

## **Rule 1601. PERMANENCY HEARING NOTICE**

**A.** At least fifteen days prior to the hearing, the court or its designee shall give notice of the permanency hearing to:

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

**B.** **If the county agency intends to request a goal change from reunification, then either the notice shall state this purpose or the county agency shall give separate notice of the intended goal change in accordance with paragraph (A).**

### **Comment**

**Given the significance of discontinuing the goal of reunification, the requirement of paragraph (B) is intended to ensure that parties, counsel, and interested persons have notice of the purpose of the hearing and are able to prepare to participate and to attend the hearing.**

**Official Note:** Rule 1601 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. **Amended \_\_\_\_\_, 2017, effective \_\_\_\_\_, 2017.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1601 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1601 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011). **Final**

**Report explaining the amendments to Rule 1601 published with the Court's Order  
at Pa.B. ( , 2017).**

## **Rule 1609. PERMANENCY HEARING ORDERS**

- A. **Court Order.** After every permanency hearing, the court shall issue a written order, which provides whether the permanency plan is best suited to the safety, protection, and physical, mental, and moral welfare of the child.
- B. **Determination made.** The court's order shall reflect a determination made pursuant to Rule 1608(D).
- C. **Transfer of custody.** If the court decides to transfer custody of the child to a person found to be qualified to provide care, shelter, and supervision of the child, the permanency order shall include:
- 1) the name and address of such person unless disclosure is prohibited by court order;
  - 2) the limitations of the order, including the type of custody granted; and
  - 3) any temporary visitation rights of parents.
- D. **Orders on family finding.**
- 1) The court order shall indicate whether family finding efforts made by the county agency were reasonable;
  - 2) If the family finding efforts were not reasonable, the court shall order the county agency to engage in family finding prior to the next permanency hearing;
- E. **Orders concerning education.**
- 1) The court's order shall address the stability and appropriateness of the child's education; and
  - 2) When appropriate, the court shall appoint an educational decision maker pursuant to Rule 1147.
- F. **Orders concerning health care and disability.**
- 1) The court's order shall identify, monitor, and address the child's needs concerning health care and disability; and

2) The court's orders shall authorize evaluations and treatment if parental consent cannot be obtained.

G. **Guardians.** The permanency order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

**H. Orders concerning discontinuation of reunification goal. If the court orders the discontinuation of reunification as a goal and notice was not provided in accordance with Rule 1601(B), then the court may grant rehearing upon request or its own motion.**

### Comment

When issuing a permanency order, the court should issue an order that is "best suited to the safety, protection, and physical, mental, and moral welfare of the child." 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. [Ct.] 2006) (citing *In re Tameka M.*, [525 Pa. 348,] 580 A.2d 750 (Pa. 1990)), for issues addressing a child's mental and moral welfare.

Pursuant to paragraph (D), when making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. See also Rules 1240(B)(6), 1242(C)(2) & (3)(b) & (c), and 1330(B)(6) and Comments to Rules 1242, 1330, 1409, 1515, 1608, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 62 P.S. § 1301 *et seq.* See also Rules 1210(D)(8), 1242(E)(3), and 1409(C) and Comments to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1610, and 1611.

Pursuant to paragraph (E), the court's order is to address the child's educational stability, including the right to an educational decision maker. The order should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. § § 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P. S. § § 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. § 1400 *et seq.*; 4) the educational services necessary to support the child's

transition to independent living pursuant to 42 Pa.C.S. § 6351 if the child is sixteen or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days.

Pursuant to paragraph (F), the court's order is to address the child's needs concerning health care and disability. The order should address the right of: 1) a child to receive timely and medically appropriate screenings and health care services pursuant to 55 Pa. Code §§ 3700.51 and 3800.32 and 42 U.S.C. § 1396d(r); 2) a child to a transition plan that addresses the child's health care needs, and includes specific options for how the child can obtain health insurance after leaving care pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days; and 3) a child with disabilities to receive necessary accommodations pursuant to 42 U.S.C. § 12132; 28 C.F.R. § 35.101 *et seq.*, Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq.* In addition, the court is to ensure progress and compliance with the child's case plan for the ongoing oversight and coordination of health care services under 42 U.S.C. § 622(b)(15).

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a child and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

See Rule 1611 for permanency hearing orders for children over the age of eighteen.

**Official Note:** Rule 1609 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. **Amended** , **2017, effective** , **2017.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1609 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1609 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1609 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013). Final Report explaining the amendments to Rule 1609 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015). **Final Report explaining the amendments to Rule 1609 published with the Court's Order at Pa.B. (    , 2017).**