expands the child(ren)'s time with a party;
 - (4) a change in the residence (relocation) of the child(ren);
 - (5) determination of financial issues, other than allocation of the parenting coordinator's fees as set forth in Pa.R.C.P. 1915.11-1(g)(1);
 - (6) major decisions affecting the health, education, or religion of the child(ren); and
 - (7) Other: _____

(b) Unless the parties consent, the parenting coordinator shall not contact collateral sources or speak with the child(ren). The parties shall execute releases, as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals. Any communication with the collateral sources or child(ren) shall be limited to the issue(s) currently before the parenting coordinator.

5. COMMUNICATIONS:

(a) The parenting coordinator shall determine the protocol of all communications, interviews, and sessions, including who shall attend the sessions (including the children), and whether the sessions will be conducted in person or by other means. The protocols should include measures addressing the safety of all participants.

(b) Communication between the parties or their attorneys and the parenting coordinator is not confidential.

(c) The parties and their attorneys shall have the right to receive, but not initiate, oral *ex parte* communication with the parenting coordinator. The parenting coordinator shall promptly advise the other party or the other party's attorney of the communication. A party or a party's attorney may communicate in writing with the parenting coordinator, but shall contemporaneously send a copy of the written communication to the other party or the other party's attorney. Documents, recordings, or other material that one party gives to the parenting coordi-

nator must be promptly made available to the other party or the other party's attorney for inspection and copying.

(d) Communication between the parenting coordinator and the court shall be in writing and copies of the written communication shall be sent contemporaneously to the parties or the parties' attorneys.

(e) A party cannot compel the testimony of a parenting coordinator without an order of court.

6. PARENTING COORDINATION PROCESS:

(a) The parenting coordinator shall provide to the parties notice and an opportunity to be heard on the issues.

(b) The parenting coordinator's recommendation shall be in writing on the Summary and Recommendation of the Parenting Coordinator form set forth in Pa.R.C.P. No. 1915.23 and sent to the court for review within two days after hearing from the parties on the issues. The parenting coordinator shall serve a copy of the Summary and Recommendation on the parties or the parties' attorneys.

(c) A party objecting to the recommendation shall file a petition for a record hearing before the court within five days of service of the Summary and Recommendation of the Parenting Coordinator form. The petition must specifically state the issues to be reviewed and include a demand for a record hearing. A copy of the recommendation shall be attached to the petition. In accordance with Pa.R.C.P. No. 440, the objecting party shall serve the petition upon the other party or the party's attorney and the parenting coordinator.

7. RECORD HEARING:

(a) If the parties do not file an objection within five days of service of the parenting coordinator's recommendation, the court shall:

- (1) approve the recommendation;
- (2) approve the recommendation in part and conduct a record hearing on issues not approved;
- (3) remand the recommendation to the parenting coordinator for more specific information; or
- (4) not approve the recommendation and conduct a record hearing on the issues.

(b) As soon as practical, the court shall conduct a record hearing on the issues specifically set forth in the petition. The court shall render a decision within the time set forth in Pa.R.C.P. No. 1915.4(d).

(c) If a party makes a timely objection, the recommendation shall become an interim order of court pending further disposition by the court.

8. ALLOCATION OF FEES:

(a) The parties will share the obligation to pay the fees of the parenting coordinator as follows: ___ % Mother, ___ % Father, ___ % Third party. Fees may be reallocated by the court or the parenting coordinator if a party has disproportionately caused the need for the services of the parenting coordinator.

(b) The judicial district's established hourly rate for parenting coordinators shall be set forth in a separate written agreement entered into between the parties and the parenting coordinator.

(c) The parties will pay a joint retainer to the parenting coordinator in the percentages set forth above in an amount to be set forth in a separate agreement between the parties and the parenting coordinator. After each session, or at least once monthly, the parenting coordinator shall provide the parties with an invoice of charges incurred. The retainer may be replenished as services are rendered. Funds remaining at the conclusion of the parenting coordinator’s appointment shall be returned to the parties.

9. TERMINATION/WITHDRAWAL OF PARENTING COORDINATOR:

(a) The parties may not terminate the parenting coordinator’s services without court approval.

(b) A party seeking the termination of the parenting coordinator’s services shall serve the other party or the party’s attorney and parenting coordinator with a copy of the petition for termination.

