

Rule 15.2. Definitions.

(a) In addition to the terms and definitions provided in **[Rule 1.3] Pa.R.O.C.P. 1.3**, the following words and phrases when used in Chapter XV shall have the following meaning:

- (1)** “Adopted Child” or “Adopted Individual.”~~[- any]~~ **Any** individual for whom a decree of adoption has been entered in accordance with 23 Pa.C.S. § 2902 after a hearing, or in accordance with the laws of another country or state of a similar import;
- (2)** “Adoptee.”~~[-an]~~ **An** individual as defined in 23 Pa.C.S. § 2102;
- (3)** “Agency.”~~[-an]~~ **An** entity or organization providing adoption services as defined in 23 Pa.C.S. § 2102 or 23 Pa.C.S. § 2732, as applicable;
- (4)** “Authorized Representative.”~~[-an]~~ **An** individual as defined in 23 Pa.C.S. § 2911 trained by the Department to handle certain requests for identifying information and to search for the subject of the request as necessary;
- (5)** “Birth Relative.”~~[-an]~~ **An** individual as identified in 23 Pa.C.S. § 2732;
- (6)** “Child.”~~[-an]~~ **An** adoptee or adopted individual who is a minor, or the individual whose parent’s rights are the subject of a termination proceeding;
- (7)** “Clerk.”~~[-the]~~ **The** clerk or department as defined in 23 Pa.C.S. § 2102;
- (8)** “Contact Agreement.”~~[-a]~~ **A** voluntary written agreement between a Prospective Adoptive Parent and a birth relative that is executed and approved by the court in accordance with 23 Pa.C.S. §§ 2731 *et seq.* and provides for continuing post-adoption contact or communication between the adopted child and the birth relative or between the adoptive parent and the birth relative;
- (9)** “Court.”~~[-the]~~ **The** division of the Court of Common Pleas conducting any proceeding under the Adoption Act;
- (10)** “Department.”~~[-the]~~ **The** Department of Human Services of the Commonwealth;

- (11) “Indian Child.” Any unmarried person who is under the age of 18 and is either: (1) a member of an Indian tribe; or (2) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.**
- (12) “Intermediary.”~~[-any]~~ **Any** person or agency arranging an adoption placement as defined in 23 Pa.C.S. § 2102;**
- (13) “Minor.”~~[-a]~~ **A** person who has not attained 18 years of age;**
- (14) “Presumptive Father.”~~[-the]~~ **The** man married to the child's mother at any time during the one-year period prior to the child's birth;**
- (15) “Prospective Adoptive Parents.”~~[-individuals]~~ **Individuals** with whom the adoptee has been placed for the purpose of adoption, or who have filed a report of intention to adopt under 23 Pa.C.S. § 2531;**
- (16) “Putative Father.”~~[-an]~~ **An** alleged birth father whose parental status has not been legally established and who is not a presumptive father;**
- (17) “Statement of medical, personal, or social history information.”~~[-the]~~ **The** information concerning an adopted individual or the birth family of an adopted individual as set forth in 23 Pa.C.S. §§ 2102, 2911. [The Rules in this Chapter use the term “statement of medical, personal, or social history information” because the Adoption Act refers to these statements in varying ways. Compare 23 Pa.C.S. §§ 2503(e), 2504(d), 2511(c) with 23 Pa.C.S. §§ 2923, 2934.]**
- (b) For any words and phrases not defined by these rules, see Pa.R.J.A. 106.**

Comment: The definition for “Indian child” in subdivision (a)(11) originates from the Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq., and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.2.

In Philadelphia County, jurisdiction over adoptions, terminations of parental rights, birth records, and related proceedings is exercised through the Family Court Division of the Philadelphia Court of Common Pleas. See 20 Pa.C.S. § 713. In all other counties, family court judges who have adjudicated a child dependent, conducted permanency hearings, or conducted other dependency proceedings may be assigned to the Orphans' Court Division for purposes of hearing petitions

to terminate parental rights or petitions to adopt a dependent child. See 42 Pa.C.S. § 6351(i).

The rules in this chapter use the term “statement of medical, personal, or social history information,” as defined in subdivision (a)(17) because the Adoption Act refers to these statements in varying ways. Compare 23 Pa.C.S. §§ 2503(e), 2504(d), 2511(c) with 23 Pa.C.S. §§ 2923, 2934.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: In Philadelphia County, jurisdiction over adoptions, terminations of parental rights, birth records, and related proceedings is exercised through the Family Court Division of the Philadelphia Court of Common Pleas. 20 Pa.C.S. § 713. In all other counties, family court judges who have adjudicated a child dependent, conducted permanency hearings, or conducted other dependency proceedings may be assigned to the Orphans' Court Division for purposes of hearing petitions to terminate parental rights or petitions to adopt a dependent child. 42 Pa.C.S. § 6351(i).

Rule 15.7. Voluntary Relinquishment to Agency.

