

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

NOTICE OF PROPOSED RULEMAKING

**Proposed Amendment of Pa.R.J.C.P. 1120, 1149, 1330, 1409,
1512, 1514, 1515, & 1608-1611**

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 1120, 1149, 1330, 1409, 1512, 1514, 1515, and 1608-1611 to update statutory citations 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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Supreme Court of Pennsylvania
Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by **July 15, 2021**. 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,

Judge Joy Reynolds McCoy, Chair

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

REPORT

**Proposed Amendment of Pa.R.J.C.P. 1120, 1149, 1330, 1409,
1512, 1514, 1515, & 1608-1611**

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rules of Juvenile Court Procedure 1120, 1149, 1330, 1409, 1512, 1514, 1515, and 1608-1611 to reflect the amendment of Title 67 of the Pennsylvania Consolidated Statutes to, *inter alia*, add Chapter 31 governing, in part, the family finding requirements resulting from the Act of June 29, 2019, P.L. 93, No. 14. See 67 Pa.C.S. §§ 3101-3104.

Prior to 2018, matters involving family finding, kinship care, and subsidization of custody were governed by unconsolidated statutes compiled at 62 P.S. §§ 1301-1303.2. The statutory requirements for family finding were implemented and primarily codified in Pa.R.J.C.P. 1149 with corollary references throughout the Pennsylvania Rules of Juvenile Court Procedure. Those rules also contained citations to Title 62 of Purdon's Statutes.

In *Washington v. Department of Public Welfare*, 188 A.3d 1135 (Pa. 2018), the Court held that the manner in which the Act of June 30, 2012, P.L. 668, No. 80 was passed by the General Assembly violated Article III, Section 4 of the Pennsylvania Constitution. Accordingly, the Court struck Act 80 in its entirety as unconstitutional. Act 80 included provisions related to kinship care and custody subsidies. See 62 P.S. §§ 1302, 1303, 1303.1, and 1303.2.

Thereafter, the General Assembly passed the Act of June 29, 2019, P.L. 93, No. 14, which added the substance of 62 P.S. §§ 1301-1303.2 to 67 Pa.C.S. §§ 3101-3104, retroactive to the date of the Court's decision in *Washington, supra*. This rulemaking proposal is intended to update the statutory citations within the rules to correspond with those now located in Title 67 of the Pennsylvania Consolidated Statutes. No substantive amendment of the rules is intended.

The Committee invites all comments, concerns, and suggestions.

RULE 1120. DEFINITIONS

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Comment

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The definition of “family finding” is derived from **[62 P.S. § 1302] 67 Pa.C.S. § 3102**.

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See also **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* and 42 U.S.C. § 675 (Fostering Connections) to comply with state and federal regulations.

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Official Note: Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended June 24, 2013, effective January 1, 2014. Amended October 21, 2013, effective December 1, 2013. Amended July 28, 2014, effective September 29, 2014. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended April 6, 2017, effective September 1, 2017. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with the Court’s Order at Pa.B. (_____, 2021).

RULE 1149. FAMILY FINDING

A. Court's inquiry and determination.

- 1) The court shall inquire as to the efforts made by the county agency to comply with the family finding requirements pursuant to **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.*

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Comment

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See **[62 P.S. § 1301] 67 Pa.C.S. § 3101** for legislative intent regarding family finding and promotion of kinship care.

Family finding is required for every child when a child is accepted for services by the county agency. See **[62 P.S. § 1302] 67 Pa.C.S. § 3103**. It is best practice to find as many kin as possible for each child. These kin may help with care or support for the child. The county agency should ask the guardian, the child, and siblings about relatives or other adults in their life, including key supporters of the child or guardians.

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Official Note: Rule 1149 adopted July 13, 2015, effective October 1, 2015. **Amended**
, 2021, effective , 2021.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1149 published with the
Court's Order at Pa.B. (, 2021).

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

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Comment

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If a petition is filed after the county agency has discontinued family finding for non-court cases, the county agency is to aver reasons for the discontinuance in the petition. See **[62 P.S. § 1302.2(a)] 67 Pa.C.S. § 3104(a)**.

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Official Note: Rule 1330 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1330 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1409. ADJUDICATION OF DEPENDENCY & COURT ORDER

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Comment

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1242(E)(3) and 1609(D) and *Comments* to Rules 1242, 1408, 1512, 1514, 1515, 1608, 1609, 1610, and 1611.

Official Note: Rule 1409 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. Amended _____, 2021, effective _____, 2021.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1409 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1512. DISPOSITIONAL HEARING

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Comment

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Pursuant to paragraph (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and *Comments* to Rules 1242, 1408, 1409, 1514, 1515, 1608, 1609, 1610, and 1611.

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Official Note: Rule 1512 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended April 6, 2017, effective September 1, 2017. Amended _____, 2021, effective _____, 2021.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1512 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1514. DISPOSITIONAL FINDING BEFORE REMOVAL FROM HOME

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Comment

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Pursuant to paragraph (A)(4), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1515, 1608, 1609, 1610, and 1611.

Official Note: Rule 1514 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended _____, 2021, effective _____, 2021.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1514 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1515. DISPOSITIONAL ORDER

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Comment

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1514, 1608, 1609, 1610, and 1611.

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Official Note: Rule 1515 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1515 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1608. PERMANENCY HEARING

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Comment

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Pursuant to paragraph (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101 et seq.** See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1609, and 1611.

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Official Note: Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective August 1, 2016. Amended April 6, 2017, effective September 1, 2017. Amended May 17, 2018, effective October 1, 2018. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1608 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1609. PERMANENCY HEARING ORDERS

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Comment

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), and 1409(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1610, and 1611.

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Official Note: Rule 1609 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. **Amended**
, 2021, effective , 2021.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1609 published with the
Court's Order at Pa.B. (, 2021).

RULE 1610. PERMANENCY HEARING FOR CHILDREN OVER EIGHTEEN

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Comment

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Pursuant to paragraph (D), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1611.

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Official Note: Adopted October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended April 6, 2017, effective September 1, 2017. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1610 published with the Court's Order at Pa.B. (_____, 2021).

RULE 1611. PERMANENCY HEARING ORDERS FOR CHILDREN OVER EIGHTEEN

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Comment

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See **[62 P.S. § 1301] 67 Pa.C.S. §§ 3101** *et seq.* See also Rules 1210(D)(8), 1242(E)(3), and 1409(C) and *Comments* to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1610.

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Official Note: Adopted October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. **Amended _____, 2021, effective _____, 2021.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1611 published with the Court's Order at Pa.B. (_____, 2021).