

**CHAPTER 13. PRE-ADJUDICATORY PROCEDURES**

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**PART A. VENUE****Rule 1300. Venue.**

- A. *Generally.* A dependency proceeding shall be commenced in:
- 1) the county in which the child is present; or
  - 2) the child's county of residence.
- B. *Change of Venue.* At any time prior to the adjudicatory hearing, for the convenience of parties and witnesses, the court, upon its own motion or motion of any party, may transfer an action to the appropriate court of any county where the action could originally have been brought or could be brought at the time of filing the motion to change venue.
- C. *Transmission of All Records.* If there is a change of venue ordered pursuant to paragraph (B), within five days:
- 1) the transferring county's clerk of courts shall inform the receiving county's clerk of courts of the manner in which certified copies of all documents, reports, and summaries in the child's official court record will be transferred;
  - 2) the transferring county's clerk of courts shall transfer certified copies of all documents, reports, and summaries in the child's official court record to the receiving county's clerk of courts;
  - 3) the transferring county agency shall transfer all its records to the receiving county agency;
  - 4) the receiving county's clerk of courts shall notify its county agency and the transferring county's clerk of courts of its receipt of the official court records; and
  - 5) the receiving county agency shall schedule the next court proceeding in accordance with the time requirements of these Rules.
- D. *Continuation of Services.* To ensure there is no interruption in services, the transferring county agency is to continue services until the case transfer has been completed, which occurs when the receiving county's clerk of court notifies of receipt of the official court record as provided in paragraph (C)(4).

**Comment**

*See* 42 Pa.C.S. § 6321(b).

For procedures regarding motions and answers, see Rule 1344. In addition to the procedures for service of orders under Rule 1167, an order changing venue is to be served upon the new county agency and the receiving court so they may begin proceedings in the receiving county.

Pursuant to paragraph (C), all records are to be transferred within five days of the order for change in venue. Nothing in this rule prohibits the use of electronic means when transferring and receiving records, but the manner in which records are transmitted must be communicated. If there is an electronic transfer, the receiving county is to send an electronic confirmation of receipt of the records as the return receipt. The transferring county's clerk of courts is to docket the confirmation of receipt of records by the receiving county and may close the case once the confirmation has been received.

For transfer of agency records, see 55 Pa. Code § 3490.401.

**Official Note:** Rule 1300 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. Amended April 28, 2020, effective October 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1300 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1300 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1300 published with the Court's Order at 50 Pa.B. 2389 (May 9, 2020).

**Source**

The provisions of this Rule 1300 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended April 28, 2020, effective October 1, 2020, 50 Pa.B. 2389. Immediately preceding text appears at serial page (347634).

**Rule 1302. Intercounty Transfer.**

A. *Best Interest of the Child.* Any time after the adjudicatory hearing, upon motion of a party or court, a court may consider the transfer of a case to another county if the transfer is best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Notice.* The court shall serve notice of a hearing upon the parties. The county agency in the proposed receiving county shall receive notice of the hearing and be granted standing to participate in the hearing.

C. *Hearing.* The hearing should be conducted in the transferring county no more than 20 days from the date of the notice in paragraph (B). The county agency in the proposed receiving county shall be permitted to appear at the hearing utilizing advance communication technology.

D. *Acceptance of Jurisdiction.* If the court in the transferring county finds that a proposed transfer would be in the child's best interest and would result in a transfer between judicial districts:

- 1) the court shall communicate with the president judge or designee of the receiving judicial district to ascertain whether jurisdiction will be accepted;
- 2) a record of the communication shall be made and served promptly by the court on the parties; and
- 3) upon service of the record of the communication, the parties shall have five days to file written responses with the court regarding the decision to accept jurisdiction.

E. *Order.*

1) An order approving a transfer shall specify an effective date for the transfer no less than ten days from date of the order to allow for the coordination of services and preparation of the official court record for transmission.

2) The court shall direct the clerk of courts to serve the order upon the parties, the receiving county agency, and the president judge or designee of the receiving court, if applicable.

F. *Matters of Cooperation between Courts.* Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

G. *Receiving Court.* On or before the effective date of the order established in paragraph (E)(1), the receiving court shall enter an order:

- 1) accepting jurisdiction of the case as of the effective date;
- 2) appointing a guardian *ad litem* and counsel, if necessary;
- 3) directing the clerk of courts to serve the order upon the transferring court, if necessary, the county agencies, the parties, and the transferring county's clerk of courts;
- 4) directing the receiving county agency to conduct a home visit and safety assessment consistent with the requirements of 55 Pa. Code § 3490.401; and
- 5) scheduling a review hearing to occur within 30 days.