(c) If the parenting coordinator seeks to withdraw from service in a case, the parenting coordinator shall petition the court and provide a copy of the petition to the parties or the parties’ attorneys.

10. APPEAL:

If there is an appeal of the underlying custody order or this order, then this order shall be stayed during the pendency of the appeal.

BY THE COURT:

J.

Source

The provisions of this Rule 1915.22 adopted August 9, 2018, effective March 1, 2019, 48 Pa.B. 5346.

Rule 1915.23. Form of the Summary and Recommendation of the Parenting Coordinator.

The recommendation of the parenting coordinator shall be in writing and shall be in substantially the following form:

(Caption)

SUMMARY AND RECOMMENDATION
OF THE PARENTING COORDINATOR

The undersigned, the duly appointed parenting coordinator in the above-captioned matter, pursuant to the Order of Court dated _____, 20___, after submission of the issue described below and after providing the parties with an opportunity to heard on the issue, the parenting coordinator sets forth the following:

SUMMARY OF THE ISSUE(S)

1. Description of the issue(s):

2. The respective parties’ position on the issue(s):

RECOMMENDATION

Within five days of the date set forth below, a party may object to this recommendation by filing a petition with the court and requesting a record hearing before the judge as set forth in Pa.R.C.P. No. 1915.11-1(f)(3).

The undersigned parenting coordinator certifies that this Summary and Recommendation of the Parenting Coordinator has been served on the court and the parties or the parties' attorneys on the date set forth below

Date Parenting Coordinator

ORDER OF COURT
JUDICIAL REVIEW OF PARENTING
COORDINATOR'S RECOMMENDATION

- The Recommendation is approved.
- The Recommendation is approved in part. The issue(s) not approved by the court is/are: _____

_____ and a record hearing is scheduled for _____, 20__ at _____ a.m./p.m. before the undersigned.

- The Recommendation is remanded to the parenting coordinator for additional information on the following issue(s): _____

- The Recommendation is not approved and a record hearing on the issue(s) is scheduled for _____, 20__ at _____ a.m./p.m. before the undersigned.

By the Court:

Date J.

Source

The provisions of this Rule 1915.23 adopted August 9, 2018, effective March 1, 2019, 48 Pa.B. 5346.

Rule 1915.24. Acts of Assembly Not Suspended.

The following Acts or parts of Acts of Assembly shall not be deemed suspended or affected:

- (1) Chapter 63 of the Judicial Code, 42 Pa.C.S. § 6301 et seq., known as the Juvenile Act;

(2) Section 5341 et seq. of the Domestic Relations Code, 23 Pa.C.S. § 5341 et seq., known as the Uniform Child Custody Jurisdiction Act, except to the extent suspended by Rule 1915.25 governing Suspension of Acts of Assembly;

(3) The Act of December 19, 1990, No. 206, 23 Pa.C.S. § 6301 et seq., known as the Child Protective Services Law;

(4) The Act of October 7, 1976, No. 218, as amended, 23 Pa.C.S. § 6101 et seq., known as the Protection from Abuse Act; and

(5) Chapter 53, Subchapter A of Title 23 of the *Consolidated Statutes*, 23 Pa.C.S. § 5301 et seq., setting forth general custody provisions.

Source

The provisions of this Rule 1915.24 amended November 8, 1982, effective January 1, 1983, 12 Pa.B. 4040; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5323; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943. Immediately preceding text appears at serial pages (157279) to (157280).

Rule 1915.25. Suspension of Acts of Assembly.

Section 5351 of the Domestic Relations Code, 23 Pa.C.S. § 5351, of the Uniform Child Custody Jurisdiction Act, relating to additional parties, is suspended insofar as it provides for the joinder of a person not a party who claims to have custody or visitation rights with respect to the child.

Official Note: Rule 1915.6(b) provides that a person not a party who claims to have custody or visitation rights with respect to the child shall be given notice of the pendency of the proceedings and of the right to intervene.

23 Pa.C.S. § 5334 is suspended insofar as it (1) requires that a guardian ad litem be an attorney, (2) permits the guardian ad litem to represent both the best interests and legal interests of the child, (3) provides the guardian ad litem the right to examine, cross-examine, present witnesses and present evidence on behalf of the child, and (4) prohibits the guardian ad litem from testifying.

Source

The provisions of this Rule 1915.25 amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702. Immediately preceding text appears at serial page (352466).

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