

## **INTRODUCTION**

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 1320 and 1330 and the new rule 1324 be adopted and prescribed. The proposed modified Rule 1320 sets forth that any person may present an application for a private petition. The new proposed Rule 1324 allows juvenile probation officers to file a petition in certain cases. The proposed modified Rule 1330 adds that juvenile probation officers may file dependency petitions. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the rules. 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 Friday, December 21, 2007.**

October 25, 2006

BY THE JUVENILE COURT PROCEDURAL RULES  
COMMITTEE:

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Francis Barry McCarthy, Chair

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A. Christine Riscili, Esq.  
Staff Counsel

## ***EXPLANATORY REPORT***

### **RULE 1320 - APPLICATION TO FILE A PRIVATE PETITION**

The Committee is proposing that the Comment to this Rule include a cite to the New Rule 1324 which provides for the filing of petitions by the juvenile probation officer.

### **RULE 1324 - PETITIONS BY JUVENILE PROBATION OFFICERS**

This new proposed rule allows the juvenile probation officer to file a dependency petition in certain classes of cases. The juvenile probation officer may file a petition in the status offense cases pursuant to 42 Pa.C.S. § 6302 paragraphs (5) through (9) or in any class of dependency case if it is in conjunction with a delinquency proceeding.

### **RULE 1330 - PETITION: FILING, CONTENTS, FUNCTION, AGGRAVATED CIRCUMSTANCES**

The Committee is proposing that the Comment to this Rule include the ability of the juvenile probation officer to file dependency petitions in certain classes of cases.

## **RULE 1320. APPLICATION TO FILE A PRIVATE PETITION**

- A. **Application contents.** Any person, ~~other than the county agency,~~ may present an application to file a private petition with the court. The application shall include the following information:
- 1) the name of the person applying for a petition;
  - 2) the name of the alleged dependent child;
  - 3) the relationship of the person presenting this application to the child and to any other parties;
  - 4) if known, the following:
    - a) the date of birth and address of the child;
    - b) the name and address of the child's guardian, or the name and address of the nearest adult relative;
    - c) if a child is Native American, the child's Native American history or affiliation with a tribe;
    - d) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;
  - 5) a concise statement of facts in support of the allegations for which the application for a petition has been filed;
  - 6) a statement that the applying person has reported the circumstances underlying this application to the county agency or a reason for not having reported the circumstances underlying the application;
  - 7) a verification by the person making the application that the facts set forth in the application are true and correct to the person's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and
  - 8) the signature of the person and the date of the execution of the application for a petition.
- B. **Service.** If a person presents an application for a petition under this rule, the person shall serve the application on the court and all parties to the proceeding.

## COMMENT

Rule 1330 requires that the county agency file a petition. Any person, other than the county agency **or the juvenile probation officer**, is to file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

*See* Rule 1321 for hearing on application and finding that a petition is to be filed by the county agency.

**See Rule 1324 for the ability of juvenile probation officers to file dependency petitions. An application for a private petition under this rule is not necessary in those cases.**

**Official Note:** Rule 1320 adopted August 21, 2006, effective February 1, 2007. **Amended --, effective --.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the modifications of Rule 1320 published with the Court's Order at -- Pa.B. --.**

**RULE 1324. PETITIONS BY JUVENILE PROBATION OFFICERS**

**A juvenile probation officer may file a dependency petition:**

- 1) pursuant to 42 Pa.C.S. § 6302, dependent child paragraphs (5) through (9); or**
- 2) in conjunction with a delinquency proceeding.**

**COMMENT**

**A juvenile probation officer may seek to invoke the court's jurisdiction under the "status offense" definition of a dependent child under the Juvenile Act, 42 Pa.C.S. § 6302, dependent child paragraphs 5 through 9, or at any time during the course of a delinquency proceeding.**

**Official Note: Rule 1324 adopted -, effective -.**

**Committee Explanatory Reports:**

**Final Report explaining the provisions of Rule 1324 published with the Court's Order at - Pa.B.- (-, 2007).**

**RULE 1330. PETITION: FILING, CONTENTS, FUNCTION, AGGRAVATED CIRCUMSTANCES**

**A. Filings.**

- 1) A dependency petition may be filed at any time; however, if a child is taken into custody, the requirements of paragraph (A)(2) shall be met.
- 2) Within twenty-four hours of the shelter care hearing, the county agency or the juvenile probation officer shall file a dependency petition with the clerk of courts when:
  - a) the child remains in protective custody pursuant to Rule 1201, 1202 or 1210; or
  - b) the child is not in protective custody but it is determined at a shelter care hearing pursuant to Rule 1242 that the filing of a dependency petition is appropriate.

**B. Petition contents.** Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address of the child, if known;
- 3) the name and address of the child's guardian, or if unknown, the name and address of the nearest adult relative;
- 4) if a child is Native American, the child's Native American history or affiliation with a tribe;
- 5) a statement that:
  - a) it is in the best interest of the child and the public that the proceedings be brought;
  - b) the child is or is not currently under the supervision of the county agency;
- 6) a concise statement of facts in support of the allegations for which the petition has been filed;
  - a) facts for each allegation shall be set forth separately;
  - b) the relevant statute or code section shall be set forth specifically for each allegation;

- 7) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 8) the signature of the petitioner and the date of the execution of the petition;  
and
- 9) the whereabouts of the child unless disclosure is prohibited by court order and if taken into custody, the date and time thereof.

C. **Aggravated circumstances.** A motion for finding of aggravated circumstances may be brought in the petition pursuant to Rule 1701(A).

#### COMMENT

Petitions should be filed without unreasonable delay.

Under paragraph (A)(2), a petition is to be filed twenty-four hours after the shelter care hearing if the requirements of (A)(2)(a) and (b) are met. Rule 1800 suspends 42 Pa.C.S. § 6331 only as to the time requirement of when a petition is to be filed.

Additionally, paragraph (A)(2) requires that the county agency file a petition. Any other person, other than the county agency, is to file an application to file a petition under Rule 1320 **unless the exception under Rule 1324 applies.** Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

For the safety or welfare of a child or a guardian, the court may order that the addresses of the child or a guardian not be disclosed to specified individuals.

A motion for finding of aggravated circumstances may be brought in a dependency petition. *See* Rule 1701(A). If aggravated circumstances are determined to exist after the filing of a petition, a written motion is to be filed pursuant to Rules 1701 and 1344.

The aggravated circumstances, as defined by 42 Pa.C.S. § 6302, are to be specifically identified in the motion for finding of aggravated circumstances.

**Official Note:** Rule 1330 adopted August, 21, 2006, effective February 1, 2007. **Amended --, effective --.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1330 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the modifications of Rule 1330 published with the Court's Order at -- Pa.B. --(-,2007).**