

Proposed Amendment to Pa.R.O.C.P. No. 15.6 & Explanatory Note

INTRODUCTION

The Orphans' Court Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 15.6 to create a procedure for data collection for the Office of Children and Families in the Courts. The proposal also recommends the addition of an *Explanatory Note* to Rule 15.6 concerning this amendment. This proposal has not been submitted for review by the Supreme Court of Pennsylvania prior to publication.

The following Explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Explanatory Reports should not be confused with the official Committee *Explanatory Note* in the rules. Also observe that the Supreme Court does not adopt the Committee's *Explanatory Note* or the contents of the Explanatory Report.

The text of the proposed amendments to the rule follows the Explanatory Report. Additions are shown in bold and are underlined; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

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no later than Monday, October 8, 2012.

BY THE ORPHANS' COURT PROCEDURAL RULES COMMITTEE:

Margaret Gallagher Thompson, Esq., Chair

EXPLANATORY REPORT

Proposed Amendment to Pa.R.O.C.P. No. 15.6 & Explanatory Note Certification Filed at Dependency Docket

Background

The Orphans' Court Procedural Rules Committee ("Committee") was approached by the Office of Children & Families in the Courts ("Office"), seeking assistance in the form of a procedural rule that would assist the Office in data collection and reporting. There is an impending federal requirement pursuant to the Court Improvement Project to report outcome data for dependent children. Relevant to this particular proposal, the data sought pertains to voluntary relinquishment of parental rights to a county agency, involuntary termination of parental rights initiated by a county agency, and adoption proceedings involving these dependent children, including appeals thereof.

At the state-level, the Court has expanded the Common Pleas Case Management System (CPCMS) to include a dependency module, which, among other things, enhances data collection and monitors children in dependency proceedings. However, the CPCMS does not yet include orphans' court proceedings; nor does it appear that such an expansion will be implemented in time for the Office's reporting needs.

Absent a CPCMS orphans' court module, there is no automated way for the two court systems to exchange information. Since the CPCMS dependency module is operational, the Committee considered, *inter alia*, that data from the orphans' court docket be manually conveyed to the dependency court clerk for entry into the CPCMS dependency module so the necessary reports can be generated.

Precedent for using procedural rules to collect data exists with the coversheet requirement for civil actions. On February 25, 2010, the Court adopted Pa.R.C.P. No. 205.5, requiring a coversheet form to be filed with the prothonotary in civil actions for gathering caseload data by the type of case.

Proposed Rule

The procedure embodied in this recommendation would require the county agency to file a certification to be entered on the dependency court docket disclosing limited information about the orphans' court proceedings. In all of the proceedings, whether in the dependency court or orphans' court, the one ever-present party (other than the child) is the county agency. The county agency would have knowledge of the placement of the child and the stage of the legal proceedings concerning the child; therefore, the rule requires the county agency to file the certification.

To maintain consistency of data collection and minimize administrative burden, the Committee proposes the use of a certification, substantially in the form contained in the proposed amendment of Rule 15.6(B).

Rule 15.6. Notice **to persons**; method; **certification filed at dependency docket [and time]**.

(A) Notice to every person to be notified shall be by personal service, service at his or her residence on an adult member of the household, or by registered or certified mail to his or her last known address. If such service is unobtainable and the registered mail is returned undelivered, then:

(1) no further notice shall be required in proceedings under Rules 15.2 or 15.3, and

(2) in proceedings under Rules 15.4 and 15.5, further notice by publication or otherwise shall be given if required by general rule or special order of the local Orphans' Court. If, after reasonable investigation, the identity of a person to be notified is unknown, notice to him or her shall not be required.

(B) When the child is in the custody of a county agency:

(1) within three (3) days of filing of a petition to terminate parental rights under Rules 15.2 or 15.4, or a petition to adopt under Rule 15.5, the county agency shall file a written certification with the clerk of courts where the child was declared dependent using the caption of the dependency proceeding, indicating the name of the petition and date of filing in substantially the following form:

(Dependency Caption)

I hereby certify that the following has been filed on _____ with the orphans' court in _____ County concerning the above-child:

A petition to relinquish parental rights of _____.

A petition to terminate parental rights of _____.

A petition for adoption.

Date: _____

On behalf of: [county agency]

(2) within three (3) days of receiving the court's disposition of the petitions described in subparagraph (B)(1), the county agency shall file a written certification with the clerk of courts where the child was declared dependent using the caption of the dependency proceeding, indicating the disposition of the petition and date of the order in substantially the following form:

(Dependency Caption)

I hereby certify that the following has been entered on _____ by the orphans' court in _____ County concerning the above-child:

- An order granting denying (circle one) the petition to relinquish parental rights of _____.
- An order granting denying (circle one) the petition to terminate parental rights of _____.
- With the above-order relinquishing or terminating parental rights, the child is available for adoption. Do not check if at least one parent still has parental rights.
- An order granting denying (circle one) the petition for adoption .

Date: _____

On behalf of: [county agency]

(3) if a notice of appeal from an order described in subparagraph (B)(2) is filed, then within three (3) days of service of the notice of appeal, the county agency shall file a written certification with the clerk of courts where the child was declared dependent using the caption of the dependency proceeding, indicating the date of the appeal in substantially the following form:

(Dependency Caption)

I hereby certify that an appeal has been filed on _____ concerning the above-child _____ from the following orphans' court order:

- An order granting denying (circle one) the petition to terminate parental rights of _____.
- An order granting denying (circle one) the petition for adoption.

Date: _____

On behalf of: [county agency]

(4) within three (3) days of receiving the appellate court’s disposition of the appeal described in subparagraph (B)(3), the county agency shall file a written certification with the clerk of courts where the child was declared dependent using the caption of the dependency proceeding, indicating the disposition of the appeal and the date of the decision in substantially the following form:

(Dependency Caption)

I hereby certify that the appeal from the orphans’ court order concerning the above-child has been disposed on _____ in the following manner:

- Quashed Affirmed Reversed Vacated & Remanded
- Other: _____

Date: _____

On behalf of: [county agency]

Explanatory Note: This Rule was amended in 2012 to add paragraph (B). The purpose of this amendment was to provide a procedure for the collection of data concerning children who have been declared dependent under the Juvenile Act and placed in the custody of the county agency. The information is entered into the Common Pleas Case Management System-Dependency Module for federal reporting requirements and to monitor children in the foster care system. Unlike a “notice”, as used in paragraph (A), the county agency is not required to serve the certification upon the other party to the dependency, termination, or adoption proceeding. The definition of “county agency” as used in this Rule is that contained in Pa.R.J.C.P. 1120. Where used in this Rule, “orphans' court” is intended to include the family court of the First Judicial District.