

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed amendment of Pa.R.C.P. Nos. 1915.3-2, 1915.4-4, 1915.7 and 1915.10

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1915.3-2, 1915.4-4, 1915.7 and 1915.10 for the reasons set forth in the accompanying publication 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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All communications in reference to the proposal should be received by **October 2, 2020**. 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 Domestic Relations Procedural Rules
Committee

Walter J. McHugh, Esq.
Chair

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RULE PROPOSAL 154

Rule 1915.3-2. Criminal Record or Abuse History.

* * * Subdivisions (a) and (b) are being replaced with the following * * *

(a) Criminal Record/Abuse History Verification.

(1) Confidential Document. A party's Criminal Record/Abuse History Verification form shall be confidential and shall not constitute a public record.

(2) Plaintiff or Petitioner. Contemporaneous with initiating a custody action or a contempt proceeding, the plaintiff or petitioner shall:

(i) complete and sign a Criminal Record/Abuse History Verification form;

Note: See subdivision (d) for the Criminal Record/Abuse History Verification form.

(ii) file the completed form and the complaint, petition, or counterclaim initiating the action or contempt proceeding with the prothonotary; and

(iii) serve on the defendant or respondent with the pleading initiating the custody action:

(A) his or her filed verification form; and

(B) a blank Criminal Record/Abuse History Verification form for the defendant or respondent to complete and file.

(3) Defendant or Respondent. After being served with a pleading initiating a custody action or contempt proceeding, the defendant or respondent shall:

- (i) complete and sign the blank Criminal Record/Abuse History Verification form served with the initiating pleading;
- (ii) file the completed form with the prothonotary before the initial in-person contact with the court or within 30 days of service of the initiating pleading, whichever occurs first; and
- (iii) serve his or her filed verification form on the plaintiff or petitioner.

(4) *Updating Verification Form.* A party shall complete, sign, file with the prothonotary, and serve on the other party an updated verification in the following circumstances.

(i) *Pending Court Proceedings.* At each of the following:

- (A) hearing;
- (B) pretrial conference; or
- (C) trial; or

(ii) *After a Final Order.* Provided the child remains subject to the court's jurisdiction, when a party knows the information on the most recently filed verification is inaccurate or has changed relative to him or her or his or her household member.

(5) *Sanctions.* A party's failure to file a Criminal Record/Abuse History Verification may result in sanctions against that party.

(b) *Initial Evaluation.*

(1) During the initial in-person custody proceeding, the judge, conference officer, conciliator, or other appointed individual shall evaluate whether a party or household member poses a threat to the child.

(i) In determining whether a party or household member poses a threat to the child or requires an additional evaluation or counseling, as provided in 23 Pa.C.S. § 5329(d)-(e), the judge, conference officer, conciliator, or other appointed individual shall consider:

(A) a party's Criminal Record/Abuse History Verification form; and

(B) other information or documentation of a party's or household member's criminal record or abuse history that are provided by a party.

(ii) To the extent a party or household member has a criminal record relating to an enumerated offense in 23 Pa.C.S. § 5329(a) or an abuse history, the judge, conference officer, conciliator, or other appointed individual shall consider:

(A) the severity of the offense or abuse;

(B) when the offense or abuse occurred;

(C) if the victim was a child or family member; and

(D) whether the offense or abuse involved physical violence.

(2) When the initial evaluation set forth in subdivision (b)(1) determines that a party or household member poses a threat to the child, the conference officer, conciliator, or other appointed individual conducting the evaluation may recommend to the judge, and the judge may order:

(i) a party or party's household member to undergo an additional evaluation or counseling by a mental health professional appointed by the court; or

(ii) temporary custody pending the additional evaluation or counseling, if it is in the child's best interest.