- (a) **Petition.** A petition under 23 Pa.C.S. § 2501 to relinquish parental rights and duties with respect to a child who has been in the care of an agency shall contain the following averments:
- (1) the name, address, age, and racial background of each petitioner;
 - (2) the information required in **[subparagraph (1)] subdivision (a)(1)** as to any parent who is not a petitioner, including the birth father, presumptive father and putative father, or the reasons why the court should find such information is not necessary;
 - (3) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;
 - (4) the name, age, date of birth, place of birth, racial background, and gender of the child;
 - (5) **whether any petitioner has reason to know that the child is an Indian child as defined in Pa.R.O.C.P. 15.2(a)(11);**
 - (6)** the name and address of the agency having care of the child;
 - [(6)](7)** the date when the child was placed with the agency;
 - [(7)](8)** the reasons for seeking relinquishment;
 - [(8)](9)** whether each petitioner has been informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;
 - [(9)](10)** whether each petitioner has received any counseling concerning the termination of parental rights and the alternatives thereto and, if so, the name of the organization or qualified counselor providing such counseling services;
 - [(10)](11)** whether each petitioner has been informed of the opportunity for a birth relative of the child, including the petitioner, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified;

~~[(11)]~~[(12)]whether the agency's consent to accept custody of the child until such time as the child is adopted is attached to the petition; and

~~[(12)]~~[(13)]that each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily.

(b) **Exhibits.** The following exhibits shall be attached to the petition:

- (1) Documentation signed by each petitioner as required by 23 Pa.C.S. § 2501(a).
- (2) A verified statement from a representative of the agency, counsel for the agency, or counsel representing any other party that written notice was provided to the **[petitioner]** **petitioning** birth parent regarding the opportunity **[of]** **for** a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)]** **Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)]** **date** that such notice was given. A copy of the notice shall accompany this verified statement.
- (3) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition's filing, a verified statement from a representative of the agency, counsel for the agency, or counsel representing any other party that written notice was provided to the putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)]** **Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)]** **date** that such notice was given~~[.]~~ or the reasons why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (4) The joinder or consent of the agency having care of the child, including its consent to accept custody of the child until such time as the child is adopted.

(c) **Hearing and Decree.**

- (1) Notice of the hearing on the petition shall be provided in accordance with 23 Pa.C.S. § 2503(b), and in accordance with 23 Pa.C.S. § 2503(d) if the rights of a putative father are to be terminated as part of the same proceeding, and shall be served in accordance with **[Rule 15.4(b)(1)] Pa.R.O.C.P. 15.4(b)(1)**.
- (2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2503 and **[Rule 15.4(b)(1)] Pa.R.O.C.P. 15.4(b)(1)**.
- (3) The **[petitioner] petitioning** birth parent voluntarily relinquishing his or her parental rights shall be present at the hearing and available to be examined under oath.
- (4) If as part of hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency, counsel for the agency, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)] Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)] date** that such notice was given or the reasons why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (5) **At the hearing, the court shall inquire as to the efforts made by the petitioner to determine whether the child is an Indian child and whether any participant has reason to know whether the child is an Indian child pursuant to Pa.R.O.C.P. 15.24. All responses shall be placed on the record.**

Comment: The agency, the intermediary, or an attorney for a party shall provide notice of the opportunity to enter into a Contact Agreement to the Prospective

Adoptive Parents, a birth parent, and, in some instances, the child. See 23 Pa.C.S. § 2733(c). Notice to a birth relative who is not a birth parent is not statutorily required, although birth relatives may enter into and become parties to a Contact Agreement.

An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Pa.R.O.C.P. 15.3(b) (pertaining to prerequisites for any petition to terminate parental rights).

The court is required to inquire and determine whether any participant has reason to know whether the child is an Indian child. The court is also required to advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child. See Pa.R.O.C.P. 15.24.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: Section 2733(c) of the Adoption Act requires the agency, the intermediary or an attorney for a party to provide notice of the opportunity to enter into a Contact Agreement to the Prospective Adoptive Parents, a birth parent, and, in some instances, a child. Notice to a birth relative who is not a birth parent is not statutorily required, although birth relatives may enter into and become parties to a Contact Agreement.

An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b).

Rule 15.8. Voluntary Relinquishment to Adult Intending to Adopt Child.

(a) **Petition.** A petition under 23 Pa.C.S. § 2502 to relinquish parental rights with respect to a child who has been in the exclusive care of Prospective Adoptive Parents shall contain the following averments:

- (1) the name, address, age, and racial background of each petitioner;
- (2) the information required in **[subparagraph (1)] subdivision (a)(1)** as to any parent who is not a petitioner, including the birth father, presumptive father, and putative father, or the reasons why the court should find such information is not necessary;
- (3) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;
- (4) the name, age, date of birth, place of birth, racial background, and gender of the child;
- (5) **whether any petitioner has reason to know that the child is an Indian child as defined in Pa.R.O.C.P. 15.2(a)(11);**
- (6)** the date when the child was placed with the Prospective Adoptive Parents;
- [(6)](7)** the date when the Report of Intention to Adopt was filed;
- [(7)](8)** the reasons for seeking relinquishment;
- [(8)](9)** whether each petitioner has been informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;
- [(9)](10)** whether each petitioner has received any counseling concerning the termination of parental rights and the alternatives thereto and, if so, the name of the organization or qualified counselor providing such counseling services;
- [(10)](11)** whether each petitioner has been informed of the opportunity for a birth relative of the child, including the petitioner, to enter into a Contact Agreement with the Prospective Adoptive Parents;

~~[(11)]~~[(12)]whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under **[Rule 15.13] Pa.R.O.C.P. 15.13** has been filed;

~~[(12)]~~[(13)]whether the Prospective Adoptive Parents' consent to accept custody of the child until such time as the child is adopted is attached to the petition; and

~~[(13)]~~[(14)]that each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily.

