

INTRODUCTION

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 1613 be adopted and prescribed. The proposed modified Rule 1613 provides each method for terminating court supervision in dependency cases. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the rule. Please note that the Committee's *Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

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

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Thursday, November 6, 2008.

September 29, 2008

BY THE JUVENILE COURT PROCEDURAL RULES
COMMITTEE:

Francis Barry McCarthy, Chair

A. Christine Riscili, Esq.
Staff Counsel

EXPLANATORY REPORT

RULE 1613 - TERMINATION OF COURT SUPERVISION

The proposed modified Rule 1613 provides each method for terminating a case. This change will eliminate any confusion as to how a dependency case can be terminated. This will also enable a more efficient tracking of the dependency cases and the reasons for their termination.

Paragraphs (A)(1) &(2) are preferred permanency choices under the Juvenile Act. 42 Pa.C.S. §§ 6301(b) & 6351(f.1)(1).

Paragraph (A)(3) is addressed by *In re M.L.*, 562 Pa.646, 757 A.2d 849 (2000). A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. If this parent comes forward after the commencement of dependency proceedings, the court may terminate the dependency supervision and enter an order awarding custody to the parent. See paragraph (B).

Paragraphs (A) (4) - (7) are other permanency options provided for in the Juvenile Act. 42 Pa.C.S. § 6351 (F.1)(2)-(5).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa.Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication so the child can obtain dependency services from the county agency.

The court may also decide to emancipate the child under paragraph (A)(9). See *Berks County Children and Youth Services v. Rowan*, 428 Pa.Super. 448, 631 A.2d 615 (1993). See also, 22 Pa.Code § 11.11, 55 Pa.Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa.Code §§ 3130.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may also transfer the case to another court. See paragraphs (A)(12)&(13).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa.Super. 439, 619 A.2d 758 (1993).

RULE 1613. TERMINATION OF COURT SUPERVISION

A. **Concluding Supervision.** Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- 1) **the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;**
- 2) **the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;**
- 3) **the child has been placed with a ready, willing, and able parent **who was not previously identified by the county agency** [has come forward];**
- [2]4) the child has been adopted **and services from the county agency are no longer needed;**
- [3) the court has transferred jurisdiction to another court;]
- 5) **the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;**
- 6) **the child has been placed in the custody of a fit and willing relative and services from the county agency are no longer needed;**
- 7) **the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed;**
- 8) **the child has been adjudicated delinquent and services from the county agency are no longer needed;**
- 9) **the child has been emancipated by the court;**
- [4]10) the child is eighteen years old and [no longer wants service] **refusing further services from the county agency;**
- 11) **the child has died;**
- 12) **a court in another county of this Commonwealth has accepted jurisdiction; or**
- 13) **a court in another state has accepted jurisdiction.**

[5) the court has found other reasons for termination of court supervision; or

6) a) the family has completed the terms of the family service plan or permanency plan; and

b) the child is returned to the guardian.]

- B. **Ready, willing, and able parent.** When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A)([2]3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to Pa.R.C.P.
- C. **Objection.** Any party may object to a motion under paragraphs (A) and request a hearing.
- D. **Hearing.** If objections have been made under paragraph (C), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.
- E. **Cessation of services.** When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

COMMENT

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under paragraph (A), see [See also,] 42 Pa.C.S. §§ 6301(b) & 6351(f.1).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa.Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, 428 Pa.Super. 448, 631 A.2d 615 (1993). See also, 22 Pa.Code § 11.11, 55 Pa.Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa.Code §§ 3130.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa.Super. 439, 619 A.2d 758 (1993).

A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). See paragraph (B).

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, 375 Pa.Super. 88, 543 A.2d 1192 (1988).

Official Note: Rule 1613 adopted August, 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1613 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).