

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 154**

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]Pa.R.C.P. No. 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]Pa.R.C.P. No. 1915.15([b]c)**.

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]Pa.R.C.P. No. 1915.15(a)**.

Note: **[Rule]Pa.R.C.P. No. 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.

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]Pa.R.C.P. No. 1930.6**.

(e) A grandparent, who is not **[in loco parentis]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 **23 Pa.C.S. § 5324(3) in paragraph 9 of the complaint set forth in Pa.R.C.P. No. 1915.15(a)**. 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 **in paragraph 9 of the complaint set forth in Pa.R.C.P. No. 1915.15(a)**.

(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.

(g) Prior to the initial in-person custody proceeding as set forth in Pa.R.C.P. No. 1915.4(a), whether the action has been commenced by a complaint or petition, the court shall ascertain if the child, who is the subject of the custody action, has a court active juvenile case or is otherwise involved with a child protective services agency.

(1) If the court determines the child is the subject of an active juvenile case, the court shall:

- i. enter an order temporarily staying further custody proceedings for 30 days; and
- ii. refer the custody action to the presiding juvenile judge for further consideration by the juvenile court.

(2) Upon expiration of the 30-day stay, the plaintiff/petitioner in the custody action may petition the custody court to schedule the initial in-person custody proceeding or the court on its own motion may issue a scheduling order, unless the juvenile court issues an order relative to the custody action.

Note: See 23 Pa.C.S. §§ 5329.1 and 6340(a)(5.1) and 42 Pa.C.S. § 6307(a)(4.1). Notwithstanding the court's inquiry under this subdivision, additional information may be necessary to fulfill the court's obligation under 23 Pa.C.S. § 5328(a)(2.1) as to the parties, their household members, and the child.

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]a** petition for modification, **[any]a** counterclaim, **[any]a** petition for contempt or **[any]a** 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]Pa.R.C.P. No. 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]The** 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.

Note: The court shall consider evidence of a criminal record or abusive history, **and the verification required by subdivision (c)** 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 **record** 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]a listed crime or offense**, neither I nor **[any other]a** member of my household **[have]has** 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 **or offenses** in Pennsylvania or a substantially equivalent crime **or offense** in **[any other jurisdiction]another state**, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<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"/>	_____	_____
<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"/> | _____ | _____ |
| <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 | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

death of child)

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <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"/> | _____ | _____ |
| <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"/> | <u>42 Pa.C.S. § 62A14</u>
<u>(relating to contempt for violation of protection order or agreement)</u> | <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:

Check all that apply	Self	Other household member	Date
<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"/>	_____]

2. Unless I have checked a box next to one of the following statements, none of the statements is true with regard to a member of my household, a child of mine, or me.

<u>Check all that apply</u>	<u>Self</u>	<u>A household member</u>	<u>Child</u>
<input type="checkbox"/> <u>Involvement with a Children & Youth Agency in Pennsylvania or similar agency in another state.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A finding of abuse by a Children & Youth Agency in Pennsylvania or similar agency in another state.</u> <u>Where?:</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>An adjudication of dependency or delinquency under the Juvenile Act in Pennsylvania or similar law in another state.</u> <u>Is the case active?</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A history of abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar law in another state.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <u>A history of sexual violence or intimidation as defined under the Protection of Victims of Sexual Violence and Intimidation Act in Pennsylvania or similar law in another state.</u>	<input type="checkbox"/>	<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