(b) **Exhibits.** The following exhibits shall be attached to the petition:

- (1) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the **[petitioner] petitioning** birth parent regarding the opportunity to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)] Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)] date** that such notice was given. A copy of the notice shall accompany this verified statement.
- (2) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition's filing, a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)] Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)] date** that such notice was given[,], or the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (3) The signed consents of the Prospective Adoptive Parents to accept custody of the child until such time as the adoption is completed.

(c) **Hearing and Decree.**

- (1) Notice of the hearing on the petition shall be provided in accordance with 23 Pa.C.S. § 2503(b), and in accordance with 23 Pa.C.S. § 2503(d) if the rights of a putative father are to be terminated as part of the same proceeding, and shall be served in accordance with **[Rule 15.4(b)(1)] Pa.R.O.C.P. 15.4(b)(1)**.
- (2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2503 and **[Rule 15.4(b)(1)] Pa.R.O.C.P. 15.4(b)(1)**.
- (3) The **[petitioner] petitioning** birth parent voluntarily relinquishing his or her parental rights shall be present at the hearing and available to be examined under oath.
- (4) If as part of **the** hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2503(d), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)] Pa.R.O.C.P. 15.4(b)(1)(C)**, and the **[date(s)] date** that such notice was given or the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (5) **At the hearing, the court shall inquire as to the efforts made by the petitioner to determine whether the child is an Indian child and whether any participant has reason to know whether the child is an Indian child pursuant to Pa.R.O.C.P. 15.24. All responses shall be placed on the record.**

Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Pa.R.O.C.P. 15.3(b) (pertaining to prerequisites for any petition to terminate parental rights).

The court is required to inquire and determine whether any participant has reason to know whether the child is an Indian child. The court is also required to advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child. See Pa.R.O.C.P. 15.24.

For additional information about notice of the opportunity to enter into a Contact Agreement, see Pa.R.O.C.P. 15.7, cmt.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b). For additional information about notice of the opportunity to enter into a Contact Agreement, see the Explanatory Comment to Rule 15.7.

Rule 15.9. Alternative Procedure for Relinquishment by Confirmation of Consent to Adoption.

(a) **Petition.** A petition under 23 Pa.C.S. § 2504 to confirm the consent to adoption given by a birth parent, presumptive father, or putative father relinquishing parental rights and agreeing to have the child placed for adoption shall contain the following averments:

- (1) the name, address, age, and racial background of the consenter;
- (2) the information required in **[subparagraph (1)] subdivision (a)(1)** as to any parent who has not signed a consent to adoption, including the birth father, presumptive father, and putative father, or the reasons why the court should find such information is not necessary;
- (3) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;
- (4) the name, age, date of birth, place of birth, racial background, and gender of the child;
- (5) **whether any petitioner has reason to know the child is an Indian child as defined in Pa.R.O.C.P. 15.2(a)(11);**
- (6)** the date when the consent to adoption was executed by the consenter and that the consent was executed in accordance with 23 Pa.C.S. §§ 2711 and 2712;
- [(6)](7)** the number of days that have elapsed since the consent to adoption was executed by the consenter;
- [(7)](8)** whether the petitioner, counsel for the petitioner, or the agency or intermediary in those cases where the agency or intermediary is not the petitioner, has received any writing from the consenter revoking or attempting to revoke the previously executed consent to adoption;
- [(8)](9)** whether the consenter was informed of counseling services concerning the termination of parental rights and the alternatives thereto and provided with a list of qualified counselors and counseling services;
- [(9)](10)** whether the consenter received counseling concerning the termination of parental rights and the alternatives thereto and, if so,

the name of the organization or qualified counselor providing such counseling services;

~~[(10)]~~(11)whether the consenter has been informed of the opportunity for a birth relative of the child, including the consenter, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified; and

~~[(11)]~~(12)whether a consent by the Prospective Adoptive Parents or by the agency to accept custody of the child until such time as the child is adopted is attached to the petition, and if custody is to an individual, whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under **[Rule 15.13] Pa.R.O.C.P. 15.13** has been filed.

