

RULE 16. PROCEEDINGS PURSUANT TO SECTION 3206 OF THE ABORTION CONTROL ACT

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Source

The provisions of these Rules 16.1—16.8 amended and effective November 26, 1984, 14 Pa.B. 4503, unless otherwise noted. Immediately preceding text appears at serial page (25064).

Official Note: The right of a minor to petition the court for consent under Section 3206(c), 18 Pa.C.S. § 3206(c), shall be carried forth pursuant to the following procedures:

Rule 16.1. Definitions. Scope.

(a) As used in Rule 16,

“act” means the Act of June 11, 1982, P. L. 476, No. 138, as amended, 18 Pa.C.S. Section 3201 et. seq., known as the Abortion Control Act.

“applicant” means a pregnant woman: (i) who is less than eighteen years of age and not emancipated or (ii) a person acting on behalf of a pregnant woman who has been adjudged an incapacitated person pursuant to Chapter 55 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. Section 5501, et seq.;

“application” includes a motion or petition;

“court” means the Orphans’ Court Division of the Court of Common Pleas, except in proceedings brought: (a) in Philadelphia in which the applicant is a minor in which case the term “court” means the Family Court Division; (b) in Allegheny County where said proceedings shall be heard in the Juvenile Court Section of the Family Court Division;

Official Note: See Rule of Judicial Administration 2157 governing distribution of business within courts of common pleas.

“proceeding” means a proceeding pursuant to Section 3206(c) of the Act, 18 Pa.C.S. Section 3206(c).

Official Note: Section 3206(c) of the Abortion Control Act relates to proceedings seeking authorization for a physician to perform an abortion.

(b) The procedure set forth in Rule 16 shall govern proceedings pursuant to Section 3206(c) of the Act, 18 Pa.C.S. Section 3206(c).

Official Note: These rules implement Section 3206 of the Abortion Control Act and work with that section to provide a full procedure. Procedures which are set forth in that section rather than the rules include the following:

1. Participation in the proceeding and representation by an attorney, Section 3206(e). The court shall be responsible for adopting a procedure to assure that the court advises the pregnant woman of her right to counsel and that counsel is appointed upon her request;
2. Conduct of the hearing, including the exclusion of persons, evidence to be heard and notices to be given the applicant, Section 3206(f)(3) and (4) and Section 3206(h); and
3. Specific factual findings and legal conclusions by the court in writing, Section 3206(f)(1).

Section 3206 of the Act provides for an "expedited appeal". See Rule 3801 et. seq. of the Rules of Appellate Procedure which provide a complete procedure governing the appeal.

Pa.R.A.P. 3804 requires that the court reporter, without charge to the applicant, transcribe the notes of testimony and deliver them to the clerk of the court by 5:00 o'clock p. m. of the business day following receipt of the notice of appeal to the Superior Court.

Source

The provisions of this Rule 16.1 amended and effective November 26, 1984, 14 Pa.B. 4503; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555. Immediately preceding text appears at serial page (188397).

Rule 16.2. Confidentiality.

(a) The proceeding shall be confidential.

Official Note: See subdivision (b) of this rule governing the sealing of the record.

See Rule 16.6 for provisions governing docketing.

See Section 3206(f)(3) of the Act for the exclusion of persons from the hearing.

(b) The record, including the application, pleadings, submissions, transcripts, exhibits, orders, evidence, findings and conclusions and any other written material to be maintained, shall be sealed.

(c) The identity of the applicant shall not be disclosed in any decision of the proceeding.

Source

The provisions of this § 16.2 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555. Immediately preceding text appears at serial page (188397).

Rule 16.3. Precedence of Proceeding.

The proceeding shall be given such precedence over other pending matters as will ensure that the court renders a decision within three business days of the date of the filing of the application.

Source

The provisions of this Rule 16.3 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555. Immediately preceding text appears at serial page (188397).

Rule 16.4. Commencement. Venue. No Filing Fees.

- (a) The proceeding shall be commenced by filing an application in the appropriate division of the court of common pleas of the county in which the applicant resides or in which the abortion is sought.
- (b) No filing fees or court costs shall be required of the applicant.

