

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

Rule 1915.3. Commencement of Action. Complaint. Order. Inquiry.

(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,] See 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]in Pa.R.C.P. No. 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]e) 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.

(f) After a party initiates a custody action, whether by complaint or petition:

(1) the court shall determine if:

(i) the child is the subject of a proceeding within the jurisdiction of the juvenile dependency court;

(ii) the child had been previously adjudicated dependent;

(iii) services have been provided to the child's family by a child protective services agency; or

(iv) an investigation of the child's family has been initiated by a child protective services agency.

Note: See Pa.R.J.C.P. No. 1120 for the definition of proceeding within the context of a juvenile dependency case.

(2) Upon indication of the existence of the circumstances described in subdivision (1)(i), the judge assigned to the custody action shall communicate directly with the dependency court judge and thereafter make a determination whether the custody action should be stayed or proceed in accordance with Pa.R.C.P. No. 1915.4.

(i) If the custody action is stayed by the custody court, the court shall indicate in its order staying the custody action the circumstances in which the stay will be lifted and the custody action may proceed.

(ii) Upon lifting of the stay, a party to 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.

(3) Upon indication of the existence of any circumstance described in subdivision (1)(ii)-(iv), the court shall proceed in a manner necessary to fulfill its obligation under 23 Pa.C.S. § 5328(a)(2.1) as to the parties, their household members, and the child when ordering any form of custody.

Note: See 23 Pa.C.S. §§ 5329.1 and 6340(a)(5.1) and 42 Pa.C.S. § 6307(a)(4.1).

Rule 1915.3-2. Criminal Record or Abuse History.

(a) *Criminal Record or Abuse History Verification.* A party must file and serve with **[the]a** 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]the** 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 **record** or abuse history of **[either]a** 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]record** or a party with a household member who has a criminal **[history]record**, 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"/>	_____	_____

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|--------------------------|--|--------------------------|--------------------------|-------|-------|
| <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"/> | _____ | _____ |

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| <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"/> | _____ | _____ |
| <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"/> | _____ | _____ |

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|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <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"/> | _____ |

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|--------------------------|--|--------------------------|--------------------------|--------|
| <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> Where?: _____	<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> Is the case active? _____	<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"/>

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.

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