(b) **Exhibits.** The following exhibits shall be attached to the petition:

- (1) The original **[consent(s)] consent** to adoption.
- (2) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the consenter regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(2)(C)] Pa.R.O.C.P. 15.4(b)(2)(C)**, and the **[date(s)] date** that such notice was given. A copy of the notice shall accompany this verified statement.
- (3) If, as part of the hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2504(c), and if written notice of the opportunity to enter into a Contact Agreement has been provided to the putative father in advance of the petition's filing, a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(2)(C)] Pa.R.O.C.P. 15.4(b)(2)(C)**, and the **[date(s)] date** on which such notice was given[,] or the reasons why

such notice cannot be given, including efforts made to identify or locate the subject person. If a notice was given, a copy of the notice shall accompany this verified statement.

- (4) The signed consents of the Prospective Adoptive Parents or agency to accept custody of the child until such time as the adoption is completed.

(c) **Hearing and Decree.**

- (1) Notice of the hearing on the petition shall be in the form specified in 23 Pa.C.S. § 2513(b) and shall be provided and served in accordance with 23 Pa.C.S. § 2504(b) and **[Rule 15.4(b)(2)] Pa.R.O.C.P. 15.4(b)(2)**.
- (2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was provided in the form specified in 23 Pa.C.S. § 2513(b) and given to the consenter and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2504(b) and **[Rule 15.4(b)(2)] Pa.R.O.C.P. 15.4(b)(2)**.
- (3) If as part of hearing on the petition, the parental rights of a putative father could be terminated pursuant to 23 Pa.C.S. § 2504(c), and if notice of the opportunity to enter into a Contact Agreement was not provided to the subject putative father prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject putative father regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(2)(C)] Pa.R.O.C.P. 15.4(b)(2)(C)**, and the **[date(s)] date** that such notice was given[,], or the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (4) **At the hearing, the court shall inquire as to the efforts made by the petitioner to determine whether the child is an Indian child and whether any participant has reason to know whether the**

child is an Indian child pursuant to Pa.R.O.C.P. 15.24. All responses shall be placed on the record.

Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Pa.R.O.C.P. 15.3(b) (pertaining to prerequisites for any petition to terminate parental rights).

The court is required to inquire and determine whether any participant has reason to know whether the child is an Indian child. The court is also required to advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child. See Pa.R.O.C.P. 15.24.

For additional information about notice of the opportunity to enter into a Contact Agreement, see Pa.R.O.C.P. 15.7, cmt.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b). For additional information about notice of the opportunity to enter into a Contact Agreement, see the Explanatory Comment to Rule 15.7.

Rule 15.10. Involuntary Termination of Parental Rights.

(a) **Petition.** A petition for involuntary termination of parental rights under 23 Pa.C.S. §§ 2511-2512 shall contain the following averments:

- (1) the name and address of the **[petitioner(s)] petitioners**;
- (2) the basis for the standing asserted by the **[petitioner(s)] petitioners**;
- (3) the name, age, date of birth, place of birth, racial background, and gender of the child;
- (4) **whether any petitioner has reason to know the child is an Indian child as defined in Pa.R.O.C.P. 15.2(a)(11)**;

(5) the name, address, age, and racial background of the birth parents, including the birth father, presumptive father, and putative father;

[(5)](6) if a birth father, presumptive father or putative father is not identified in **[subparagraph] subdivision (a)(5)**, whether a claim for paternity has been filed under 23 Pa.C.S. § 5103 (relating to claim of paternity);

[(6)](7) the marital status of the mother as of the time of the child's birth and during one year prior thereto, and her maiden name;

[(7)](8) the date when the child was placed in the care of the petitioner;

[(8)](9) the date when the child was removed from the parent who is the subject of the petition, if different than the date of placement with the petitioner;

[(9)](10) specific facts setting forth why the child was voluntarily placed in the custody of an entity or individual or involuntarily removed from the parent who is the subject of the petition;

[(10)](11) a reference to the applicable **[subsection(s)] subsections** of 23 Pa.C.S. § 2511(a) providing the **[ground(s)] grounds** for termination and specific facts to support terminating the parental rights of the subject birth parent pursuant to the **[subsection(s)] subsections** referenced;

~~[(11)]~~~~(12)~~whether either parent of the child is entitled to benefits under the Servicemembers Civil Relief Act of 1940, as amended (50 U.S.C. §§ 3901 *et seq.*);

~~[(12)]~~~~(13)~~one of the following:

~~[(A)]~~~~(i)~~that the parent who is the subject of the petition has been provided with written notice regarding the opportunity for a birth relative of the child, including the subject birth parent, to enter into a Contact Agreement with the Prospective Adoptive Parents, once identified;

~~[(B)]~~~~(ii)~~that such written notice will be given to the subject birth parent prior to the hearing by the agency, intermediary or counsel representing a party; or

~~[(C)]~~~~(iii)~~the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or locate the subject person.

~~[(13)]~~~~(14)~~whether a consent by the petitioner, the Prospective Adoptive Parents, or the agency to accept custody of the child until such time as the child is adopted is attached to the petition, and if custody is to an individual, whether a Report of Intention to Adopt under 23 Pa.C.S. § 2531 or an adoption petition under **[Rule 15.13 Pa.R.O.C.P. 15.13]** has been filed or the reason why such consent or filing is not required by law; and

~~[(14)]~~~~(15)~~that each petitioner understands the petition and believes its filing to best serve the developmental, physical and emotional needs and welfare of the child.