H. *Transmission of Official Court Record.*

- 1) The transferring county's clerk of courts shall inform the clerk of the receiving court of the manner in which certified copies of all documents, reports, and summaries in the child's official court record will be transferred.
- 2) On the effective date of the transfer, the transferring county's clerk of courts shall transmit certified copies of all documents, reports, and summaries in the child's official court record to the clerk of the court of the receiving county.
- 3) The receiving county's clerk of courts shall notify its county agency and the transferring court of its receipt of the official court records.

I. *County Agencies.* The transferring county agency shall continue services until the effective date of the transfer.

#### Comment

If proceedings are commenced in a county other than the county of the child's residence, then a change of venue should be sought pursuant to Rule 1300 prior to adjudication.

The child's best interest concerning an intercounty transfer includes, but is not limited to, the child's current or anticipated county of residence, the resources of the receiving county, and needs of the child and family. A proposed transfer between judicial districts is not in the child's best interest unless the court of the receiving judicial district accepts jurisdiction.

Service of the acceptance order on the transferring court pursuant to paragraph (G)(3) is unnecessary if the transfer occurs within the same judicial district.

The period between the order approving the transfer and the effective date of the transfer is intended to prepare for the case transfer. The county agencies are expected to communicate prior to the actual transfer of a case to another county so that efforts can be coordinated and services transitioned without interruption. Coordination includes the inter-agency transfer of records maintained by the county agency that are not otherwise included in the official court record. *See* 55 Pa. Code § 3490.401. This period also allows the clerk to prepare the official court record for transmission to the receiving county on the effective date of the transfer.

Nothing in this rule prohibits the use of electronic means when transferring and receiving records. However, if there is an electronic transfer, the receiving county is to send an electronic confirmation

of receipt of the records as the return receipt. The transferring county's clerk of courts is to docket the confirmation of receipt of records by the receiving county and may close the case once the confirmation has been received.

Upon receiving the order accepting the case, the transferring court may order the termination of court supervision pursuant to Rule 1631(A)(12).

**Official Note:** Rule 1302 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. Rescinded and replaced April 28, 2020, effective October 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1302 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1302 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the rescission and replacement of Rule 1302 published with the Court's Order at 50 Pa.B. 2389 (May 9, 2020).

**Source**

The provisions of this Rule 1302 amended December 24, 2009, effective immediately, 40 Pa.B. 222; rescinded and replaced April 28, 2020, effective October 1, 2020, 50 Pa.B. 2389. Immediately preceding text appears at serial pages (347634) and (387269).

**PART B. APPLICATION FOR PRIVATE PETITION**

**Rule 1320. Application to File a Private Petition.**

A. *Application Contents.* Any person, other than the county agency, may present an application to file a private petition with the court. The application shall include the following information:

- 1) the name of the person applying for a petition;
- 2) the name of the alleged dependent child;
- 3) the relationship of the person presenting this application to the child and to any other parties;
- 4) if known, the following:
  - a) the date of birth and address of the child;
  - b) the name and address of the child's guardian, or the name and address of the nearest adult relative;
  - c) if a child is Native American, the child's Native American history or affiliation with a tribe;
  - d) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;
- 5) a concise statement of facts in support of the allegations for which the application for a petition has been filed;
- 6) a statement that the applying person has reported the circumstances underlying this application to the county agency or a reason for not having reported the circumstances underlying the application;
- 7) a verification by the person making the application that the facts set forth in the application are true and correct to the person's personal knowledge,

information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and

8) the signature of the person and the date of the execution of the application for a petition.

**B. Notice to County Agency.** Upon receipt of an application, the court shall provide a copy of the application to the county agency. The county agency shall thereafter receive notice of the hearing.

#### Comment

Any person, other than the county agency, shall first file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334 to the extent it is inconsistent with this Rule.

See Rule 1321 for hearing on application.

This rule is not intended to preclude the county agency from seeking to intervene and participate in the hearing on the application. *See* Rule 1133 (Motion to Intervene).

**Official Note:** Rule 1320 adopted August 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. Amended May 16, 2017, effective July 1, 2017.

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1320 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 1320 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).

#### Source

The provisions of this Rule 1320 amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended May 16, 2017, effective July 1, 2017, 47 Pa.B. 3079. Immediately preceding text appears at serial pages (377975) to (377976).

### Rule 1321. Hearing on Application for Private Petition.

**A. Hearing.** The court shall conduct a hearing within fourteen days of the presentation of the application for a petition to determine:

- 1) if there are sufficient facts alleged to support a petition of dependency; and
- 2) whether the person applying for the petition is a proper party to the proceedings.

**B. Findings.**

- 1) If the court finds sufficient facts to support a petition of dependency, then the applicant may file a petition pursuant to Rule 1330.
- 2) If the court finds the person making the application for a petition is a proper party to the proceedings, then the person shall be afforded all rights and privileges given to a party pursuant to law.

**C. Joinder.** Following grant of an application under this rule, the county agency shall be joined as a party in any further proceedings upon filing and service of a private petition pursuant to Rules 1330 and 1331.