Source

The provisions of this § 16.4 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555. Immediately preceding text appears at serial page (188397).

Rule 16.5. Application. Contents. Form of Verification. Assistance in Preparation.

- (a) The application shall set forth the following:
 - (1) the initials of the applicant;
 - (2) the age of the applicant;
 - (3) the names and addresses of each parent, guardian or, if the petitioner is a minor whose parents are deceased and no guardian has been appointed, any other person standing in loco parentis to the applicant;
 - (4) a statement that the applicant has been fully informed of the risks and consequences of the abortion;
 - (5) a statement whether the applicant is of sound mind and has sufficient intellectual capacity to consent to the abortion;
 - (6) a prayer for relief asking the court to enter an order authorizing a physician to perform an abortion upon applicant;
 - (7) an unsworn verification stating that the information therein is true and correct and that the applicant is aware that any false statements made in the application are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities; and
 - (8) the signature of the applicant, which may consist of the applicant's initials.

(b) Where necessary to serve the interest of justice, the court shall refer the applicant to the appropriate personnel for assistance in preparing the application.

Committee Comment—2006: The form of unsworn verification previously found in subdivision (b) has been deleted. This unsworn verification required by subdivision (a)(7) is the standard form of verification made subject to the penalties of Section 4904 of the Crimes Code, 18 Pa.C.S. § 4904.

Forms formerly found in rule 16.11 and 16.12 for applications and separate unsworn verifications by minors have been moved to the Appendix.

Source

The provisions of this Rule 16.5 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555; amended October 16, 2006, effective 30 days from the date of entry of this order. Immediately preceding text appears at serial pages (276629) to (276630).

Rule 16.6. Dockets. Document Maintenance.

(a) Each court shall maintain a sealed docket which is not open to public inspection.

(b) The proceeding shall be docketed by case number only.

(c) The name or initials of the applicant shall not be entered on any docket which is subject to public inspection.

(d) Documents pertaining to the proceeding shall be maintained in a closed file which shall be marked “confidential” and identified by the case number only.

Source

The provisions of this Rule 16.6 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956; amended December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555. Immediately preceding text appears at serial page (188397).

Rule 16.7. [Reserved].

Source

The provisions of this Rule 16.7 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956. Immediately preceding text appears at serial page (96494).

Rule 16.8. [Reserved].

Source

The provisions of this Rule 16.8 amended and effective November 26, 1984, 14 Pa.B. 4503; reserved March 31, 1994, effective immediately, 24 Pa.B. 1956. Immediately preceding text appears at serial page (96494).

Rule 16.10. Form; Generally.

The form of application by a minor and form of separate unsworn verification shall be prepared and filed in substantial conformity with the forms approved by the Supreme Court.

Explanatory Note: Additional averments will be required for an application filed on behalf of a person who has been adjudged an incapacitated person pursuant to Chapter 55 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. Section 5501, et seq.

Committee Comment—2006: Forms formerly found in Rules 16.11 and 16.12 for applications and verifications by minors have been moved to the Appendix.

Source

The provisions of this Rule 16.10 adopted December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555; amended October 16, 2006, effective 30 days from the date of entry of this order, 36 Pa.B. 6760. Immediately preceding text appears at serial page (276631).

Rule 16.11. [Reserved].

Committee Comment—2006: The form formerly found in Rule 16.11 for application by a minor has been moved to the Appendix.

Source

The provisions of this Rule 16.11 adopted December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555; reserved October 16, 2006, effective 30 days from the date of entry of this order, 36 Pa.B. 6760. Immediately preceding text appears at serial pages (276631) to (276632).

Rule 16.12. [Repealed].

Committee Comment—2006: The form formerly found in Rule 16.12 for unsworn verification by a minor has been moved to the Appendix.

Source

The provisions of this Rule 16.12 adopted December 9, 1994, effective March 1, 1995, 24 Pa.B. 6555; reserved October 16, 2006, effective 30 days from the date of entry of this order, 36 Pa.B. 6760. Immediately preceding text appears at serial pages (276632) to (276634).

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