(b) **Exhibits.** The following exhibits shall be attached to the petition:

- (1) A verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject birth parent regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by such other means as provided in **[Rule 15.4(b)(3)(A)(iii)] Pa.R.O.C.P. 15.4(b)(3)(A)(iii)**, and the **[date(s)] date** that such notice was given[,], or the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or

locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.

- (2) Except as otherwise provided by law, the signed consent of the petitioner, the Prospective Adoptive Parents, or the agency to accept custody of the child until such time as the adoption is completed.

(c) **Hearing and Decree.**

- (1) Notice of the hearing on the petition shall be provided and served in accordance with 23 Pa.C.S. § 2513(b) and **[Rule 15.4(b)(3)] Pa.R.O.C.P. 15.4(b)(3)**.
- (2) On or before the hearing, the court shall be presented with a certificate of service stating that notice of the hearing on the petition was given to the petitioner and all others entitled to a copy of the notice in accordance with 23 Pa.C.S. § 2513 and **[Rule 15.4(b)(3)] Pa.R.O.C.P. 15.4(b)(3)**.
- (3) If notice of the opportunity to enter into a Contact Agreement was not provided to the subject birth parent prior to the petition's filing, then on or before the hearing, the court shall be presented with a verified statement from a representative of the agency or intermediary, counsel for the agency or intermediary, or counsel representing any other party that written notice was provided to the subject birth parent regarding the opportunity of a birth relative to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by such other means as provided in **[Rule 15.4(b)(3)(A)(iii)] Pa.R.O.C.P. 15.4(b)(3)(A)(iii)**, and the **[date(s)] date** that such notice was given or the **[reason(s)] reasons** why such notice cannot be given, including efforts made to identify or locate the subject person. If notice was given, a copy of the notice shall accompany this verified statement.
- (4) **At the hearing, the court shall inquire as to the efforts made by the petitioner to determine whether the child is an Indian child and whether any participant has reason to know whether the child is an Indian child pursuant to Pa.R.O.C.P. 15.24. All responses shall be placed on the record.**

(d) **Appointment of Counsel.**

- (1) **Child.** In accordance with 23 Pa.C.S. § 2313(a), the court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is contested by one or both parents. If the court determines that the child requires counsel to represent both the best interests and legal interests of the child, the court shall determine on the record whether counsel can represent both interests without conflict before appointing an individual to serve as both guardian *ad litem* and counsel for the child.
- (2) **Parent.** In accordance with 23 Pa.C.S. § 2313(a.1), the court shall appoint counsel for a parent whose rights are subject to termination in an involuntary termination proceeding if, upon petition of the parent, the court determines that the parent is unable to pay for counsel or that payment would result in a substantial financial hardship.

Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Pa.R.O.C.P. 15.3(b) (pertaining to prerequisites for any petition to terminate parental rights).

The court is required to inquire and determine whether any participant has reason to know whether the child is an Indian child. The court is also required to advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child. See Pa.R.O.C.P. 15.24.

If the petitioner is an agency, Prospective Adoptive Parents need not have been identified prior to the agency's filing of a petition to involuntarily terminate parental rights. Also, an averment of a present intent to adopt the child is not required if the petitioner is an agency. Where the petitioner is an individual, see Pa.R.O.C.P. 15.6. Neither the averments nor evidence set forth in subdivisions (a)(15) and (b)(2) are required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). See 23 Pa.C.S. § 2514.

Section 2733(c) of the Adoption Act requires the agency or intermediary, counsel representing the agency or intermediary, or counsel representing any other party to provide notice to the Prospective Adoptive Parents, birth parents, and, in some instances, a child, of the opportunity to enter into a Contact Agreement. The statute does not require notice to birth relatives who are not the

birth parents, although birth relatives may enter into and become parties to a Contact Agreement.

It is understood that County Agencies may be encouraged early in the process, even during dependency proceedings, to give notice to a birth parent of the opportunity to enter into a Contact Agreement. Requiring the verified statement to set forth the specific date as to when notice was given is only to further ensure that the particular notice was given and not to suggest that providing this notice is time sensitive and expires after a certain time.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: An original birth certificate or certification of registration of the child's birth must be filed with the clerk by the time of filing the initial petition to terminate parental rights. See Rule 15.3(b).

If the petitioner is an agency, Prospective Adoptive Parents need not have been identified prior to the agency's filing of a petition to involuntarily terminate parental rights. Also, an averment of a present intent to adopt the child is not required if the petitioner is an agency. Where petitioner is an individual, see Rule 15.6. Neither the averments nor evidence set forth in subdivisions (a)(13) and (b)(2) are required when the petition has been filed by a parent seeking to involuntarily terminate the parental rights of the other parent pursuant to 23 Pa.C.S. § 2511(a)(7) (relating to a child conceived as a result of a rape or incest). See 23 Pa.C.S. § 2514.