**Comment**

Under paragraph (A), at a hearing, the court is to determine if: 1) there are sufficient facts alleged to support a petition of dependency; and 2) the applying person is a proper party to the proceedings. A petition of dependency may go forward whether or not the applying person is determined to be a party to the proceedings.

If a child is in custody, the hearing under paragraph (A) may be combined with the shelter care hearing pursuant to Rule 1242.

**Official Note:** Rule 1321 adopted August 21, 2006, effective February 1, 2007. Amended May 16, 2017, effective July 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1321 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1321 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).

**Source**

The provisions of this Rule 1321 amended May 16, 2017, effective July 1, 2017, 47 Pa.B. 3079. Immediately preceding text appears at serial page (377976).

**PART C. PETITION****Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.****A. Filings.**

1) A dependency petition may be filed at any time; however, if a child is taken into custody, the requirements of paragraph (A)(2) shall be met.

2) Within twenty-four hours of the shelter care hearing, the county agency shall file a dependency petition with the clerk of courts when:

a) the child remains in protective custody pursuant to Rule 1201, 1202 or 1210; or

b) the child is not in protective custody but it is determined at a shelter care hearing pursuant to Rule 1242 that the filing of a dependency petition is appropriate.

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

1) the name of the petitioner;

2) the name, date of birth, and address of the child, if known;

3) the name and address of the child's guardian, or if unknown, the name and address of the nearest adult relative;

4) if a child is Native American, the child's Native American history or affiliation with a tribe;

5) a statement that:

a) it is in the best interest of the child and the public that the proceedings be brought;

b) the child is or is not currently under the supervision of the county agency;

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

- a) the reasonable efforts made to prevent placement; and
- b) why there are no less restrictive alternatives available;
- 7) a concise statement of facts in support of the allegations for which the petition has been filed;
  - a) facts for each allegation shall be set forth separately;
  - b) the relevant statute or code section shall be set forth specifically for each allegation;
- 8) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 9) the signature of the petitioner and the date of the execution of the petition; and
- 10) the whereabouts of the child unless disclosure is prohibited by court order and if taken into custody, the date and time thereof.

C. *Aggravated circumstances.* A motion for finding of aggravated circumstances may be brought in the petition pursuant to Rule 1701(A).

**Comment:**

Petitions should be filed without unreasonable delay.

Under paragraph (A)(2), a petition is to be filed twenty-four hours after the shelter care hearing if the requirements of (A)(2)(a) and (b) are met. Rule 1800 suspends 42 Pa.C.S. § 6331 only as to the time requirement of when a petition is to be filed.

Additionally, paragraph (A)(2) requires that the county agency file a petition. Any other person, other than the county agency, is to file an application to file a petition under Rule 1320. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

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

Pursuant to paragraph (B)(6), when the county agency is seeking placement, the petition is to include the reasonable efforts made to prevent placement, including efforts for family finding, and why there are no less restrictive alternatives available. *See* Rule 1149 for family finding requirements. *See also* Rule 1242(C)(2) & (3)(b) & (c) and Comments to Rules 1242, 1409, 1515, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

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

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

The aggravated circumstances, as defined by 42 Pa.C.S. § 6302, are to be specifically identified in the motion for finding of aggravated circumstances.

**Source**

The provisions of this Rule 1330 amended July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987; amended November 30, 2021, effective January 1, 2022, 51 Pa.B. 7632; amended March 22, 2023, effective October 1, 2023, 53 Pa.B. 1791. Immediately preceding text appears at serial pages (407947) to (407948).



**Rule 1331. Service of Petition.**

A. *Copy.* Upon the filing of a petition, a copy of the petition shall be served promptly upon the child, the child's guardian, the child's attorney, the guardian's attorney, the attorney for the county agency, and the county agency.

B. *Method of Service.*

1) *Child and guardian.* The petition shall be served upon the child and all of the child's guardians by:

- a) certified mail, return receipt requested and first-class mail; or
- b) delivery in-person.

2) *Attorneys and the county agency.* The petition shall be served upon the attorneys and county agency by:

- a) first-class mail;
- b) delivery in-person; or
- c) another agreed upon alternative method.

C. *Proof of service.* An affidavit of service shall be filed prior to the adjudicatory hearing.

**Comment**

Under paragraph (B)(1), if a parent is not the child's custodial guardian, the parent is to also receive service of the petition. See Rule 1120 for definition of "guardian."

Alternative methods of services that may be utilized under paragraph (B)(2)(c) could be electronic transmission, facsimile, county agency inter-office mail, and other similar methods.

**Official Note:** Rule 1331 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1331 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Rule 1333. Separate Petitions and Consolidated Hearing.**

A. A separate petition for dependency shall be filed for each child alleged to be dependent.

B. If there are multiple petitions filed alleging the dependency of siblings, there shall be a reference in each petition to the sibling's petition.

