

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

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

“home county” means the county in which the child immediately preceding the time involved lived with the child’s parents, a parent, or a person acting as parent, or in an institution, for at least six consecutive months, 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;

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

“partial physical custody” means the right to assume physical custody of the child for less than a majority of the time;

“person acting as parent” means 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;

“physical custody” means the actual physical possession and control of a child;

“primary physical custody” means the right to assume physical custody of the child for the majority of time;

“relocation” means a change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights;

“shared legal custody” means the right of more than one individual to legal custody of the child;

“shared physical custody” means 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” means the right of one individual to exclusive legal custody of the child;

“sole physical custody” means the right of one individual to exclusive physical custody of the child; and

“supervised physical custody” means 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.

Explanatory Comment—2008

The Uniform Child Custody Jurisdiction Act, formerly at subchapter B of Chapter 53 of the Domestic Relations Code, was repealed by Act 2004-39 and replaced by the Uniform Child Custody Jurisdiction and Enforcement Act at Chapter 54 of the Domestic Relations Code. Amendments throughout the rules governing procedures in child custody matters were necessary to make the rules consistent with the Uniform Child Custody Jurisdiction and Enforcement Act and to update the citations to the statutory provisions.

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. Immediately preceding text appears at serial pages (368053) to (368054) and (340191).

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 by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by Rule 1915.15(a).

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by Rule 1915.15(b).

Official Note: See § 5430(d) of the 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 claim for custody which is joined with an action of divorce shall be asserted in the complaint or a subsequent petition, which shall be substantially in the form provided by Rule 1915.15(a).

Official Note: Rule 1920.13(b) provides that claims which may be joined with an action of divorce shall be raised by the complaint or a subsequent petition.

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

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 Rule 1930.6.

(e) A grandparent who is not in loco parentis to the child and is seeking physical and/or legal custody of a grandchild pursuant to 23 Pa.C.S. § 5323 must plead, in paragraph 9 of the complaint set forth at Rule 1915.15(a), facts establishing standing under § 5324(3). A grandparent or great-grandparent seeking partial physical custody or supervised physical custody must plead, in paragraph 9 of the complaint, facts establishing standing pursuant to 23 Pa.C.S. § 5325.

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

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. Immediately preceding text appears at serial pages (368262) to (368263).

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"/>	_____	_____

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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. § 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"/>	_____	_____
<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"/>	_____	_____

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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. § 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"/>	_____	_____
<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"/>	_____	_____

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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. § 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"/>	_____	_____
<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:

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<i>Check all that apply</i>		<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<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	<input type="checkbox"/>	<input type="checkbox"/>	_____
<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 chil-

dren. 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, permanent or standing master, 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. Immediately preceding text appears at serial pages (375214) and (368273) to (368274).

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

(a) *Non-Record Proceedings.* In those jurisdictions that utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial. Any lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a conciliator or mediator or to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, permanent or standing master, 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 Rule 1915.4.

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. Immediately preceding text appears at serial page (368274).

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.

(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. Immediately preceding text appears at serial pages (376554) and (373035) to (373036).

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

(a) A party must raise any question of jurisdiction of the person or venue, and may raise any question of standing, by preliminary objection filed within twenty days of service of the pleading to which objection is made or at the time of hearing, whichever first occurs. No other pleading shall be required, but if one is filed it shall not delay the hearing.

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 § 5426 of the Uniform Child Custody Jurisdiction and Enforcement Act, relating to simultaneous proceedings in other courts, § 5427, relating to inconvenient forum, and § 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 twenty 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 Rule 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 Rule 1930.5.

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.

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. Immediately preceding text appears at serial page (368276).

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 an agreement for custody is reached and the parties desire a consent order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed order bearing the written consent of the parties or their counsel.

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. Immediately preceding text appears at serial page (352462).

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.

1915-20

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 either on the record in open court, in a written opinion, or in the order.

(b) The terms of the order shall be sufficiently specific to enforce the order. The court's decision shall include safety provisions designed to protect an endangered party or a child in any case in which the court has found that either is at risk of harm.

(c) Any custody order shall include notice of a party's obligations pursuant to 23 Pa.C.S. § 5337 dealing with a party's intention to relocate with a minor child.

(d) No motion for post-trial relief may be filed to an order of legal or physical custody.

Explanatory Comment—2013

The custody statute, at 23 Pa.C.S. § 5323(d), requires the court to delineate the reasons for its decision on the record in open court or in a written opinion or order. Subdivision (b) further defines and reinforces the requirements found in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to: supervised physical custody, supervised or neutral custody exchange location, neutral party presence at custody exchange, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation and designating secure, neutral location for a child's passport. The statute, at 23 Pa.C.S. § 5323, requires that any custody order must include notice of a party's obligations when there is a proposed relocation under 23 Pa.C.S. § 5337. Rule 1915.17 also addresses relocation.

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. Immediately preceding text appears at serial page (366933).

Rule 1915.11. Appointment of Attorney for Child. Interview of Child. Attendance of Child at Hearing or Conference.

(a) The court may on its own motion, or the motion of a party, appoint an attorney to represent the child in the action. Counsel for the child shall represent the child's legal interests and zealously represent the child as any other client in an attorney-client relationship. Counsel for the child shall not perform the role of a guardian *ad litem* or best interests attorney. The court may assess the cost of the child's attorney upon the parties in such proportions as the court deems appropriate or as otherwise provided by law. The order appointing an attorney to represent the child shall be in substantially the form set forth in Pa.R.C.P. No. 1915.19.

