

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the amendments to Rules 1120, 1150, 1151, 1200, 1608, 1609, and 1613, and renumbered Rule 1613 to Rule 1631, and adopted new Rules 1610, 1611, 1634, and 1635. The amendments are effective December 1, 2013.

EXPLANATORY REPORT OCTOBER 2013

Rule discussion

With the enactment of the Act of July 5, 2012 (P.L. 880, No. 91, Cl. 18), a child may request the court to resume juvenile court jurisdiction if specific requirements are met.

Rule 1120

The definition of a child now includes those children who are under twenty-one years of age and were adjudicated dependent prior to turning eighteen years of age and who are requesting the court to resume juvenile court jurisdiction after jurisdiction had been previously terminated.

In addition, these children must be: 1) completing secondary education or an equivalent credential; 2) enrolled in an institution which provides postsecondary or vocational education; 3) participating in a program actively designed to promote or prevent barriers to employment; 4) employed for at least eighty hours per month; or 5) incapable of doing any of the activities as prescribed above due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan for the child. See 42 Pa.C.S. § 6302.

Rules 1150 and 1151

Courts should easily be accessible to children requesting the court to resume jurisdiction of their cases. If the child contacts the previously assigned attorney, the attorney should assist the child in filing a motion for resumption of jurisdiction. If extenuating circumstances exist and the attorney cannot represent the child, the attorney should still file the motion for the child but explain the circumstances to the court and ask not to be reappointed.

The court is to appoint counsel for the child in the new resumption of jurisdiction case. The *Comment* to Rule 1151 provides that it is best practice for the court to assign the previous attorney as counsel for the child if they are available.

Rule 1200

Dependency proceedings commence when a motion for resumption of jurisdiction pursuant to Rule 1634 has been filed.

If the court grants the motion for resumption of jurisdiction, dependency proceedings would continue and regular permanency hearings would occur for children over eighteen pursuant to Rule 1611.

Rules 1608 & 1609

References to the new rules for permanency hearings and permanency hearing orders for children over eighteen have been placed in the *Comments*.

Rule 1610

This is a new separate rule for permanency hearing for children over eighteen. The Committee thought it was important to have a different rule for these children because the purpose of the hearing is slightly different. There is only a transition plan for these children with no permanency plan.

Paragraph (A) provides the purpose and the timing of the hearing. The court must conduct hearings every six months. The child must appear in person at the six-month hearing. See Rules 1128 and 1129.

Paragraph (B) provides that the hearing must be recorded and paragraph (C) sets forth the evidentiary standard for the hearing.

Paragraph (D) provides the findings and conclusions of law that the court must enter into the record in open court.

Rule 1611

This is a new separate rule that governs the permanency hearing orders for children over eighteen.

Rule 1631

The *Comment* to the Rule explains that a new transition plan is to be developed for the child if the court resumes jurisdiction. Before those cases can be terminated, the requirements of paragraph (E) must be met.

All dependency cases must be terminated when the child turns twenty-one. See Rules 1120 and 42 Pa.C.S. § 6302 for definition of “child” and *Comments* to Rules 1631 and 1635.

Rule 1634

This new rule governs venue, the contents of the motion for resumption of jurisdiction, and service of the motion.

If the child meets the definition of “child,” a motion for resumption of jurisdiction must be filed with the court that terminated court supervision. There would be no record of the case in any other court. The *Comment* to Rule 1634 provides that if the juvenile has moved to another county, the court may transfer the case pursuant to Rule 1302 at any time after the filing of the motion, including prior to the hearing on the motion. See paragraph (A).

Paragraph (B) governs the contents of the motion, including whether the child wants his or her parent, guardian, or other interested adult involved in the court proceedings. There may be instances in which the court would want to order parental involvement even when the child does not desire to have the parents present or involved in the case. See 42 Pa.C.S. § 6310 for parental participation.

Paragraph (C) provides for service of the motion. If the child is filing the motion, the President Judge is to designate a person to serve the other parties. See *Comment*.

The *Comment* to the rule provides that the child, county agency, or attorney for the child may file the motion for resumption of jurisdiction. The clerk of courts must accept all resumption motions. See *Comment* to Rule 1200. Children should have access to the court and all parties approached by the child should assist the child in the filing of the motion. Counties may have form motions available for the child to fill out at the clerk of courts’ and county agency’s offices.

Rule 1635

This new rule provides for the hearing on the resumption of jurisdiction. Within thirty days of receiving a motion to resume juvenile court jurisdiction, the court must conduct a hearing on the motion. See paragraph (A).

Pursuant to paragraph (B), notice of the date, time, place, and purpose of the hearing must be given to the county agency, the attorney for the county agency, the child, the child’s attorney, and any other persons as directed by the court.

After the court has determined whether jurisdiction can be resumed and has made findings and conclusions of law on the record in open court pursuant to paragraph (C), the court must enter an order pursuant to paragraph (D).

Paragraph (E) governs termination of court supervision in resumption cases. Because a resumption of jurisdiction case is commenced upon the filing of a motion, if the court denies the motion for resumption of jurisdiction, an order terminating supervision must be entered to close the case.

Advanced communication technology may be utilized pursuant to paragraph (F); however, the court must see the child in person every six months. See Rules 1128 and 1129.