C. Petitions alleging the dependency of siblings shall be consolidated for one hearing, unless otherwise ordered by the court.



**Official Note:** Rule 1333 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1333 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1334. Amendment of Petition.**

A. *Amendment.*

1) *Mandatory.* The court shall allow a petition to be amended when there is a defect in:

- a) form;
- b) the description of the allegations;
- c) the description of any person or property; or
- d) the date alleged.

2) *Discretionary.* Absent prejudice to any party, the court may allow a petition to be amended if the petition alleges a different set of events or allegations, where the elements or matters of proof by any party are materially different from the elements or matters of proof to the allegation originally petitioned.

B. *Continuance.* Upon amendment, the court may:

- 1) grant a continuance of the adjudicatory hearing; or
- 2) order other relief as is necessary in the interests of justice.

**Comment**

If a petition is amended, a continuance may be appropriate to allow a party to prepare adequately. For continuances, see Rule 1122.

**Official Note:** Rule 1334 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1334 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1335. Withdrawal of Petition.**

The attorney for the county agency may withdraw the petition. The withdrawal shall be filed with the clerk of courts.

**Comment**

See Rule 1345 for the procedures on filings and service.

**Official Note:** Rule 1335 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1335 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1336. Re-Filing of the Petition After Withdrawal or Dismissal.**

A. *Re-filing.* A petition may be re-filed after the petition has been withdrawn pursuant to Rule 1335 or dismissed by the court.

B. *Motion for dismissal.* The court may entertain a motion by any party to dismiss the re-filed petition.

**Comment**

If a petition is re-filed, the procedures of Rule 1330 are to be followed. It may be necessary to have a shelter care hearing under the procedures of Rule 1242.

**Official Note:** Rule 1336 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1336 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**PART D. PROCEDURES FOLLOWING FILING OF PETITION****Rule 1340. Discovery and Inspection.**

A. *Informal.* Before any party can seek any disclosure or discovery under these rules, the parties or their counsel shall make a good faith effort to resolve all questions of discovery, and to provide information required or requested under these rules as to which there is no dispute. When there are items requested by one party that the other party has refused to disclose, the demanding party may make an appropriate motion to the court. Such motion shall be made as soon as possible prior to the hearing. In such motion, the party shall state that a good faith effort to discuss the requested material has taken place and proved unsuccessful. Nothing in this rule shall delay the disclosure of any items agreed upon by the parties pending resolution of any motion for discovery.

B. *Mandatory disclosure.*

1) *By the county agency.* In all cases, on request by a party and subject to any protective order which the county agency might obtain under this rule, the county agency shall disclose to a party, all of the following requested items or information, provided they are material to the instant case. The county agency shall, when applicable, permit a party to inspect and copy or photograph such items:

- a) the name and last known address of each witness to the occurrence that forms the basis of allegations of dependency unless disclosure is prohibited by law;
- b) the name and last known address of each witness who did not witness the occurrence but is expected to testify;
- c) copies of any written statements made by any party or witness unless disclosure is prohibited by law;

d) any results or reports of scientific tests or expert opinions that are within the possession or control of the county agency that the county agency intends to use as evidence at a hearing;

e) any police reports, records of prior county agency involvement, or records of current or prior reports involving the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., that the county agency intends to use as evidence at a hearing;

f) if any physical or mental condition of a party is in controversy, any physical or mental examinations, including oral or written reports that a party intends to use as evidence at the hearing;

g) any tangible objects, including documents, photographs, or other tangible evidence unless disclosure is prohibited by law;

h) the names, addresses, and curriculum vitae of any expert witness that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and

i) any other evidence that is material to adjudication, disposition, dispositional review, or permanency unless disclosure is prohibited by law, and is within the possession or control of the county agency;

2) *By all other parties.* All other parties shall provide discovery to the county agency and all other parties and shall disclose, all of the following requested items or information that the party intends to use at a hearing, provided they are material to the instant case unless disclosure is prohibited by law. The party shall, when applicable, permit the county agency to inspect and copy or photograph such items:

a) the names and last known addresses of each witness who is expected to testify;

b) copies of any written statements made by any party or witness;

c) any tangible objects, including documents, photographs, or other tangible evidence;

d) the names, addresses, and curriculum vitae of any expert witness that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and

e) any other evidence that a party intends to introduce at a hearing.

C. *Discretionary.* Upon motion of any party for discovery, the court may order any discovery upon a showing that the evidence is material to the preparation of the case and that the request is reasonable.

D. *Continuing Duty to Disclose.* If, prior to or during a hearing, either party discovers additional evidence or material previously requested or ordered to be disclosed by it, which is subject to discovery or inspection under this rule, or the identity of an additional witness or witnesses, such party promptly shall notify the opposing party or the court of the additional evidence, material, or witness.