Section 2733(c) of the Adoption Act requires the agency or intermediary, counsel representing the agency or intermediary, or counsel representing any other party to provide notice to the Prospective Adoptive Parents, birth parents, and, in some instances, a child of the opportunity to enter into a Contact Agreement. The statute does not require notice to birth relatives who are not the birth parents, although birth relatives may enter into and become parties to a Contact Agreement.

It is understood that County Agencies may be encouraged early in the process, even during dependency proceedings, to give notice to a birth parent of the opportunity to enter into a Contact Agreement. Requiring the verified statement to set forth the specific date(s) as to when notice was given is only to further ensure that the particular notice was given and not to suggest that providing this notice is time sensitive and expires after a certain time.

Rule 15.13. Adoption.

- (a) **Petition.** A petition for adoption under 23 Pa.C.S. § 2701 shall contain the following averments:
- (1) the name, current address, any other addresses for the past five years, marital status, age, occupation, racial background and religious affiliation of the petitioners;
 - (2) the name of the adoptee as it appears on the birth certificate or certification of registration of the child's birth;
 - (3) the relationship, if any, of the petitioners to the adoptee;
 - (4) whether the adoptee has resided with the petitioners, and if so, the length of time that adoptee has so resided with the petitioners;
 - (5) the name and address of the intermediary, if any;
 - (6) whether the home study and preplacement report under 23 Pa.C.S. § 2530, the Report of an Intention to Adopt under 23 Pa.C.S. § 2531, and the Report of Intermediary under 23 Pa.C.S. § 2533 have been filed;
 - (7) if there is no intermediary, if no Report of the Intermediary has been or will be filed, or if the adoptee has attained 18 years of age, all vital statistics and other information required in the Report of the Intermediary, so far as is applicable;
 - (8) whether the original birth certificate or certification of registration of the child's birth has been filed with the clerk where the adoption petition is being filed, and if not whether a birth certificate or certification of registration of the child's birth is attached to the petition as an exhibit, and if not previously filed or attached, the reason why it is has not been filed or is not attached, the efforts made to obtain the birth certificate or certification of registration of the child's birth, and evidence available to establish a date and place of the adoptee's birth;
 - (9) whether all the consents required by 23 Pa.C.S. § 2711 are attached to the petition as exhibits;

- (10) whether the criminal history records information and child abuse clearance certificate for each Prospective Adoptive Parent prepared in accordance with 23 Pa.C.S. § 6344(b), (d)(1) are attached to the petition as exhibits;
- (11) whether there are any court orders that remain in effect as of the date of the petition's filing and which:
- [(A)](i)** terminate parental rights of any birth parent, presumptive father, or putative father of the adoptee;
- [(B)](ii)** establish rights of guardianship or custody of the adoptee in any person or entity other than the birth parent; or
- [(C)](iii)** establish or set forth any special conditions concerning placement, custody, guardianship, or adoption of the adoptee;
- (12) whether there has been compliance with the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to this placement;
- (13) **whether the petitioners have reason to know the child is an Indian child as defined in Pa.R.O.C.P. 15.2(a)(11);**
- (14)** if any of the reports or exhibits listed in **[subparagraphs (a)(6)-(a)(12)] subdivisions (a)(6) – (a)(12)** have not been filed or are not attached to the petition, specific averments explaining why such reports have not been filed or exhibits have not been attached and the reasons showing cause why the court may enter a decree of adoption under 23 Pa.C.S. § 2901, notwithstanding the absence of all legal requirements having been met;
- [(14)](15)** whether the Prospective Adoptive Parents and the minor adoptee, if required by 23 Pa.C.S. § 2733(c), have been informed of the opportunity to enter into a Contact Agreement with any of the minor adoptee's birth relatives;
- [(15)](16)** if an agreement for post-adoption contact and communication has been negotiated and executed by the Prospective Adoptive Parents and one of more birth relatives, an averment of one of the following, as applicable:

~~[(A)]~~(i)the date of the order and the name of the court approving the Contact Agreement and that the Contact Agreement and court order are attached as exhibits to the petition; or

~~[(B)]~~(ii)a petition to approve the executed proposed agreement for post-adoption contact and communication has been submitted and is pending before the court or is being filed under a separate petition simultaneously with the filing of this petition;

~~[(16)]~~(17)whether the adoptee will retain his or her given birth name or the adoptee's proposed new name if a name change is desired;

~~[(17)]~~(18)that the petitioners desire to have a "parent-child" relationship established between the petitioners and the adoptee; and

~~[(18)]~~(19)that each petitioner has read and understands the petition and believes the adoptee's needs and welfare will be promoted by the adoption.

(b) **Exhibits.** Unless the petition contains averments explaining why an exhibit is not attached, the following exhibits shall be attached to the petition:

- (1) Unless previously filed with the clerk where the adoption petition is being filed, a birth certificate or certification of registration of the child's birth.
- (2) The consents required by 23 Pa.C.S. § 2711, as applicable.
- (3) Unless previously filed, the Report of the Intermediary with the exhibits required under 23 Pa.C.S. § 2534.
- (4) The criminal history records information and child abuse clearance certificate for each Prospective Adoptive Parent prepared in accordance with 23 Pa.C.S. § 6344(b).
- (5) Copies of any court orders referenced in **[subparagraph (a)(11)] subdivision (a)(11)**.
- (6) Written approval by the Interstate Compact on the Placement of Children if 62 P.S. §§ 761 *et seq.* applies to this placement.

