

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

REPORT

Proposed Amendment of Pa.R.J.C.P. 1601 and 1608

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 1601 to require notice of the intention to seek a goal change discontinuing reunification and Rule 1608 to require notice before a goal can be changed from reunification.

The Committee was informed of circumstances wherein permanency review hearings were resulting in goal changes discontinuing reunification without prior notice that such a goal change was to be decided at the hearing. The Committee notes that “goal change hearings” may be emotional for both the child and the parents. Further, it is best practice to provide notice of an upcoming goal change hearing. See Pennsylvania Children’s Roundtable Initiative. *Pennsylvania Dependency Benchbook* at p. 119. Harrisburg, PA: Office of Children and Families in the Courts, 2010.

Previously, the Committee proposed amendments to Rule 1601 and 1609 to require the county agency to give notice that a goal change is being sought in a permanency review hearing. See 47 Pa.B. 947 (February 18, 2017). To provide timely notice and the opportunity to prepare for and attend the hearing, the Committee proposed to amend Rule 1601 to add paragraph (B) to require either the permanency hearing notice to indicate whether the county agency seeks to discontinue a goal of reunification or for the county agency to provide separate notice consistent with paragraph (A) in terms of recipients and timeliness.

The Committee also proposed to amend Rule 1609 to provide for a discretionary rehearing if notice was not given in accordance with Rule 1601(B). The language of the amendment was based, in part, upon Rule 1243(B) providing for a discretionary rehearing for shelter care hearings. The proposal was not intended to encourage noncompliance with Rule 1601(B); rather, it rejected a categorical mandate for a rehearing in every instance and invested the judge with the discretion to determine whether a rehearing is warranted.

After reviewing comments and deliberating further on the proposal, the Committee has made several revisions. First, proposed Rule 1601(B) is expanded to include all parties rather than solely the county agency. Second, the provision for a discretionary rehearing was eliminated. The Committee was persuaded that the effect of a goal change from reunification was so significant that notions of due process require timely notice of the possibility of a goal change from reunifications in all

instances. The Committee disagreed with the suggestion that an intention to seek a goal change from reunification does not change the dynamic of the permanency review hearing in terms of preparation, witnesses, and significance. A commenter suggested that parties should be prepared for goal change from reunification at every hearing, negating the need for notice. However, the Committee recognized that this was not practical in the environment in which these cases are heard. Hearings to determine if a goal should be changed from reunification are often populated by witnesses beyond those required at a typical permanency review hearing. To expect parties to be prepared for a goal change from reunification at every permanency review hearing would obligate the party to bring every witness that could be required if the county agency seeks to change the goal from reunification with notice or the court does so unilaterally. Further, the Committee considered the common practice in many counties of the Judge to inform the party at their permanency review hearing that if progress does not improve or circumstances do not change, the goal may very well be changed at the next permanency review hearing. This may qualify as adequate notice under Rule 1601(B) provided it is done in writing and within the time frame established by the Rule.

Given the gravity of a permanency review hearing that may result in a goal change from reunification, the Committee proposes to amend Rule 1608(d)(1)(c) to require that notice in accordance with proposed Rule 1601(B) be given before a court can order a goal change from reunification. As indicated in the revised Comment to Rule 1608, the court should direct the county agency to give notice to all other parties when the court seeks to change the goal in the absence of such notice.

In light of these changes, the Committee is republishing this proposal and all comments, concerns, and suggestions.