

THE COURTS

Title 255—LOCAL COURT RULES

MERCER COUNTY

Amendments to Local Rule of Civil Procedure L208.3(a); 2023-1851

And Now, this 18th day of July, 2023, the Court hereby *Approves, Adopts and Promulgates* the following Amendments to Mercer County Local Rules L208.3(a) regarding Motion Procedures.

It Is Further Ordered and Directed that the Court Administrator of Mercer County shall file one (1) certified copy of the Amendments with the Administrative Office of the Pennsylvania Courts and furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

It Is Further Order and Directed that these Amendments shall be kept continuously available for public inspection and copying in the Office of the Clerk of Courts of Mercer County and the Office of the Prothonotary of Mercer County. This Order shall be published in the *Mercer County Law Journal*.

By the Court

DANIEL P. WALLACE,
President Judge

AMENDMENTS TO THE MERCER COUNTY LOCAL RULE REGARDING MOTION PROCEDURES

A. Local Rules L208.3(a)(1) and L208.3(a)(2) shall be deleted and replaced with the following:

(1) The scheduling of all motions or other matters will depend on whether a judge has issued a case management order in the case pursuant to Local Rule L317(C).

(a) If a judge has not issued a case management order pursuant to Rule L317(C) when the motion or other matter is filed, the Court Administrator shall assign the motion or other matter to a judge on a rotating basis.

(b) If a judge has issued a case management order pursuant to Rule L317(C) prior to the filing of the motion or other matter, the Court Administrator shall assign the motion or other matter to the judge attached to the case by virtue of the case management order.

(2) All motions or other matters shall contain a scheduling order, a proposed order, and a certification that notice of the hearing has been given to opposing counsel or the opposing party. The certification shall also set forth the manner of notice given. All proposed orders shall list the names of counsel of record and the party represented by each counsel. All motions and other matters shall first be filed in the proper row office and then delivered to the Court Administrator for scheduling.

[Pa.B. Doc. No. 23-991. Filed for public inspection July 28, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 2023-14; Adoption of Court of Common Pleas Custody Procedures; No. C-48- CV-2023-04869

Administrative Order

And Now, this 17th day of July, 2023, it is *Ordered and Decreed* that Administrative Order 2023-13 is *Vacated* and the Northampton County Court of Common Pleas Custody Procedures, as follows hereto as Exhibit “A”, are hereby *Adopted*.

It is further *Directed* that the Court Administrator of Northampton County shall comply with all publishing requirements set forth in Pa.R.J.A. 103(d)(5)-(6), such as: filing two (2) certified copies of this Order and Exhibit “A” with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; filing one (1) certified copy of the Order and Exhibit “A” with the Administrative Office of Pennsylvania Courts; publishing a copy of this Order and Exhibit “A” on the Court’s website; and incorporating these procedures into the complete set of Northampton County Local Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

This local rule shall become effective on September 5, 2023, after no less than thirty (30) days of publication in the *Pennsylvania Bulletin*.

By the Court

CRAIG A. DALLY,
President Judge

Exhibit A

Court of Common Pleas Custody Procedures— Revised May 17, 2023 Final As Amended

I. Introduction

Child custody cases are some of the most important and difficult cases assigned to a judge. They are, understandably, of the utmost importance to the parties, and have dynamics very different from other kinds of cases. These procedures are designed to recognize and address a number of issues including, but not limited to, the following:

- Assuring Due Process and Fairness for All Parties
- Encouraging and Facilitating the Settlement of Cases
- Expediting the Resolution of Cases
- Minimizing the Financial Cost to the Parties Consistent with the Best Interest of the Child.
- Conforming Procedures to the Pennsylvania Rules of Civil Procedure (“Pa.R.C.P.”) for Custody Cases
- Continuing a Reliable System of Inventory Control

Northampton County Court utilizes an initial non-record proceeding (office conference) with a conference officer pursuant to Pa.R.C.P. No. 1915.4-3. This procedure was certified to the Domestic Relations Procedural Rules

Committee of the Pennsylvania Supreme Court as required by Pa.R.C.P. No. 1915.4-1—Alternate Hearing Procedures for Partial Custody Actions.