(c) **[Verification]Verification.** The verification regarding criminal **record** or abuse history shall be substantially in the following form:

(Caption)

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm[, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities] that:

[1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction including pending charges:]

1. As to the following listed Pennsylvania crimes or offenses or other jurisdiction’s substantially equivalent crimes or offenses, check the box(es) next to any applicable crime or offense in which you or a household member:

- **has pleaded guilty or no contest;**
- **has been convicted;**
- **has charges pending; or**
- **has been adjudicated delinquent under the Juvenile Act, 42 Pa.C.S. §§ 6301 - 6375, and the record is publicly available as set forth in 42 Pa.C.S. § 6307.**

A party should also identify a listed criminal offense even if the offense had been resolved by Accelerated Rehabilitative Disposition (ARD) or another diversionary program, had been expunged pursuant to 18 Pa.C.S. § 9122, or a court has entered an order for limited access, i.e., Clean Slate, pursuant to 18 Pa.C.S. §§ 9122.1 or 9122.2.

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea, or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 2702
(relating to aggravated assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2706
(relating to terroristic threats) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2709.1
(relating to stalking) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | <u>18 Pa.C.S. § 2718</u>
<u>(related to strangulation)</u> | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2901
(relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2902
(relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2903
(relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 2910
(relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3121
(relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3122.1
(relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3123
(relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3124.1
(relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

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|--------------------------|--|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 3125
(relating to aggravated
indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3126
(relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3127
(relating to indecent
exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3129
(relating to sexual
intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3130
(relating to conduct relating
to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 3301
(relating to arson and
related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4302
(relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4303
(relating to concealing death
of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4304
(relating to endangering
welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 4305
(relating to dealing in infant
children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 5902(b)
(relating to prostitution and
related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. § 5903(c) or (d)
(relating to obscene and
other sexual materials and
performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6301
(relating to corruption of
minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6312
(relating to sexual abuse of
children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6318
(relating to unlawful contact
with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. § 6320
(relating to sexual
exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | <u>Finding of contempt of a
Protection from Abuse
Order or agreement under
23 Pa.C.S. § 6114
[(relating to contempt for
violation of protection
order or agreement)]</u> | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | <u>Finding of contempt of a
Protection of Victims of
Sexual Violence and
Intimidation order or
agreement under 42
Pa.C.S. § 62A14</u> | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the influence
of drugs or alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device _____

[2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

Check all that apply	Self	Other household member	Date
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction. Where?: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____]

2. Check the box(es) next to the statements that apply to you, a household member, or your child.

<u>Check all that apply</u>	<u>Self</u>	<u>Household member</u>	<u>Child</u>
<input type="checkbox"/> <u>Involvement with a children and youth social service agency in Pennsylvania or a similar agency in another jurisdiction.</u> <u>What jurisdiction?:</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A determination or finding of abuse (i.e., indicated or founded report) by a children and youth social service agency or court in Pennsylvania or a similar agency or court in another jurisdiction.
What jurisdiction?: _____

An adjudication of dependency or delinquency under Pennsylvania’s Juvenile Act, or a similar law in another jurisdiction, and the record is publicly available as set forth in 42 Pa.C.S. § 6307.
What jurisdiction?: _____
Is the case active? _____

A history of “abuse” as that term is defined in the Protection from Abuse Act, 23 Pa.C.S. § 6102.

A history of “sexual violence” or “intimidation” as those terms are defined in 42 Pa.C.S. § 62A03 (relating to Protection of Victims of Sexual Violence and Intimidation).

3. Please list any evaluation, counseling, or other treatment received following **a** conviction or finding of abuse:

4. If **[any conviction above]you checked a box in (1) or (2) that** applies to **[a]your** household member, **who is** not a party, state that person’s name, date of birth, and relationship to the child.

5. If you are aware that the other party or **[members of]**the other party’s household **member** has **[or have]** a criminal record **[/]** **or** abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

Plaintiff/Defendant Signature

Printed Name

ONLY A PARTY CAN SIGN THIS FORM. IF A PARTY IS REPRESENTED BY AN ATTORNEY, THE ATTORNEY CANNOT SIGN THIS FORM ON BEHALF OF THE PARTY.