E. *Remedy.* If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may order such party to permit discovery or inspection, may grant a continuance, or may prohibit such party from introducing evidence or witnesses not disclosed, or it may enter such other order as it deems just under the circumstances.

F. *Protective orders.* Upon a sufficient showing, the court may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate to protect the best interests of the child. Upon motion of any party, the court may permit the showing to be made, in whole or in part, in the form of a written statement to be inspected by the court. If the court enters an order granting relief, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court(s) in the event of an appeal.

G. *Work Product.* Disclosure shall not be required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the attorney for a party, or members of their legal staffs.

#### Comment

Discovery under this rule applies to discovery for the adjudicatory hearing, dispositional hearing, dispositional review hearings, or permanency hearings of dependency proceedings governed by the Juvenile Act. See Rule 1100 for scope of rules. See Rule 1123 for production of documents pursuant to a subpoena duces tecum. See also *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000).

The purpose of paragraph (A) is to encourage an informal discovery process. Only when the informal process fails and there is a genuine dispute as to discovery, should a motion to compel discovery be made. Motions may be oral or written, see Rule 1344.

The items listed in paragraph (B) are to be disclosed to ensure a party has the ability to prepare adequately for the hearing. See *In re J.C.*, 412 Pa. Super. 369, 603 A.2d 627 (1992).

See Rule 1800 for suspension of 23 Pa.C.S. § 6339, which provides for the confidentiality of reports made pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., which is suspended only insofar as the Law is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child. It is important to note that this section is only suspended if the reports are going to be used as evidence during a hearing. If the reports are not going to be used, the confidentiality requirements of 23 Pa.C.S. § 6339 still apply. In addition, confidential sources are protected and the name of the source does not have to be disclosed. See 23 Pa.C.S. § 6340 (c) for protection of confidential sources reporting allegations of abuse under the Child Protective Services Law. 23 Pa.C.S. § 6301 et seq.

Under paragraph (C), the following are examples of evidence that may be material to the preparation of the case, but the list is not meant to be exhaustive: 1) domestic violence treatment records; 2) drug and alcohol treatment records; 3) mental health records; 4) medical records; 5) any other evidence specifically identified, provided the requesting party can additionally establish that its disclosure would be in the interests of justice, including any information concerning any person involved in the case who has received either valuable consideration, or an oral or written promise or contract for valuable consideration, for information concerning the case, or for the production of any work

describing the case, or for the right to depict the character of the person in connection with his or her involvement in the case. Items listed in this paragraph are subject to rules of confidentiality and this rule is not intended to subrogate those rules.

Under paragraph (C), the court has discretion, upon motion, to order an expert who is expected to testify at a hearing to prepare a report. However, these provisions are not intended to require a prepared report in every case. The court should determine, on a case-by-case basis, whether a report should be prepared. For example, a prepared report ordinarily would not be necessary when the expert is known to the parties and testifies about the same subject on a regular basis. On the other hand, a report might be necessary if the expert is not known to the parties or is going to testify about a new or controversial technique.

It is intended that the remedies provided in paragraph (E) apply equally to all parties, as the interests of justice require.

The provision for a protective order, paragraph (F), does not confer upon any party any right of appeal not presently afforded by law.

In addition to information requested under this rule, an attorney has the right to inspect all court records and files. See Rule 1160.

**Official Note:** Rule 1340 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1340 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

### **Rule 1342. Pre-Adjudicatory Conference.**

A. *Scope of conference.* At any time after the filing of a petition, upon motion, or upon its own motion, the court may order the parties to appear before it for a conference.

B. *Objections.* The parties shall have the right to record an objection to rulings of the court during the conference.

C. *Record.* The court shall place on the record the agreements or objections made by the parties and rulings made by the court as to any of the matters considered in the pre-adjudicatory conference. Such order shall control the subsequent proceedings unless modified at the adjudicatory hearing to prevent injustice.

#### **Comment**

This rule does not prevent other forms of pre-adjudicatory conferences. A judge may order a pre-adjudicatory conference between parties without the judge's presence at the conference to discuss preliminary matters.

Under paragraph (A), the court may consider: 1) the terms and procedures for pre-adjudicatory discovery and inspection; 2) the simplification or stipulation of factual issues, including admissibility of evidence; 3) the qualification of exhibits as evidence to avoid unnecessary delay; 4) the number of witnesses who are to give testimony of a cumulative nature; 5) whether expert witnesses will be called; 6) whether the hearing will be scheduled in front of the juvenile court hearing officer or judge; and 7) such other matters as may aid in the disposition of the proceeding.

**Official Note:** Rule 1342 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1342 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1342 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

#### Source

The provisions of this Rule 1342 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (326083) to (326084).

### PART D(1). MOTION PROCEDURES

#### Rule 1344. Motions and Answers.

A. *Generally.* All motions and answers shall be made orally on the record or in writing. An answer to a motion is not required unless ordered by the court or otherwise provided in these rules. Failure to answer shall not constitute an admission of the well-pleaded facts alleged in the motion.