II. Organization

A. Administrative Judge of Child Custody Court Division

The Administrative Judge of the Child Custody Court Division, (hereinafter referred to as “Administrative Judge”) as appointed by the President Judge, shall oversee the day to day operation of the Child Custody Court Division.

The Administrative Judge shall supervise both the Full-Time Conciliation Conference Officer and the Part Time Conciliation Conference Officer (hereinafter collectively referred to as “conference officers”) as well as the Administrative Support Staff. Notwithstanding the aforesaid, the ultimate responsibility for employee performance, and all matters that would be considered under the umbrella of human resources, shall remain within the exclusive purview of the President Judge.

B. Full-Time Conciliation Conference Officer

1. There shall be one (1) Full-Time Conciliation Conference Officer. The Full-Time Conciliation Conference Officer shall be responsible for the following:

- (a) Conducting Custody Conciliation Conferences;
- (b) Tracking Cases for Inventory Control;
- (c) Encouraging and Facilitating Settlement Agreements between the Parties;
- (d) Reviewing all reports, including but not limited to expert reports, reports from agencies, supervisors’ reports, counselors’ reports, guardian ad litem reports, as well as any reports authored by professionals for the purpose of settlement discussions;
- (e) Assisting the Administrative Judge in Referring Cases to Judges for Judicial Settlement Conferences and for the entry of Interim Orders;
- (f) Communicating with Children & Youth Services in obtaining information to comply with the Court’s obligations pursuant to 23 Pa.C.S. § 5329.1—Consideration of Child Abuse and Involvement with Protective Services;
- (g) Preparing summaries that include the procedural history of the case, the nature of the discussions that occurred at the conciliation conference, the position of the parties with respect to the issues, and the outcome of the conciliation conference;
- (h) Assisting parties and attorneys with procedural matters related to the filing of pleadings and compliance with court rules and procedures including providing appropriate forms and general instructions for the filing and serving of custody pleadings and scheduling of conferences, hearings and trials;¹ and
- (i) Any additional duties as the Administrative Judge shall direct.

C. Part-Time Conciliation Conference Officer

1. There shall be one (1) Part-Time Conciliation Conference Officer who shall independently be responsible for the same duties and responsibilities as the full time conciliation conference officer with respect to his/her individual cases.

¹ Conference Officers shall not provide substantive legal advice to parties or their attorneys. However, Conference Officers can inform the parties of their assessment of possible and/or likely outcomes based on similar cases, and may make recommendations relating to partial custody or supervised physical custody of the child or children and discuss issues related to legal custody, primary physical custody, contempt, jurisdiction and standing in order to assist the parties in reaching an agreement.

D. Administrative Support Staff

The Administrative Support Staff of the Child Custody Court Division shall provide administrative, clerical and other services to assist the Administrative Judge and the conference officers in the performance of their duties and responsibilities.

III. General Procedure

A. Filings

1. All custody pleadings, with the exception of relocation matters, including but not limited to, complaints, petitions, (including those for modification, contempt and for special and/or emergency relief,) as well as any stipulations, shall be submitted first to the administrative support staff of the custody office, in person or by United States mail, to be entered into the data base for inventory tracking.

2. All custody pleadings as set forth in Paragraph III. A.1. above, except emergency petitions and requests for expedited treatment, shall be accompanied by a Scheduling Order with the conference date left blank. The Administrative Support Staff shall have the Scheduling Order signed by the Administrative Judge. Thereafter, the filing party shall proceed to the Prothonotary’s Office to file the pleadings and obtain a date for the custody conference. Pleadings received by United States Mail from attorneys² will be forwarded to the Prothonotary for filing and to obtain a date for a conference. Thereafter, attorneys will receive a file-stamped copy in the envelope that attorneys shall provide and will receive a notice of the date and time for their conference.

3. Pre-Trial Conference Statement

Pursuant to Northampton County Local Rule N1915.1(5), a party initiating a custody action shall file simultaneously with the complaint a pre-trial conference statement together with a notice to respond. The service copy shall include a blank Pre-Trial Statement for use by the opposing party. The pre-trial conference statement should contain all the information as set forth in Northampton County Local Rule N1915.1(5)(a)—(j). The opposing party shall file its Pre-Trial Conference Statement no later than three (3) days before the conciliation conference in accordance with Northampton County Local Rule N1915.1(10).