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Signature

Printed Name

(d) *Child Abuse and Protective Services Involvement.* A judicial district shall develop procedures by local rule, as necessary, for:

- (1) obtaining the information required by 23 Pa.C.S. § 5329.1(a) from the county children and youth social service agency;**
- (2) distributing the information obtained in subdivision (d)(1) to the parties or the parties' counsel, as appropriate, while ensuring that sharing confidential reports and information is consistent with the law, including 23 Pa.C.S. § 6340; and**
- (3) introducing the relevant information into evidence at a hearing or trial, including authenticating witness testimony.**

Comment — 2020

There is no obligation for the court to conduct an independent investigation of a party's or his or her household member's criminal record or abuse history.

Subdivision (a)(1) provides that the Criminal Record/Abuse History Verification form is a confidential document under the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. A party with a criminal offense expunged or granted limited access is generally not required to disclose such information. See 18 Pa.C.S. § 9122.5. However, the Verification form requires a party to disclose this information, including the information of a household member. Although most of the listed offenses would be ineligible for expungement or limited access due to the severity and nature of the criminal offense, some listed criminal offenses could be expunged or subject to limited access. As such, to avoid inadvertently disclosing this information to individuals not associated with the court or the custody litigation, the rule deems the Verification form a confidential document under the *Public Access Policy*.

Additionally, a requirement for the parties to update the Verification form has been added in subdivision (a)(4). The rule's intent is for the court and parties to have the most current information available, including after a final order — provided the child remains under the court's jurisdiction. Although the rule provides for the filing of an amended Verification form at a hearing, pretrial conference, or trial, the terminology used by a judicial district may vary for these court proceedings.

Subdivision (d) requires a judicial district to develop local rules for obtaining, distributing, and introducing into evidence information from the county children and youth social service agency. In a judicial district with a "one family - one judge" policy or in a county in which a judge presides over the custody and dependency cases, a local rule may not be necessary as provided in subdivision (d) as the judge will have access to the requisite Section 5329.1 information as set forth in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329(a). In contrast, a local procedure may be necessary in a judicial district in which the juvenile dependency court's information and the county children and youth social service agency's file are not readily accessible to a custody court judge who is not directly involved in the juvenile dependency case.

In several counties, judicial districts have developed forms to elicit the appropriate Section 5329.1 information from the children and youth social service agency. In a judicial district using such a form, the court should ensure that the information or documentation obtained from the agency, which may be

confidential, is handled in accordance with applicable laws related to the distribution of confidential information and the Pennsylvania Rules of Evidence.

The Verification form has been updated to include a new criminal offense, 18 Pa.C.S. § 2718 (relating to strangulation), which was added to 23 Pa.C.S. § 5329 in Act 32 of 2020 (effective August 4, 2020). In addition, the Verification form has been amended to require the disclosure of a finding of contempt related to a Protection of Victims of Sexual Violence and Intimidation Order under 42 Pa.C.S. § 62A14. The form already required the disclosure of a finding of contempt in a PFA action.

Rule 1915.4-4. Pre-Trial Procedures.

* * *

(e) At the pre-trial conference, **the court shall consider** the following[**shall be considered**]:

- (1) issues for resolution by the court;
- (2) unresolved discovery matters;
- (3) **[any]**agreements of the parties;
- (4) issues relating to expert witnesses;
- (5) settlement **[and/]**or mediation of the case;
- (6) **a party's or household member's criminal record or abuse history or a party's, household member's, or child's involvement with the juvenile dependency court or the children and youth social service agency as outlined in 23 Pa.C.S. §§ 5329 and 5329.1, including the admissibility of related documents, other evidentiary issues, or testimony;**
- (7) such other matters as may aid in the disposition of the case; and
- (~~7~~8) if a trial date has not been scheduled, **[it shall be scheduled]the court shall schedule the trial** at the pre-trial conference.

* * *

Rule 1915.7. Consent Order

If the parties have an agreement regarding custody and request that the court enter a consent order incorporating the agreement's terms:

- (a) the parties shall submit to the court a proposed custody order bearing the parties' written consent; or
- (b) the parties may state the agreement on the record, provided that:
 - (1) within ten days of placing the agreement on the record, the parties comply with subdivision (a); or
 - (2) the court memorializes the oral agreement from the record into a written custody order.

Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

[See Pa.R.C.P. No. 1915.10(b) regarding written custody order requirements.]

Rule 1915.10. Decision. Order

(a) The court may make the decision before the testimony has been transcribed. The court shall state the reasons for its decision on the record in open court or in a written opinion or order.

