

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

REPORT

Proposed Adoption of Pa.R.J.C.P. 1612

The Juvenile Court Procedural Rules Committee proposes the adoption of Pennsylvania Rule of Juvenile Court Procedure 1612 to implement requirements of the Family First Prevention Services Act, as set forth in 42 U.S.C. § 675a(c), concerning placements in qualified residential treatment programs.

On February 9, 2018, the Family First Prevention Services Act amended 42 U.S.C. § 675a to add subsection (c). The new subsection requires that a qualified individual assess a dependent child's strengths and needs, determine the appropriateness of placement, and develop mental and behavior health goals for the child within 30 days of placement in a qualified residential treatment facility. Within 60 days of the placement, the court is to consider the assessment, determine the appropriateness of placement, and approve or disapprove the placement. Additionally, as long as the child remains in a qualified residential treatment facility, evidence must be submitted at each "status review" and permanency hearing demonstrating the appropriateness of the placement, the length of time the child is expected to need treatment or services, and preparations for transition of the child from the current placement.

The Act is effective October 1, 2019, but states have the option of delaying the effective date for up to two years. It is understood that the Pennsylvania Department of Human Services intends to request a one-year delay so this aspect of the Act would not become effective in Pennsylvania until October 1, 2020. Accordingly, it is contemplated that the proposed new rule would have an effective date of October 1, 2020 to coincide with the one-year delay.

Placement of the proposed rule in either Chapter 15 (Dispositional Hearing) or Chapter 16 (Post-Dispositional Procedures) was contemplated. While a qualified residential treatment program placement may occur at the time of disposition, the 30- and 60-day requirements of the proposed rule do not apply until after the initial placement. Therefore, the requirements are considered "post-dispositional" in nature. Accordingly, the proposed rule is located in Chapter 16.

The Act defines "qualified individual" and provides that a state may request a waiver of any definitional requirement if it certifies that the trained professionals or licensed clinicians with the responsibility for performing the assessments will maintain objectivity with respect to determining the most effective and appropriate placement for a child. See 42 U.S.C. § 675a(c)(1)(D). At this juncture, it is unknown whether

Pennsylvania will seek and receive such a waiver. Therefore, the Comment refers readers to the statutory definition of “qualified individual.”

Concerning the frequency of continued demonstration and documentation required by 42 U.S.C. § 675a(c)(4) and set forth in paragraph (C) of the proposed rule, the Act refers to each “status review” and permanency hearing. The Pennsylvania Rules of Juvenile Court Procedure do not provide for “status reviews.” The Comment to Pa.R.J.C.P. 1608 (Permanency Hearing) states: “In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences that address specific issues based on the circumstances of the case and assist the court in ensuring timely permanency.” In light of the existing use of “review hearing” and “status conference,” the Committee was hesitant to introduce another type of proceeding, *e.g.*, “status review,” within Pennsylvania dependency practice. Instead, the Committee favored the more generalized “review” to indicate the frequency.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.