4. Co-Parent Education Program (“COPE”)

All parties to a custody action (parents or other custodial resources), shall complete the Co-Parent Education Program (“COPE”) and pay the applicable fee as established by the Court. The moving party must register for COPE within thirty (30) days of filing an applicable action. The responding party shall register for COPE within thirty (30) days of service of the applicable pleading. Both parties shall complete COPE within sixty (60) days of filing the applicable action. The moving party must serve the responding party with the applicable pleading, a copy of the applicable rule, and the registration form for COPE. Copies of the rule and registration form are available online at: www.nccpa.org/civil/child-custody. A party who previously completed COPE within the time period set out by this rule is not required to complete the program again if he/she provides the Court with a copy of the Certificate of Completion.

(a) Payment

Payment must be submitted per the instructions on the registration form. Any request for waiver or reduction of

² Pro se parties are not permitted to file pleadings by mail. Pleadings for filing will be accepted in person by the Administrative Support Staff of the Child Custody Court from pro se litigants, attorneys and/or attorney’s secretaries or paralegals.

the fee must be presented to the Motions Court Judge along with an In Forma Pauperis Affidavit or other proof of financial hardship.

(b) *Extensions*

Any request for extension of time to complete COPE shall be made directly to the Northampton County Custody Office, Northampton County Courthouse, 669 Washington Street, Easton, Pennsylvania 18042.

(c) *Failure to Comply*

Failure to comply with the requirements of this rule as it relates to attending and completing COPE may result in the applicable action being dismissed at the direction of the Court.³

B. *Conciliation Conferences*

1. *Mandatory.* A Conciliation Conference with a conference officer shall be mandatory in all cases related to child custody or partial custody including proceedings begun under the Divorce Code and by complaint or petition including issues of confirmation of custody, modification of custody and contempt.

2. *Location.* Conciliation conferences will be held in the Custody Mediation Suite at the Northampton County Courthouse, 669 Washington Street, Easton PA 18042 and shall be scheduled by the Office of Court Administration.

3. *Procedure.* The Conciliation Conference shall be conducted by one of the conference officers. Matters in which one or both parties are represented by counsel shall be placed on a "Represented Party" Conference List. Matters in which both parties are pro se shall be placed on a "Pro Se" Conference List. The conference officer shall encourage the parties to reach an agreement and attempt to facilitate same. The conference officer may make recommendations to the parties relating to partial custody or supervised physical custody of the child or children and discuss issues related to legal custody, primary physical custody, contempt, jurisdiction and standing in order to assist the parties in reaching an agreement. Custody conference officers shall not interview children at a custody conference.

4. *Co-Parenting Counseling.* The conference officer may also inform and recommend to the parties co-parenting counseling in selected cases. Co-parenting counseling is not necessary in every case. A recommendation for co-parenting counseling should be decided on a case by case basis based upon the level of hostility between the parties, the current ability of the parties to co-parent, each party's parenting skills and other relevant factors as determined by the conference officer. Co-parenting counseling should be primarily utilized to assist the parties in learning how to work together for the benefit of the child or children, and to clarify and identify the issues of contention between the parties with the goal of resolving them.

(a) Before the parties are asked to agree to co-parenting counseling, the parties must be advised of the current rates charged by counselors, what kinds of insurance counselors may accept, the estimated costs of reports, and approximately how long the parties will be required to attend counseling under an agreed order.

(b) *Co-Parenting Counseling Reports.*

- Parties who engage in co-parenting counseling may agree to stipulate that any reports generated by a

counselor as a result of co-parenting counseling may be admitted as evidence at trial without the need for calling the counselor as a witness.

- Parties must be advised that if they agree to the admissibility of a report generated by a counselor as a result of co-parenting counseling, the report will be admissible regardless of whether the report is favorable or unfavorable to one party or the other.

