

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

REPORT

Proposed Amendment of Pa.R.J.C.P. 160, 1160, 1409, 1515, and 1631

The Juvenile Court Procedural Rules Committee (“Committee”) proposes to amend Rules 1409, 1515, and 1631 to establish procedures for orders affecting or transferring custody. Further, the Committee proposes to amend Rules 160 and 1160 to reflect amendment of the Juvenile Act regarding access to juvenile court records. This proposal is part of a joint recommendation with the Domestic Relations Procedural Rules Committee to develop rules to establish the interplay between custody and dependency.

Concerning the custody order procedures, the Committee previously published a proposal for comment in 46 Pa.B. 3951 (July 23, 2016). As previously observed, a transfer of custody to the previously non-custodial parent or a non-parent may close a dependency matter either pre- or post-adjudication. With dependency dockets inaccessible to the public, problems have been noted in proving custody by a non-custodial parent or third party. Often the party from whom the child has been removed has a custody order obtained prior to the dependency action indicating they are the custodial parent.

The Committee considered means and methods of transferring relevant custody determinations by the dependency court to the prothonotary’s office to be filed on a custody docket. The Committee believes that the procedural rules should provide a framework for this process, but judicial districts should retain discretion on how this would be accomplished locally.

Rule 1409 has been revised to require the filing of a custody order on the custody docket when a petition is dismissed because of the availability of a ready, willing, and able non-custodial parent. A similar provision has been engrafted into Rule 1631 when supervision has been terminated when the child is placed with a ready, willing, and able parent, the child is placed with a permanent legal custodian, or the child has been placed with a fit and able relative.

Rule 1515 has been revised to clarify the content of a dispositional order transferring custody. Additionally, the Comment was revised in response to suggested refinement of the language.

The Committee received comments about maintaining confidentiality of dependency matters when custody orders closing out dependency proceedings are filed

on the custody docket. There were two aspects considered: 1) the confidentiality of the parties; and 2) the confidentiality of the findings. The Committee proposes that the custody order be filed under “seal” to address the confidential nature of those filings on the custody docket. The sealed order would be accessible to the parties, their attorneys, and the court.

Concerning the access to records proposal, the amendments to Rule 160 and 1160 were previously published for comment at 45 Pa.B. 4344 (August 8, 2015). They were intended to reflect statutory amendments to the Juvenile Act 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. 42 Pa.C.S. § 6307. Additionally, the Department of Human Services may review the official court record to determine whether the perpetrator's name and related information should be expunged from the statewide database. *Id.* Further, paragraphs (B) and (C) were added to Rule 1160 to maintain parallel structure with Rule 160.

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