(b) The court may interview a child, whether or not the child is the subject of the action, in open court or in chambers. The interview shall be conducted in the presence of the attorneys and, if permitted by the court, the parties. The attorneys shall have the right to interview the child under the supervision of the court. The interview shall be part of the record.

(c) Unless otherwise directed by the court, the child who is the subject of the action shall not be required to attend a hearing before the court or a conference.

Official Note: A party may bring a child to a conference or hearing but, in the absence of an order of court, is not required to do so.

Explanatory Comment—1991

Rule 1915.15(b) provides a form of order to appear at a conference or hearing in an action for custody, partial custody or visitation of minor children. Prior to its recent amendment, the form required that one or more children who are the subject of the action attend the hearing or conference.

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 Rule 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 Rule 1915.15(b) has been revised to implement this policy.

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. Immediately preceding text appears at serial pages (368279) to (368280).

Rule 1915.11-1. Elimination of Parenting Coordination.

Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective.

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.

Rule 1915.11-2. Appointment of Guardian Ad Litem.

(a) The court may, on its own motion or the motion of a party, appoint a guardian ad litem to represent the best interests of the child in a custody action. The guardian ad litem shall be a licensed attorney or licensed mental health professional. The guardian ad litem shall not act as the child's counsel or represent the child's legal interests. Prior to appointing a guardian ad litem, the court shall make a finding that the appointment is necessary to assist the court in determining the best interests of the child.

(b) The court may order either or both parties to pay all or part of the costs of appointing a guardian ad litem.

(c) The guardian ad litem shall file of record and provide copies of any reports prepared by the guardian ad litem to each party and the court not later than 20 days prior to trial. The admissibility of the report shall be determined at the hearing. Prior to disclosure to the parties of confidential information prohibited by 23 Pa.C.S. § 5336, the court shall make a determination of whether the information may be disclosed. The guardian ad litem shall attend all proceedings and be prepared to testify. The guardian ad litem shall be subject to cross-examination if called to testify by either party or the court.

(d) The order appointing a guardian ad litem shall be in substantially the form set forth in Rule 1915.21.

Official Note: 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 1915.11-2 adopted August 1, 2013, effective September 3, 2013, 43 Pa.B. 4702.

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.

(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,

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 an action for custody shall be in substantially 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 rows of blank lines 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 rows of blank lines 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. The relationship of plaintiff to the child is that of _____. The plaintiff currently resides with the following persons:

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

5. The relationship of defendant to the child is that of _____. The defendant currently resides with the following persons:

Table with 2 columns: Name, Relationship. Includes two rows of blank lines 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: _____.

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

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 a grandparent who is not in loco parentis to the child and is seeking physical and/or legal custody pursuant to 23 Pa.C.S. § 5323, you must plead facts establishing standing pursuant to 23 Pa.C.S. § 5324(3). _____

(b) If the plaintiff is a grandparent or great-grandparent who is seeking partial physical custody or supervised physical custody pursuant to 23 Pa.C.S. § 5325, you must plead facts establishing standing pursuant to § 5325. _____

(c) If the plaintiff is a person seeking physical and/or legal custody pursuant to 23 Pa.C.S. § 5324(2) as a person who stands in loco parentis to the child, you must plead facts establishing standing. _____

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.

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 where there is one plaintiff and one defendant and where the custody of one child is sought, or where the custody of several children is sought and the information required by paragraphs 3 to 7 is identical for all of the children. Where there are multiple parties, the complaint should be appropriately adapted to accommodate them. Where the custody of several children is sought and the information required is not identical for all, the complaint should contain a separate paragraph for each child.

(b) A petition to modify a custody order shall be in substantially 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

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

Source

The provisions of this Rule 1915.15 amended November 8, 1982, effective January 1, 1983, 12 Pa.B. 4040; amended April 29, 1991, effective July 1, 1991, 21 Pa.B. 2337; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended March 2, 2000, effective immediately, 30 Pa.B. 1646; 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; amended May 18, 2016, effective July 1, 2016, 46 Pa.B. 2854. Immediately preceding text appears at serial pages (377879) to (377883).

Rule 1915.16. Form of Order and Notice. Joinder. Intervention.

(a) The order and notice joining a party in an action under Rule 1915.6(a) 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 may have a legal interest in custody of the child(ren) named.

231 Rule 1915.16

GENERAL

A hearing will be held in Courtroom _____ of the Court of Common Pleas,

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

If you wish to protect any legal interest you may have or wish to present evidence to the Court on those matters, you should appear at the place and time and on the date above.

If you have the child(ren) in your possession or control, you must appear and bring them to the Courthouse with you.

If you wish to claim a right of custody, you may file a counterclaim.

If you fail to appear as provided by this order or to bring the child(ren), an order for custody may be entered against you or the Court may issue a warrant for your arrest.

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: _____

(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.

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

(Caption)
COUNTER-AFFIDAVIT REGARDING RELOCATION

This proposal of relocation involves the following child/children:

Child's Name	Age	Currently residing at:
_____	_____	_____
Child's Name	Age	Currently residing at:
_____	_____	_____
Child's Name	Age	Currently residing at:
_____	_____	_____

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)

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. Immediately preceding text appears at serial pages (368289) to (368293).

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

The order of court directing expert evaluation in a custody matter pursuant to Rule 1915.8 shall be in substantially 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. Immediately preceding text appears at serial pages (340210) to (340212).

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 inquiries. 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.C.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 inquiries. 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 not later than 20 days prior to trial. The guardian ad litem shall attend all proceedings and be prepared to testify. The guardian ad litem shall be subject to cross-examination if called to testify by either party or the court.

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.

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).

[Next page is 1920-1.]

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(368298) No. 468 Nov. 13

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