- Parties must also be advised that notwithstanding the admissibility of a report, either party may call the counselor as a witness. Absent agreement with the other party, the counselor's fees for time in providing testimony shall be borne by the party calling the counselor as a witness.

- *Distribution of Counseling and Other Reports to Judges*

When parties have agreed by stipulation that co-parenting counseling reports and/or other reports including but not limited to expert reports, reports from agencies, supervisors' reports, counselors' reports, guardian ad litem reports, as well as any reports authored by professionals, may be admitted as evidence without the need of calling the author of the report as a witness, the report shall be attached to summaries provided to the Judge who is presiding over a Judicial Settlement Conference or a proceeding to establish an Interim Order unless that Judge has specifically directed not to receive such reports. A judge assigned to preside over a Non-Jury Trial shall not be provided any such reports until admitted into evidence at the trial unless the trial judge specifically requests otherwise.

5. *Home Evaluations.* Home evaluations will be ordered only in cases in which a party has expressed a genuine concern about the other party's home that may represent a danger to a child or children or be an otherwise unsafe condition. The party requesting the home evaluation shall be responsible for the costs of the evaluation including the cost of a report. The parties, by agreement, may agree to the right to inspect each other's home.

6. *Agreements.* If an agreement for custody is reached at the conciliation conference that fully resolves the complaint or petition(s), the conference officer shall prepare an agreed order in conformity with the agreement which shall be fully reviewed by all parties and/or their counsel. After review, each party shall initial each numbered paragraph of the Order. Thereafter, the Order shall be submitted to the Administrative Judge for signature and adopted as an Order of Court. The Court may enter an Order in accordance with the agreement without hearing the parties.

7. *Interim Agreement.* If at the conclusion of the conciliation conference, an agreement has not been reached that fully resolves the complaint or petition(s), but the parties have agreed to an interim custody schedule pending trial, the conference officer shall prepare an agreed order in conformity with the agreement which shall be fully reviewed by all parties and their counsel. After review, each party shall initial each numbered paragraph of the Order. Thereafter, the Order shall be submitted to the Administrative Judge for signature and adoption as an Order of Court pending a trial.

(a) *Interim Order with Requirements*

If the Interim Order requires the parties to engage in co-parenting counseling, family counseling, drug and/or alcohol testing and evaluation, home evaluations, physical or medical examinations, paternity testing or any similar

³ See Administrative Order 2022-4 Family Law Rule 1915.19 Co-Parent Education Program 2/21/2022.

programs, upon compliance with the requirements, the matter shall proceed to a Judicial Settlement Conference, or at the request of the parties, may be referred back to the conference officers for a further conciliation conference.

(b) *Interim Order with No Requirements*

If the Interim Order has none of the aforesaid requirements, the Administrative Judge shall assign the matter to a judge for a Judicial Settlement Conference.

8. *Non-Agreement.* If at the conclusion of the conciliation conference, an agreement has not been reached that fully resolves the complaint or petition(s), and if the parties cannot agree on an interim custody schedule pending trial, or if the parties cannot agree on the steps necessary to prepare the case for trial, the Administrative Judge shall enter an order, prepared by the Conference Officer, placing the matter on a Miscellaneous Hearing List for the establishment of an interim Order pending trial or for a determination of the steps necessary to prepare the case for trial. The matter shall be assigned to any judge as any and all other matters are assigned for Miscellaneous Hearing Lists. Thereafter, depending on whether the Interim Order contains any requirements, the matter will proceed as set forth in 7(a) and 7(b) of the preceding paragraph.

9. *Summaries.* Conference officers shall prepare a summary for the Court without recommendations which shall contain the following information:

- The names, addresses, email addresses and phone numbers of the parties and their respective attorneys
- The name, gender and birthdate of the child or children
- The procedural history of the case
- The nature of the pending petition(s)
- The respective position of the parties as expressed at the conference
- Any information that relates to the safety and general welfare of a child including, but not limited to physical/mental abuse, sexual assault or information related to child dependency as defined under the law.

