

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 1604 and 1800 with this Recommendation. The changes are effective July 1, 2011.

EXPLANATORY REPORT APRIL 2011

As the Committee was reviewing a proposed local rule, the Committee decided it should clarify the intent of Rule 1604.

When drafting Rule 1604, the Committee was concerned with the court receiving *ex parte* communications. The Committee expected that the judge would not be receiving this report itself because it is *ex parte*.

The Juvenile Act was amended in 2008, adding the right for a foster parent, preadoptive parent, or relative providing care for the child to submit a report to the court. See 42 Pa.C.S. § 6336.1.

The Committee clarified the procedure on how the report was to be submitted by proposing the addition of a new Rule 1604. The Court adopted this rule in December of 2009.

In Rule 1604(D), the Committee used the term “court designee,” rather than the term “court.” The intent was that someone other than the judge would file this report with the clerk of courts and distribute copies to the judge, attorneys, parties, and if applicable, the court-appointed special advocate. The judge would not be the person filing the report or distributing copies.

Additionally, Rule 1604(E) provides that the court shall examine this report and consider its contents as it would consider any other evidence in the case. Generally evidence must be properly entered into the record by a party prior to the court reviewing the evidence. Then, the court would also reject, as *ex parte* communication, any other report sent directly to the judge.

The modified rule explicitly states in 1604(B), that the President Judge of each judicial district shall appoint a designee, other than **a judge or a party**, to receive these reports.

Rule 1800 suspends 42 Pa.C.S. § 6336.1 only to the extent that it conflicts with Rule 1604, in that a report may not be sent directly to the judge as an *ex parte*

communication. It must follow the normal procedures and be submitted as evidence. The report would be considered by the court as it considers all other evidence.