B. *Filings by attorneys.* If a party is represented by an attorney, the attorney shall make or file all motions and answers.

C. *Requirements for motions.* All motions shall comply with the following requirements:

1) The person making a written motion shall sign the motion. The signature shall constitute a certification that the motion is made in good faith. An oral motion shall be made on the record and the oral motion shall constitute a certification that the motion is made in good faith.

2) The motion shall state with particularity the grounds for the motion, the facts that support each ground, and the types of relief or order requested.

3) If the motion sets forth facts that do not already appear of record in the case, a verification shall be included or an oral statement shall be given that the facts set forth in the motion are true and correct to the movant's personal knowledge, information, or belief.

4) If the motion is written, a certificate of service as required by Rule 1345(C) shall be included.

D. *Requirements for answers.* All answers, including those that are required either by court order or otherwise required by these rules, shall comply with the following requirements:

1) The person making the answer shall sign the answer or shall reply to the motion on the record. The signature or oral answer on the record shall constitute a certification that the answer is being made in good faith.

2) The answer shall meet the allegations of the motion and shall specify the type of relief, order, or other action sought.

3) If the answer sets forth facts that do not already appear of record in the case, a verification shall be included or an oral answer shall include a statement that the facts set forth in the answer are true and correct to the respondent's personal knowledge, information, or belief.

4) If the answer is written, a certificate of service as required by Rule 1345(C) shall be included.

E. *Alternative relief.* Any motion may request such alternative relief as may be appropriate.



**Comment**

Under paragraph (A), oral motions and answers are permitted because of the emphasis on prompt disposition in juvenile court. Answers to written motions may be made orally if the answer complies with the requirements of this rule.

Under paragraphs (C)(4) and (D)(4), a certificate of service is required for all written motions and answers. See Rule 1345(B) for service of documents and Rule 1345(C) for certificates of service.

**Official Note:** Rule 1344 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1344 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1345. Filing and Service.****A. Filings.**

1) *Generally.* Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.

2) *Clerk of Courts' Duties.* Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.

3) *Filings by Represented Parties.* In any case in which a party is represented by an attorney, if the party submits for filing a written motion, notice, or document that has not been signed by the party's attorney, the clerk of courts shall not file the motion, notice, or document in the child's official court record or make a docket entry, but shall forward it promptly to the party's attorney.

4) *Method of Filing.* Filing may be accomplished by:

- a) personal delivery to the clerk of courts;
- b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing; or
- c) in a judicial district that permits electronic filing pursuant to Rule 1205, as provided in Rule 1205(E).

**B. Service.**

1) *Generally.* The party filing the document shall serve the other party concurrently with the filing.

2) *Method of Service to Parties.* Service on the parties shall be:

- a) by personal delivery of a copy to a party's attorney, or, if unrepresented, the party;
- b) by mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office;
- c) in a judicial district that maintains in the courthouse assigned boxes for counsel to receive service, by leaving a copy for the attorney in the attorney's box;
- d) by sending a copy to an unrepresented party by first class mail addressed to the party's place of residence; or
- e) as provided in Rule 1205(D)(2) and (H)(1) in a judicial district that permits electronic filing pursuant to Rule 1205.

C. *Proof of Service.* All documents that are filed and served pursuant to this rule shall include a certificate of service.

**Comment**

See Rule 1166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and resolution.

Under paragraph (B)(1), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the guardian, if unrepresented, by the clerk of courts as provided in Rule 1167.

For the procedures for electronic filing and service as a local option, see Rule 1205.

For service of petitions, see Rule 1331.

**Official Note:** Rule 1345 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. Amended December 12, 2019, effective June 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1345 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1345 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1345 published with the Court's Order at 49 Pa.B. 7573 (December 28, 2019).

**Source**

The provisions of this Rule 1345 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended December 12, 2019, effective June 1, 2020, 49 Pa.B. 7573. Immediately preceding text appears at serial pages (347637) to (347638).

## PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

**Rule 1360. Adjudicatory Summons.**

A. *Summons.* The court shall issue a summons compelling all parties to appear for the adjudicatory hearing.

B. *Order appearance.* The court may order the person having the physical custody or control of the child to bring the child to the hearing.

C. *Requirements.* The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the adjudicatory hearing;
- 3) instruct the child and the guardian about their rights to counsel, and if the child's guardian is without financial resources or otherwise unable to employ counsel, the right to assigned counsel;
- 4) give a warning stating that the failure to appear for the hearing may result in arrest; and
- 5) include a copy of the petition unless the petition has been previously served.

**Comment**

Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the parent, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper and necessary parties to the proceedings. It also provides for ordering the person having the physical custody or control of the child to bring the child to the proceeding. 42 Pa.C.S.

§ 6335. Pursuant to Rule 1361, all parents and relatives providing care for the child are to receive notice of the hearing. Under paragraph (A), the custodial guardian is to receive a summons.