[Note: See 23 Pa.C.S. § 5323(d).]

(b) The court shall enter a custody order as a separate written order or in a separate section of a written opinion.

(1) The court's order shall state sufficiently specific terms to enforce the order.

(2) If the court has made a finding that a party or child is at risk of harm, the court's order shall include safety provisions for the endangered party's or child's protection.

(c) A custody order shall include a notice outlining the parties' obligations under:

(1) 23 Pa.C.S. § 5337, regarding a party's intention to relocate with a minor child; **and**

[Note: See 23 Pa.C.S. § 5323(c) and Pa.R.C.P. No. 1915.17.]

(2) Pa.R.C.P. No. 1915.3-2(a)(4)(ii), regarding a party's ongoing obligation to complete, file, and serve the Criminal Record/Abuse History Verification form.

(d) A party may not file a motion for post-trial relief to an order of legal or physical custody.

* * *

Comment — 2020

Similar to the rule's requirement that the court include in a custody order provide a notice to the parties of his or her obligation with regard to relocation, the rule now provides that the custody court order contain a notice to the parties notifying him or her of the ongoing obligation to update the Criminal Record/Abuse History Verification form. Under no circumstances does a party filing an updated Verification form impose a duty on the court to respond or react to a newly revealed criminal record or abuse history absent another party petitioning the court for relief.

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
REPUBLICATION REPORT
RULE PROPOSAL 154**

The Domestic Relations Procedural Rules Committee (“Committee”) is proposing amendments to Pa.R.C.P. No. 1915.3-2, Criminal Record or Abuse History, Pa.R.C.P. No. 1915.4-4, Pre-Trial Procedures, Pa.R.C.P. No. 1915.7 - Consent Order, and Pa.R.C.P. No. 1915.10 - Decision. Order. Initially, Act 107 of 2013, effective January 1, 2014, prompted the Committee to discuss rule amendments to further those legislative changes, which included directing custody courts to consider child abuse and the involvement of a party, household member, or child with a child protective services agency when determining child custody under 23 Pa.C.S. §§ 5321 - 5340. Furthermore, Act 107 amended not only Title 23 as it relates to child custody, but also the Child Protective Services Law, 23 Pa.C.S. §§ 6301 - 6375, and the Juvenile Act, 42 Pa. C.S. §§ 6301 - 6375. Act 107 directed the Department of Public Welfare, now the Department of Human Services (DHS), the local county children and youth social services agency (CYS), and the court of common pleas to cooperate with the exchange of information that is necessary for a court to determine child custody.

As it relates to child custody determinations, Act 107 provided statutory changes requiring inter-branch cooperation between family courts and DHS, including CYS, for sharing reports and other information of families and children involved with CYS and a custody court. The information sharing is necessary for a custody court to determine the amended factors in 23 Pa.C.S. §§ 5328(a)(2.1) and 5329.1(a). These statutory changes also provide a number of procedural and evidentiary problems.

First, child custody proceedings are adversarial, and the parties are required to present evidence in support of his or her claim for custody, which address the Section 5328 factors, including (a)(2.1). Often the custody litigants are not the dependency action litigants (*e.g.*, grandparents, other third parties). Those litigants may not have access to juvenile court records and CYS files, which may have relevancy in the custody action. Moreover, some dependency and CYS information or reports are confidential and, as such, a custody litigant may be precluded from obtaining evidence relevant to the custody action.

Second, the Act amends the Child Protective Services Law and Juvenile Act by granting courts of common pleas access to reports, files, and court records that would assist the court in determining custody. Allowing the custody judge access to CYS information and files places the judge in an investigative rather than an adjudicative role. Previous published versions of this Rule Proposal had many comments objecting to this judicial investigative role.

Complicating matters are the varying judicial district court procedures for custody cases and juvenile dependency cases. In judicial districts in which a judge may hear both custody and dependency cases or the judicial district is “one family one judge,” the issues are less problematic since the custody court often would have knowledge of the parties’ or child’s involvement with CYS and dependency court. Additionally, the court would already have access to the dependency case records and files, and may have conducted hearings in which this information had been entered as evidence. However, even in these judicial districts, the issue of how CYS and dependency court information will be entered into evidence in the custody action is still problematic in many circumstances, as is third-party litigants accessing confidential CYS reports and information.