- (7) A verified statement from a representative of the agency or intermediary, counsel representing the agency or intermediary, or counsel representing any other party that written notice was provided to the Prospective Adoptive Parents and to the minor adoptee, if required by 23 Pa.C.S. § 2733(c), regarding the opportunity to enter into a Contact Agreement, that such notice was provided by hand delivery, by first-class United States mail, postage prepaid, to the last known address, or by electronic transmission in accordance with **[Rule 15.4(b)(1)(C)] Pa.R.O.C.P. 15.4(b)(1)(C), (b)(2)(C), or (b)(3)(A)(iii)**, and the **[date(s)] date** that such notice was provided. A copy of the notice shall accompany this verified statement.
- (8) If previously approved, the Contact Agreement and the court order approving the Contact Agreement.

(c) **Notice or Consent--Parents of Child.**

- (1) Notice of the hearing on the petition for adoption shall be given to the birth parent, putative father, and presumptive father in accordance with **[Rule 15.4] Pa.R.O.C.P. 15.4** unless the parental rights of such birth parent, putative father, or presumptive father were terminated in a prior proceeding.
- (2) If, as part of the adoption hearing, the petitioners are seeking court approval of an executed proposed agreement for post-adoption contact and communication, the petitioner shall mail a copy of the petition to approve the proposed agreement and the accompanying exhibits in accordance with **[subparagraph (d)(1) of Rule 15.12] Pa.R.O.C.P. 15.12(d)(1)** to the individuals and entities therein listed, shall file a certificate of service as provided in **[subparagraph (d)(2) of Rule 15.12] Pa.R.O.C.P. 15.12(d)(2)**, and shall provide notice of the adoption hearing to these individuals and entities as provided in **[subparagraph (f)(3) of Rule 15.12] Pa.R.O.C.P. 15.12(f)(3)**.

- (d) **Investigation.** A petition for adoption shall be subject to investigation as prescribed by local rules. The investigation report shall cover the matters alleged in the petition, any other matters that may affect the welfare of the adoptee, and the information required by 23 Pa.C.S. §§ 2535 and 2724.

(e) **Hearing.**

- (1) Generally.** The court shall schedule a hearing to allow for testimony pursuant to 23 Pa.C.S. §§ 2721-2724.

(2) Appearance. [Petitioner(s)] The petitioners and the adoptee shall appear at the hearing.

(3) Indian Child Inquiry. At the hearing, the court shall inquire as to the efforts made by the petitioners to determine whether the child is an Indian child and whether any participant has reason to know whether the child is an Indian child pursuant to Pa.R.O.C.P. 15.24. All responses shall be placed on the record.

[(1)](4)[After a hearing, if the court determines that the adoption can be granted, the court shall enter a decree conforming to the requirements of 23 Pa.C.S. §§ 2901-2902, 2904.] Request for Waiver of Statutory Requirements. If the petition for adoption contains averments requesting that the court waive a statutory requirement of the Adoption Act, the court shall determine if the petitioner has shown cause for failing to meet the statutory requirement and has demonstrated that the adoptee's needs and welfare nevertheless will be best served by entering a decree of adoption.

[(2)](5)Expense Report. At the hearing on the petition for adoption, there shall be offered in evidence a report, verified by the petitioners or counsel, setting forth the amount of fees and expenses paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary or to any other person or entity, in connection with the adoption. The court may request an itemization of any of the amounts reported.

(6) Decree. After a hearing, if the court determines that the adoption can be granted, the court shall enter a decree conforming to the requirements of 23 Pa.C.S. §§ 2901-2902, 2904.

(f) **Adult – Change of Name.** When the person to be adopted is over the age of 18 years and desires to assume the surname of the adopting parents, evidence showing compliance with the law relating to change of name **[must] shall** be introduced before a decree will be made. See 54 Pa.C.S. § 702.

Comment: The court, in its discretion, can dispense with any statutory requirement of the Adoption Act for cause shown. See 23 Pa.C.S. § 2901. As a result, if the petitioner is unable to satisfy all the prerequisites or attach all the exhibits required

by the Adoption Act, the adoption petition should not be dismissed summarily. Rather, the petitioner should be afforded an opportunity to demonstrate why a statutory requirement has not or cannot be met and why the proposed adoptee's best interests nevertheless are served by granting the adoption petition. *In re Adoption of R.B.F. and R.C.F.*, 803 A.2d 1195, 1202 (Pa. 2002). If, upon reviewing the petition's averments as to why a statutory requirement should be waived, the court determines that cause has been demonstrated, the court can grant the relief requested and dispense with the relevant statutory requirement without conducting a hearing. However, if the court is not inclined to waive the pertinent statutory requirement, the petitioner is entitled to a hearing and an opportunity to present evidence in support of the averments in the petition. *Id.*

