

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

REPORT

Proposed Amendment of Pa.R.J.C.P. 1320 and 1321

The Juvenile Court Procedural Rules Committee proposes to amend Rules 1320 and 1321 to clarify the procedures for private dependency petitions. Pursuant to Rule 1320, any person other than a county agency may present an application to the court to file a private dependency petition with the court. If the court finds sufficient facts to support a petition, then a petition may be filed pursuant to Rule 1330. Pa.R.J.C.P. 1321(B)(1).

A question was raised about who files the petition after the court has approved the application: Is it the county agency or the private party who filed the application? The rule is silent on this point. The Comment to Rule 1320 suggests that the agency files petitions after the application has been approved while the title to the rule suggests that private petitions are permissible.

The Committee favors revision of the Comment to Rule 1320 to clarify that a private party must first file an application before proceeding with a private petition. The first sentence of the Comment, which states "Rule 1330 requires that the county agency file a petition." would be struck because it is believed this sentence is creating the confusion.

The Committee discussed when the county agency should be made a party to the proceedings. One option is upon approval of the application and another option is upon adjudication of the dependency petition. While it was noted that an agency might voluntarily file a petition if the application is granted, the Committee was reluctant to endorse a rule that would compel the county agency to file and litigate the petition.

Therefore, the Committee proposes an addition to Rule 1321 stating: "If the court finds specific facts for dependency, then the applicant may file a dependency petition." This addition is intended to clarify that the applicant may proceed with the filing of a private petition – a conclusion supported by Rule 1331 (requiring a copy of the petition to be served on the county agency and its attorney), which contemplates the filing of petitions by private parties.

Notwithstanding the pursuit of a dependency adjudication by a private party, the Committee believes that the county agency should be a party to the proceeding. Accordingly, the Committee proposes adding language to Rule 1321 that would join the

county agency as a party upon the filing and service of a dependency petition. This provision would appear as new paragraph (C).

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.