Other persons may be subpoenaed to appear for the hearing. See 42 Pa.C.S. § 6333.

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a). Under paragraph (C)(5), a petition is to be included with the summons and served pursuant to Rule 1363 unless the petition has already been served pursuant to Rule 1331. See Rule 1800 for suspension of 42 Pa.C.S. § 6335, only to the extent that it conflicts with this rule.

See Rule 1128 for presence at proceedings. See Rule 1124 for general summons procedures.

**Official Note:** Rule 1360 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1360 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1361. Adjudicatory Notice.**

The court shall give notice of the adjudicatory hearing to:

- 1) the attorney for the county agency;
- 2) the child's attorney;
- 3) the guardian's attorney;
- 4) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;
- 5) the county agency;
- 6) the court appointed special advocate, if assigned; and
- 7) any other persons as directed by the court.

**Comment**

All parties are to receive a summons pursuant to Rule 1360.

**Official Note:** Rule 1361 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1361 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1363. Service of Summons.**

A. *Method of Service.* The summons shall be served:

- 1) in-person; or
- 2) by certified mail, return receipt and first-class mail.

B. *Time of Service.*

- 1) *Child in custody.* If the child is in protective custody, the summons shall be served no less than seven days prior to the adjudicatory hearing.
- 2) *Child not in custody.* If the child is not in protective custody, the summons shall be served no less than fourteen days prior to the adjudicatory hearing.

C. *Proof of service.* Affidavit of service shall be filed prior to the adjudicatory hearing.

D. *Efforts Made to Serve.* In the absence of an affidavit of service under paragraph (C), the serving party shall advise the court of what efforts were made to notify a person. The court may proceed to a hearing upon a showing of reasonable efforts to locate and notify all persons pursuant to Rule 1360.

**Comment**

Pursuant to Rule 1360, all parties are to be served a summons. Pursuant to Rule 1361, the attorneys, the parents, child's foster parent, preadoptive parent, and relative providing care for the child are to receive notice.

A copy of the petition is to be included with the summons unless the petition has already been served pursuant to Rule 1331. See Rule 1360 (C)(5).

**Official Note:** Rule 1363 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1363 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1364. Failure to Appear on the Summons.**

If any summoned person fails to appear for the adjudicatory hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

**Comment**

See Rule 1140 for issuance of a bench warrant.

**Official Note:** Rule 1364 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1364 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1364 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

**Source**

The provisions of this Rule 1364 amended March 19, 2009, effective June 1, 2009, 39 Pa.B. 1614. Immediately preceding text appears at serial page (326088).

**PART E. PRESERVATION OF TESTIMONY AND EVIDENCE**

**Rule 1380. Preservation of Testimony After Commencement of Proceedings.**

A. *By Court Order.*

- 1) At any time after the commencement of proceedings, upon motion of any party, and after notice and hearing, the court may order the taking and preserving of the testimony of any witness who may be unavailable for the adjudicatory hearing or for any other proceeding, or when due to exceptional circumstances, it is in the interests of justice that the witness' testimony be preserved;
- 2) The court shall state on the record the grounds on which the order is based;
- 3) The court's order shall specify the time and place for the taking of the testimony, the manner in which the testimony shall be recorded and preserved, and the procedures for custody of the recorded testimony;
- 4) The testimony shall be taken in the presence of the court, all parties and their attorneys, unless otherwise ordered; and
- 5) The court shall rule on the admissibility of the preserved testimony if it is offered into evidence at the adjudicatory hearing or other judicial proceeding.

B. *By Agreement of the Parties.*

- 1) At any time after the commencement of proceedings, the testimony of any witness may be taken and preserved upon the express written agreement of all parties;
- 2) The agreement shall specify the time and place for taking the testimony, the manner in which the testimony shall be recorded and preserved, and the procedures for custody of the recorded testimony;
- 3) The testimony shall be taken in the presence of all parties and their attorneys unless they otherwise agree;
- 4) The agreement shall be filed with the clerk of courts pursuant to Rule 1345(A); and
- 5) The court shall rule on the admissibility of the preserved testimony if it is offered into evidence at the adjudicatory hearing or other judicial proceeding.

**Comment**

This rule is intended to provide the means by which testimony may be preserved for use at a current or subsequent stage in the proceedings, which includes the taking of a deposition during the adjudicatory hearing to be used at a later stage of the adjudicatory hearing.

When testimony is to be preserved by video recording, see also Rule 1381.

This rule does not address the admissibility of the preserved testimony. The court is to decide all questions of admissibility. *See* Pa.R.E 104(a).

"May be unavailable," as used in paragraph (A)(1), is intended to include situations in which the court has reason to believe that the witness will be unable to be present or to testify at the adjudicatory hearing or other proceedings, such as when the witness is dying, or will be out of the jurisdiction and therefore cannot be effectively served with a subpoena, or is elderly, frail, or demonstrates the symptoms of mental infirmity or dementia, or may become incompetent to testify for any other legally sufficient reason.

