

RULE 100. SCOPE OF RULES

- A. These rules shall govern delinquency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to domestic relations proceedings and dependency proceedings.
- B. Each of the courts exercising juvenile jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* **or the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq.**, may adopt local rules of procedure in accordance with Rule 121.

COMMENT

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through **[Ten] Eight** (Rules 100 – **[1099] 899**). All dependency matters are governed by Chapters Eleven through **[Twenty] Eighteen** (Rules 1100 – **[2099] 1899**).

These rules govern proceedings when the Juvenile Act **or Child Protective Services Law** vests jurisdiction in the Juvenile Court. See 42 Pa.C.S. §§ 6321 and 6302 **and 23 Pa.C.S. § 6301 et seq.** These rules do not govern summary offense proceedings unless: 1) the summary offense(s) was committed with a delinquent act, as defined by 42 Pa.C.S. § 6302, during the same episode or transaction, as provided in 42 Pa.C.S. § 6303(a)(5), and has been properly alleged in a delinquency petition; or 2) a juvenile has failed to comply with a lawful sentence imposed for the summary offense(s), as provided in 42 Pa.C.S. § 6302.

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to delinquency proceedings commenced pursuant to Rule 200 and 42 Pa.C.S. § 6301 *et seq.*

The Rules of Criminal Procedure apply in cases involving juveniles in summary and court cases, as defined by Pa.R.Crim.P. 103, to the extent that the Juvenile Act does not apply to these proceedings. See, e.g., Pa.R.Crim.P. 100 and 400. See also 42 Pa.C.S. §§ 6302 and 6303.

Each judicial district may promulgate local rules that follow the requirements of Rule 121 **[and Pa.R.J.A. 103]**.

Official Note: Rule 100 adopted April 1, 2005, effective October 1, 2005. Amended May, 12, 2008, effective immediately. **Amended _____, 2016, effective _____, 2016.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 100 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008). **Final Report explaining the amendments to Rule 100 published with the Court's Order at Pa.B. (, 2016).**

RULE 1100. SCOPE OF RULES

- A. These rules shall govern dependency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to orphans' court, domestic relations, and delinquency proceedings.
- B. Each of the courts exercising dependency jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* **or the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq.**, may adopt local rules of procedure in accordance with Rule 1121.

COMMENT

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through **[Ten] Eight** (Rules 100 – **[1099] 899**). All dependency matters are governed by Chapters Eleven through **[Twenty] Eighteen** (Rules 1100 – **[2099] 1899**).

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to dependency proceedings commenced pursuant to Rule 1200 and 42 Pa.C.S. § 6301 *et seq.*

These rules govern proceedings when the Juvenile Act **or Child Protective Services Law** vests jurisdiction in the Court of Common Pleas. See 42 Pa.C.S. §§ 6321 and 6302 **and 23 Pa.C.S. § 6301 et seq.**

Each judicial district may promulgate local rules that follow the requirements of Rule 1121 **[and Pa.R.J.A. 103]**.

Official Note: Rule 1100 adopted August 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. **Amended _____, 2016, effective _____, 2016.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1100 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1100 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008). **Final Report explaining the amendments to Rule 1100 published with the Court's Order at Pa.B. (_____, 2016).**

CHAPTER 1. GENERAL PROVISIONS

PART A(1). INVESTIGATIONS

Rule 1107. Application for Investigatory Access Order in Child Abuse or Neglect

Rule 1109. Order Compelling Access to Child

PART A(2). BUSINESS OF COURTS

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[This is an entirely new Rule]

RULE 1107. APPLICATION FOR INVESTIGATORY ACCESS ORDER IN CHILD ABUSE OR NEGLECT CASES

- A. **Investigating Child Abuse or Neglect.** When investigating whether a child is at risk of abuse or neglect pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 *et seq.*, a law enforcement officer or county agency may apply to the court for access to a child and for other necessary orders when the guardian denies access to the child or refuses to cooperate in an investigation.
- B. **Application.** An application for an access or other necessary order, supported by a written affidavit(s) signed and sworn to or affirmed, shall be presented to court averring:
- 1) the name, title, address, and contact phone number of the affiant;
 - 2) the department, office, or agency of the affiant;
 - 3) the identity, all known information, or description of the child at risk of abuse or neglect, including name, age, and guardian's name(s);
 - 4) the address where the child at risk is currently located;
 - 5) the facts and circumstances that form the bases for the affiant's conclusion that there is probable cause to believe that the child is at risk of abuse or neglect;
 - 6) the facts and circumstances explaining the prior attempt(s) made by the affiant to access the child and investigate the facts and circumstances,

- including the specific denial of access to the child by the child's guardian(s), who is refusing to cooperate in the investigation;
- 7) specific facts alleging good cause for the need of an extended time period if a specific time period of more than forty-eight hours is requested; and
 - 8) any other pertinent information.

COMMENT

When there is not enough information to take a child into protective custody but there are allegations of abuse or neglect, the county agency must investigate those allegations. See 23 Pa.C.S. § 6303 and 6334.1 and 42 Pa.C.S. § 6324(3). The scope and duration of the investigatory access or other necessary order(s) should be limited to obtaining access to the child or compelling cooperation from the guardian(s) for only the investigation of whether the child is at risk of abuse or neglect.

Official Note: Rule 1107 adopted __ __, 2016, effective __ __, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1107 published with the Court's Order at __ Pa.B. __ (__ __, 2016).

[This is an entirely new Rule]

RULE 1109. ORDER COMPELLING ACCESS TO CHILD

- A. **Order.** After submission of an application pursuant to Rule 1107 and upon a finding of probable cause that a child is at risk of abuse or neglect, the court may issue an order compelling access to the child and any other orders necessary as warranted by the specific facts of the case.
- B. **Order Time limit.** This order shall expire upon accomplishment of the relief ordered however no later than forty-eight hours unless otherwise ordered by the court for good cause shown.
- C. **Accompaniment by Law Enforcement.** A county agency worker may be accompanied by a law enforcement officer to the premises when executing an order to secure entry and enforcement of the order.

COMMENT

While executing an order for access to a child or other necessary orders, the county agency caseworker may discover the need for an emergency custody order or the law enforcement officer may take the child into protective custody pursuant to Rule 1202 and 42 Pa.C.S. § 6324. Once a child has been taken into protective custody, a dependency proceeding pursuant to these Rules should be commenced. See Rule 1200 and 42 Pa.C.S. §§ 6321 and 6324.

Proceedings under this rule are *ex parte* and notice and opportunity to be heard prior to execution of the court's order are not required. Upon executing the order, a copy of the application and order should be provided to the party.

Official Note: Rule 1109 adopted __ __, 2016, effective __ __, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1109 published with the Court's Order at __ Pa.B. __ (__ __, 2016).