Conference officers shall not summarize any reports, but shall attach to the summary any and all such reports generated to date in the case. Summaries prepared by conference officers shall be forwarded to the Judicial Settlement Conference Judge and to a Judge assigned to hear a matter on the Miscellaneous Hearing List, and to a Judge assigned to preside over a custody trial, unless that Judge has specifically directed not to receive such reports. Summaries prepared by conference officers shall also be provided to the parties and/or their attorneys.

10. *Emergency Issues.* If at any time a conference officer, or the Administrative Judge determines that a party has raised an emergency issue, such as danger to a child, a complete denial of access to a child, or a time sensitive matter, the conference officer or the Administrative Judge shall refer that party to the Motions Judge for emergency relief as set forth in Paragraph III.D. below.

11. *Continuances.* Applications for a continuance of a conciliation conference shall be first made to the Custody Office. If the parties agree to a continuance, conciliation conferences may be continued and rescheduled by the conference officers. When a request for a continuance of a custody conference is opposed, such request shall be made in writing through the office of the Custody Conference Officer, and may be granted by the Custody Conference

Officer only upon certification that there has been an attempt to obtain an agreement of the opposing counselor or party, and only upon good cause shown, or Order of Court.

The requesting party shall state the nature of the pending petition, the identity of the moving party, and the reason for the continuance.

The writing to a party requesting a continuance shall contain the following language:

If you oppose this continuance, you must set forth your reasons in writing, along with your telephone number, and provide it to the assigned Custody Conference Officer within two (2) business days of the postmark, e-mail, or fax confirmation of this request. You may contact the Court Administrator's Office at 610-559-6700 to obtain the assigned Custody Conference Officer's phone and fax number. If you fail to do so, the continuance will be granted. You must also provide a copy of your writing to the other party and counsel.

The two (2) business day period may be waived in exceptional circumstances as determined by the Custody Conference Officer.

An appeal of the decision of the Conference Officer may be made to the Administrative Judge.

C. *Judicial Settlement Conferences*

1. All judges who are assigned by the Administrative Judge to conduct a Judicial Settlement Conference shall immediately contact the parties and/or their counsel to schedule the conference.

2. If an agreement is reached at the Judicial Settlement Conference that fully resolves the complaint or petition(s), the Judicial Settlement Judge shall prepare an agreed Order or ask the Conference Officer to prepare the agreed Order which shall be fully reviewed by all parties and/or their counsel. After review and approval by the parties and/or their counsel, each party shall initial each numbered paragraph of the Order. The Order shall then be signed by the Judicial Settlement Judge and adopted as an Order of Court.

3. If at the conclusion of the Judicial Settlement Conference, an agreement has not been reached that fully resolves the complaint or any petition(s), the Settlement Judge may, in his/her discretion, enter an appropriate Order, including but not limited to, the following:

- Paternity Testing
- Drug and Alcohol Testing and Evaluation
- Home Evaluation
- Physical and Mental Examinations
- Co-Parenting/Family Counseling
- Interim Custody/Partial Custody Orders

The Settlement Judge or the Administrative Judge may also issue an Order placing the matter on the next available Non-Jury Trial List to be assigned by the President Judge as any and all such matters are assigned for Non-Jury Trials.

4. *Continuances.* Application for a Continuance of a Judicial Settlement Conference shall be made to the assigned judge.

D. *Emergency Petitions*

1. *Motions Court*

(a) If a party believes that a matter is an "emergency" requiring an immediate hearing in order to prevent

imminent harm to a child, or that the matter involves a time sensitive matter, the party may present a complaint or petition to the Motions Judge.

(b) Notwithstanding the emergency nature of such a complaint or petition, the pleading shall first be presented to the custody court's administrative support staff for entry into the tracking system.

(c) The custody court's administrative support staff shall provide the Motions Judge with a copy of the pleading and provide any procedural background information available on the matter.

(d) Upon presentation of the pleading in Motions Court, the Motions Judge shall determine whether the matter requires immediate action and/or expedited treatment. If the Motions Judge determines that the matter does not require immediate action or expedited treatment, the Motions Judge shall direct the moving party to list the matter for a conciliation conference in accordance with the Court's customary procedures.