Under paragraph (A)(4), the court should preside over the taking of testimony. The court, however, may order that testimony be taken and preserved without the court's presence when exigent circumstances exist or the location of the witness renders the court's presence impracticable. Furthermore, nothing in this rule is intended to preclude the parties, their attorneys, and the court from agreeing on the record that the court need not be present. Paragraph (B)(3) permits the parties and their attorneys to determine among themselves whether the court should be present during the taking of testimony. That determination should be made a part of the written agreement required by paragraph (B)(1).

Nothing in this rule is intended to preclude the parties from waiving their presence during the taking of testimony.

The means by which the testimony is recorded and preserved are within the discretion of the court under paragraph (A) and the parties under paragraph (B), and may include the use of electronic or photographic techniques such as videotape or digital video diskette. There are, however, additional procedural requirements for preservation of testimony by video recording mandated by Rule 1381.

The party on whose motion testimony is taken should normally have custody of and be responsible for safeguarding the preserved testimony. That party should also promptly provide a copy of the preserved testimony to the other parties. Additionally, this rule is not intended to conflict with the requirements of the Pennsylvania Rules of Judicial Administration. For reporting and transcripts by court-employed reporters, see Pa.R.J.A. Nos. 4001—4016.

When testimony is taken under this rule, the proceeding should afford the parties full opportunity to examine and cross-examine the witness. Counsel should not reserve objections at the time of the adjudicatory hearing.

For the definition of "court," see Rule 1120.

**Official Note:** Rule 1380 adopted August 21, 2006, effective February 1, 2007. Amended November 16, 2016, effective January 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1380 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendment to Rule 1380 published with the Court's Order at 46 Pa.B. 7526 (December 3, 2016).

**Source**

The provisions of this Rule 1380 amended November 16, 2016, effective January 1, 2017, 46 Pa.B. 7526. Immediately preceding text appears at serial pages (342584) to (342585) and (326089) to (326090).

**Rule 1381. Preservation of Testimony by Video Recording.**

A. When the testimony of a witness is taken and preserved pursuant to Rule 1380 by means of video recording, the testimony shall be recorded simultaneously by a stenographer.

B. The following technical requirements shall be made part of the court order required by Rule 1380(A) or the written agreement provided in Rule 1380(B):

- 1) The video recording shall begin with a statement on camera that includes:
  - a) the operator's name and business address;

- b) the name and address of the operator's employer;
  - c) the date, time, and place of the video recording;
  - d) the caption of the case;
  - e) the name of the witness;
  - f) the party on whose behalf the witness is testifying; and
  - g) the nature of the judicial proceedings for which the testimony is intended;
- 2) The court and the persons shall identify themselves on camera;
  - 3) The witness shall be sworn on camera;
  - 4) If the length of the testimony requires the use of more than one video recording, the end of each video recording and the beginning of each succeeding video recording shall be announced on camera;
  - 5) At the conclusion of the witness' testimony, a statement shall be made on camera that the testimony is concluded. A statement shall also be made concerning the custody of the video recording(s);
  - 6) Statements concerning stipulations, exhibits, or other pertinent matters may be made at any time on camera;
  - 7) The video recording shall be timed by a digital clock on camera that continually shows the hour, minute, and second of the testimony;
  - 8) All objections and the reasons for them shall be made on the record. When the court presides over the video recording of testimony, the court's rulings on objections shall also be made on the record;
  - 9) When the court does not preside over the video recording of testimony, the video recording operator shall keep a log of each objection, referenced to the time each objection is made. All rulings on objections shall be made before the video recording is shown at any judicial proceeding; and
  - 10) The original video recording shall not be altered.

#### Comment

This rule provides the basic technical requirements for taking and preserving testimony by video recording under Rule 1380. The list of requirements is not intended to be exhaustive. Rather, it is recommended that all recording by video be carefully planned and executed, and that in addition to complying with the basic requirements, each court order or written agreement for the video recording of testimony be tailored to the nature of the case and the needs of the persons.

Generally, the camera should focus on the witness to the extent practicable.

Under paragraph (B)(9), the court may rule on objections by either reviewing pertinent sections of the video recording, aided by the video operator's log, or by reviewing the stenographic transcript required by paragraph (A).

Any editing procedure ordered by the court or agreed upon by the persons may be used as long as it comports with current technology and does not alter the original video recording. Paragraph (B)(10) is intended to insure preservation of the original video, thereby providing for those situations in which a dispute arises over editing procedures.

This rule authorizes the use of video recording devices only for the preservation of testimony under Rule 1380. It is not intended to affect other rules governing recording devices.

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JUVENILE RULES

**Official Note:** Rule 1381 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1381 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

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