On three occasions, the Committee published for public comment in the *Pennsylvania Bulletin* a variation of this Rule Proposal. See 46 Pa.B. 3932 (July 23, 2016), 47 Pa.B. 3333 (June 17, 2017), and 49 Pa.B. 3469 (July 6, 2019). After reviewing comments from the most recent publication and additional Committee deliberations, the Committee has substantially revised the previous proposal, and the Committee is now republishing the Rule Proposal for public comment.

Initially, the Committee proposes reformatting Pa.R.C.P. No. 1915.3-2 into an outline format rather than the current narrative format. The current Rule Proposal significantly restructures the rule. The Committee believes this format is more easily understood and followed, especially in rules in which there are numerous procedural parts. As such, subdivisions (a) and (b) have been completely rewritten. The rule revision includes the current rule’s narrative provisions reformatted and enumerated into distinct subdivisions with additional provisions detailing when the parties must update the Criminal Records/Abuse History Verification form and addressing sanctions for failure to file the form.

Of significance, the Committee believes that it is critical that the court have the most current information on the parties and household member’s criminal record and abuse history to properly determine custody. As such, the Rule Proposal provides that the party’s shall have the ongoing obligation for updating the Verification form so that the parties and the court have current and accurate information so they can understand any potential threats of harm to the child. The Rule Proposal requires the parties to update the Verification form at each hearing, pretrial conference, or trial and after a final order, if the court has jurisdiction over the child, when a party’s or household member’s circumstances have changed relative to the required disclosures, which would impact the most recently filed Verification form’s accuracy.

Finally, as it relates to Pa.R.C.P. No. 1915.3-2(b), the Committee has deleted the Note following the current rule text and, instead, incorporated the relevant portions into

the rule text. The Committee determined that the Note's information would be better suited and have greater significance in practice by its inclusion into the rule text.

Also, the Committee proposes adding subdivision (d) to Pa.R.C.P. No. 1915.3-2, which will require judicial districts to develop local rules/procedures for obtaining the requisite information from CYS and the dependency courts, as appropriate. As set forth in the accompanying Comment, the variation in judicial district procedures in custody and juvenile dependency cases makes a "one-size fits all" statewide rule difficult and impractical. The Committee's deliberations suggested that the local courts were in a better position to develop procedures between two court divisions and a county agency.

Another statutory change impacting Pa.R.C.P. No. 1915.3-2 is a recent amendment to 23 Pa.C.S. § 5329. Act 32 of 2020 (effective August 4, 2020) amends Section 5329 and adds 18 Pa.C.S. § 2718 (related to strangulation) to the list of criminal offenses that the court must consider in awarding custody. The Committee proposes amending the Criminal Record/Abuse History Verification form to include that statutory amendment along with adding contempt of Protection of Victims of Sexual Violence and Intimidation order or agreement to the list of offenses included on the form.

As noted above, the Rule Proposal includes amendments to Pa.R.C.P. Nos. 1915.4-4, 1915.7, 1915.10. With regard to Rule 1915.4-4, the proposed amendment would require that the court address the parties' criminal record or abuse history at a pre-trial conference. In addition, the proposed amendment would require the court to address the admissibility of the CYS documents and information and other related evidentiary issues, including authenticating CYS witness testimony, during a pretrial conference, as well.

Finally, the Committee proposes amending Rule 1915.10(c) by adding a provision requiring that the court's custody order include a notice outlining the parties' ongoing obligation to update the Verification form post-final order. The Committee reasoning in proposing this obligation is that often after a final order one party's circumstances change that are unknown to the other party, which could have significant impact on the child and the child's best interest. By requiring a party to update the Verification when his or her circumstances (or his or her household member's circumstances) warrant, the other party can obtain information and assess whether a modification of the order is necessary. This requirement is fashioned after a similar relocation notice requirement. As proposed, subdivision (c) is subdivided so that both requirements, relocation and updating verifications, are in separate subdivisions.

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