(e) If the Motions Judge determines that the matter requires immediate action, the Motion Judge shall rule upon the matter addressing the emergency. After the Motions Judge has resolved any emergency, if other non-emergency matters or non-urgent custody issues remain, the Motions Judge shall direct that the matter be listed for a conciliation conference in accordance with the court's customary procedures.

(f) If the Motions Judge determines that the matter requires expedited treatment but not immediate action, and that a hearing is required before relief can be ordered, the Motions Judge may, in his/her discretion, either schedule the matter for a special hearing for himself/herself, or place the matter on a Miscellaneous Hearing List to be assigned to himself or herself.

(g) The Motions Judge shall not direct the custody office to schedule an expedited Conciliation Conference.

E. Special Relief (Non-Emergency)—(Pa.R.C.P. No. 1915.13)

1. At any time after commencement of the action, the Court may on application or its own motion grant appropriate interim or special relief as set forth in Pa.R.C.P. No. 1915.13.

2. As with all custody pleadings, an application for non-emergency interim or special relief must first be filed at the custody office for a Conciliation Conference. Applications under this section are limited to issues that are not dispositive of the ultimate issue of custody and do not include petitions for contempt or matters that require a full trial. If the matter cannot be resolved at the conciliation conference, the Administrative Judge shall enter an order placing the matter on the Miscellaneous Hearing List to be assigned to any judge as any and all other matters are assigned for Miscellaneous Hearing Lists.

IV. Miscellaneous Court

A. No custody matter shall be placed on a Miscellaneous Hearing List unless so ordered by a judge. If a conference officer or the administrative support staff learns that an attorney or a pro se party has praecipated a custody matter to a Miscellaneous Hearing List without court approval, the conference officer or administrative

support staff shall immediately notify the Administrative Judge prior to the scheduled hearing. The Administrative Judge may either accept the matter for assignment to himself/herself, or strike the matter from the list.

B. When a Motions Court Judge orders the listing of a custody matter onto a Miscellaneous Hearing List, the matter shall be assigned to himself or herself.

C. *Continuances.* Applications for a continuance of a matter on the Miscellaneous Hearing List shall be ruled upon by either the assigned judge or by the President Judge.

V. Trial Listings

A. Contested custody matters shall generally be heard during the Court's Non-Jury Trial sessions.

B. Neither a party nor counsel of record may place a custody matter on a Non-Jury Trial List without approval of the President Judge, the Administrative Judge or an assigned judge.

C. *Continuances.* Applications for a continuance of a custody matter on the Non-Jury Trial List shall be ruled upon by either the assigned judge or the President Judge.

VI. Delay

A. All custody matters are subject to Pa.R.C.P. No. 1915.4—Prompt Disposition of Custody Cases.

B. A party shall not be permitted to benefit from that party's own failure to comply with any Interim Order of Court. No party shall be subject to prejudice or delay as a result of the other party's failure to comply with an Interim Order of Court. Additionally parties will not be prejudiced by matters outside of their control including, but not limited to, an indigent party's inability to pay for services, the unavailability of service providers or unreasonable delay caused by the pre-trial process.

C. Any party who believes that they are aggrieved by a matter as set forth in Paragraph VI.B. above or by an unreasonable delay in the pre-trial process may file an appropriate pleading for special relief as set forth above in Section III. E.—Special Relief (Non-Emergency).

VII. Relocation Cases

Relocation cases pursuant to 23 Pa.C.S.A. § 5337 shall be assigned by the President Judge through the Office of Court Administration to individual judges to conduct an expedited hearing as required by 23 Pa.C.S.A. § 5337(g).

VIII. Northampton County Local Rules of Procedure

The procedures set forth herein are intended to replace any current local rules of procedure previously adopted by Administrative Order of the President Judge or past President Judges on the same subject or inconsistent therewith. Otherwise, unless specifically rescinded by Administrative Order of the President Judge, the current local rules for action of Custody shall remain in effect.

IX. Pennsylvania Rules of Civil Procedure

Nothing herein is intended to replace or repeal the Pennsylvania Rules of Civil Procedure for custody and related matters as adopted by the Supreme Court of Pennsylvania.

[Pa.B. Doc. No. 23-992. Filed for public inspection July 28, 2023, 9:00 a.m.]