

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

**Proposed Modifications to Pa.Rs.J.C.P. 160, 330, 370, 407, 409, 1160, 1330 and
Adoption of new Pa.Rs.J.C.P. 1711, 1712, and 1715**

The Juvenile Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the modifications to Pa.Rs.J.C.P. 160, 330, 370, 407, 409, 1160, 1330 and adoption of new Pa.Rs.J.C.P. 1711, 1712, and 1715, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

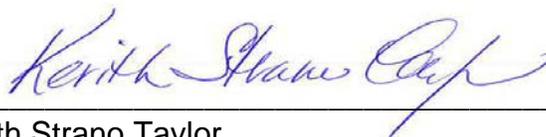
Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **September 10, 2015**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court Procedural Rules Committee,



Kerith Strano Taylor
Vice Chair

EXPLANATORY REPORT

There have been several recent amendments to the Child Protective Services Law (CPSL). The modifications and new rules are in response to these legislative enactments.

Rules 160 and 1160

Additional paragraphs have been added to these rules to allow masters, hearing officers, conference officers, arbitrators, or other persons authorized to hear custody matters to review the juvenile's official court record when determining those custody matters. Additionally, the Department of Public Welfare may review the official court record to determine whether the perpetrator's name and related information should be expunged from the Statewide database. See 23 Pa.C.S. § 6336 for the information that may be on the Statewide database.

The court, its probation officers, and its staff may always review the official court record regardless of the type or purpose of a hearing. See paragraph (A)(1). Rules 120 and 1120 define "court" as the Court of Common Pleas and masters when they are permitted to hear cases.

Rule 330

This rule provides that the petition must contain extra allegations if the alleged delinquent act(s) establish that the juvenile is the perpetrator of the child abuse in a delinquency case. Those allegations include: 1) specific facts that establish the juvenile is the perpetrator of child abuse; 2) that the child abuse and the current delinquency proceeding concern the same factual circumstances; and 3) a request for a special finding that the juvenile is the perpetrator of child abuse against the victim.

Rule 370

If it is alleged in the petition that the juvenile is the perpetrator of child abuse, before a consent decree can be ordered, the juvenile must admit to the delinquent act(s) pursuant to Rule 407 or the court must make a finding pursuant to Rule 408 when ruling on the offenses after an adjudicatory hearing. The court cannot enter a consent decree order if it has proceeded to adjudicating the juvenile delinquent pursuant to Rule 409. See *Comment* to Rules 370 and 408.

After the entry of the consent decree order, the juvenile probation officer must transmit a copy of the order to the county agency.

Rule 407

An additional paragraph has been added to the admission colloquy. It explains that the juvenile will be placed on the Statewide database for child abuse offenders. Because of this admission, the juvenile is prohibited from working with children.

Rule 409

If the juvenile is adjudicated delinquent and the court finds that the juvenile was the perpetrator of child abuse against the victim for the same factual circumstances alleged in the delinquency petition, the court must include this finding in its adjudication order. The juvenile probation officer must send a copy of the order to the county agency.

Rule 1330

This rule provides that the petition must contain extra allegations if the alleged act(s) establish that the child is the victim of child abuse and another party to the proceeding is the perpetrator of the child abuse. Those allegations include: 1) that the child is the alleged victim of the child abuse report; 2) the identity of the perpetrator, who is a party to the proceeding; 3) that the child abuse and the dependency proceeding concern the same factual circumstances; 4) the specific act(s) of child abuse; and 5) any available reports substantiating the act(s) of child abuse.

Rule 1711

This is a new rule that governs the filing of a motion for a finding of child abuse. A motion for a finding of child abuse may be included in the dependency petition or be made pursuant to Rule 1344 if the alleged perpetrator is a party to the dependency proceeding.

The motion must allege or include: 1) that the child is the alleged victim of the child abuse report; 2) the identity of the perpetrator, who is a party to the proceeding; 3) that the child abuse and the dependency proceeding concern the same factual circumstances; 4) the specific act(s) of child abuse; and 5) any available reports substantiating the act(s) of child abuse.

Rule 1712

As soon as a party is aware that the dependency proceedings and the specific alleged act(s) of child abuse involve the same factual circumstances, a motion seeking a finding of child abuse must be filed. This should be as timely as possible to prevent undue prejudice to the alleged perpetrator.

Rule 1715

If there is a motion seeking a finding of child abuse, the alleged perpetrator must receive notice of the hearing to determine whether child abuse occurred. It should be clear to the alleged perpetrator that the purpose of the hearing is not only a dependency proceeding but to determine if child abuse occurred and if the court finds the party to be a perpetrator of child abuse, the perpetrator will be placed on the Statewide database prohibiting the party from working with children.

If child abuse is found at this hearing, the court must issue an order including a statement indicating that the party committed child abuse as defined by the Child Protective Services Law, 23 Pa.C.S. § 6303(b.1).