Subdivision (c)(1) applies if a parent's parental rights are being terminated as part of the hearing on the adoption petition. In such cases, the birth parent, putative father, or presumptive father whose rights are being terminated must receive notice of the adoption hearing in accordance with Pa.R.O.C.P. 15.4. On the other hand, such persons do not need to be notified of the adoption hearing if (i) he or she previously consented to the adoption and his or her consent was confirmed by the court as provided in 23 Pa.C.S. § 2504 and Pa.R.O.C.P. 15.9; (ii) he or she previously relinquished his or her parental rights as provided in 23 Pa.C.S. §§ 2501, 2502 and Pa.R.O.C.P. 15.7 or 15.8 as applicable; or (iii) his or her parental rights were involuntarily terminated by the court as provided in 23 Pa.C.S. §§ 2511 *et seq.* and Pa.R.O.C.P. 15.10.

The court is required to inquire and determine whether any participant has reason to know whether the child is an Indian child. The court is also required to advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child. See Pa.R.O.C.P. 15.24.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking.

Explanatory Comment: The court, in its discretion, can dispense with any statutory requirement of the Adoption Act for cause shown. See 23 Pa.C.S. § 2901. As a result, if petitioner is unable to satisfy all the prerequisites or attach all the exhibits required by the Adoption Act, the adoption petition should not be dismissed summarily. Rather, the petitioner should be afforded an opportunity to demonstrate why a statutory requirement has not or cannot be met and why the proposed adoptee's best interests nevertheless are served by granting the adoption petition. *In re Adoption of R.B.F. and R.C.F.*, 803 A.2d 1195 (Pa. 2002). If, upon reviewing the petition's averments as to why a statutory

requirement should be waived, the court determines that cause has been demonstrated, the court can grant the relief requested and dispense with the relevant statutory requirement without conducting a hearing. However, if the court is not inclined to waive the pertinent statutory requirement, the petitioner is entitled to a hearing and an opportunity to present evidence in support of the averments in the petition. See *In re Adoption of R.B.F. and R.C.F.*

Subparagraph (c)(1) of this Rule applies if a parent's parental rights are being terminated as part of the hearing on the adoption petition. In such cases, the birth parent, putative father, or presumptive father whose rights are being terminated must receive notice of the adoption hearing in accordance with Rule 15.4. On the other hand, such persons do not need to be notified of the adoption hearing if (i) he or she previously consented to the adoption and his or her consent was confirmed by the court as provided in 23 Pa.C.S. § 2504 and Rule 15.9; (ii) he or she previously relinquished his or her parental rights as provided in 23 Pa.C.S. §§ 2501, 2502 and Rule 15.7 or Rule 15.8 as applicable; or (iii) his or her parental rights were involuntarily terminated by the court as provided in 23 Pa.C.S. §§ 2511 *et seq.* and Rule 15.10.

—The following text is entirely new—

Rule 15.24. Indian Child.

(a) **Inquiry.**

- (1) At the commencement of the initial proceeding to terminate parental rights or to adopt, the court shall inquire as to the efforts made by the petitioner to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child. All responses shall be placed on the record.
- (2) The court shall advise the participants of their obligation to report to the court if they subsequently receive information that provides a reason to know the child is an Indian child.

(b) **Finding of Court.** The court shall make a finding as to whether there is reason to know the child is an Indian child.

(c) **Additional Requirements.**

- (1) If the court finds there is reason to know the child is an Indian child, but lacks sufficient evidence to determine whether the child is an Indian child, the court shall confirm due diligence has been used to make such determination, and the court shall treat the child as an Indian child until it can determine, from the record, that the child does not meet the definition of an Indian child.
- (2) If the court has sufficient evidence to conclude the child is an Indian child, then the notification and rights under the Indian Child Welfare Act shall apply.

Comment: The Indian Child Welfare Act, 25 U.S.C. §§ 1901 *et seq.*, and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107, require the court at the commencement of the initial proceeding to determine if any participant has reason to know whether the child is an Indian child.

For the definition of “Indian child,” see Pa.R.O.C.P. 15.2(a)(11). Nothing in this rule is intended to prohibit the court from continuing to inquire at every subsequent proceeding. For determination of a reason to know whether a child is an Indian child, see 25 C.F.R. § 23.107. When a court knows or has reason to know that a child is an Indian child, see 25 C.F.R. § 23.111 for notice requirements. See *also* 25 C.F.R. § 23.11.

For additional requirements concerning the emergency removal or emergency placement of an Indian child, see 25 C.F.R. § 23.113. For additional requirements concerning the non-emergent placement of an Indian child, see 25 C.F.R. §§ 23.121-.122. For the transfer of proceedings to the Indian child's tribe, see 25 C.F.R. §§ 23.115-.119. For requirements concerning voluntary proceedings for the placement of an Indian child, see 25 C.F.R. §§ 23.124-.127. For the placement preferences of an Indian child, see 25 C.F.R. §§ 23.131-.132.