

## Summary

### Resumption of Jurisdiction Court Rules—Effective December 1, 2013

Below is a summary of the new Resumption of Jurisdiction Court Rules promulgated by the Pennsylvania Supreme Court. These Rules are effective December 1, 2013. We hope you will take the opportunity to read the summary below and the complete Rules and Comments. They can be found at <http://www.pabulletin.com/secure/data/vol43/43-45/2104.html> and at <http://pacode.com>.

Here are some highlights:

- Youth, attorneys for children, and the county agency may all file resumption of jurisdiction motions.
- The county agency and the former attorney for the youth should assist the youth in filing the resumption motion so that the youth can have access to the court.
- Hearings on the motion must be held within thirty days, however, expedited hearings can be requested when the youth’s situation requires more immediate relief in the form of placement and services.
- The youth’s attorney plays the role of counsel—not guardian *ad litem*—in resumption of jurisdiction cases.
- AOPC has provided a template Motion for Resumption of Jurisdiction that can be filed along with a verification. This Template can be found at <http://www.pacourts.us/assets/files/setting-2797/file-2922.pdf?cb=3ba9f5>.

### Summary of the Resumption of Jurisdiction Rules and Comments to the Rules

**Rule 1120. Definitions.** Amends the definition of “child” to be consistent with Act 91, and includes youth:

- Who are under age 21, and
- Were adjudicated dependent before turning age 18, and
- Have requested that the court retain jurisdiction or for whom jurisdiction has been resumed because the court has determined that the youth is:
  - Completing post-secondary education or an equivalent credential;
  - Enrolled in an institution which provides postsecondary or vocational education;

- Participating in a program actively designed to promote or prevent barriers to employment;
- Employed at least 80 hours per month; or
- Incapable of doing any of the activities listed above due to a medical or behavioral health condition that is supported by regularly updated information in the permanency plan for the child.

#### **Rule 1151. Assignment of Guardian *Ad Litem* and Counsel**

- **(B)(1)(f) Counsel for child:** The court “shall appoint legal counsel for a child” when a motion for resumption of jurisdiction is filed.
- **Comments to the Rule:** It is best practice to appoint the GAL or counsel who was previously assigned to the youth.

#### **Comment to Rule 1150—Attorneys—Appearance and Withdrawals.**

- If there are “extenuating circumstances preventing the attorney from representing the child, the attorney should make this known at the time of the filing of the motion for resumption of jurisdiction so the court can assign a new attorney.”

#### **Rule 1200. Commencing of Proceedings.**

- (6): Includes filing of a resumption of jurisdiction motion petition as a mechanism for commencing proceedings.
- **Comments to the Rule:**
  - County agencies and the clerk of courts should have form motions available for attorneys and youth to complete.
  - AOPC has provided a form at <http://www.pacourts.us/Forms/dependency.htm>.
    - **Verification:** The template provided requires that a box be checked confirming that the “child has signed a verification.”
  - “The clerk of court or county agency is to assist any child who requests assistance in completing the form and the clerk is to accept all filings for resumption of juvenile court jurisdiction regardless of whether the motions meet the standard for legal filings or there are objections by other parties. This is to ensure these children have easy access to the court.”

#### **Rule 1610. Permanency Hearing for Children over Eighteen.**

- Rule applies to permanency hearings for all youth 18 and over, not just resumption cases.
- Permanency hearings must be held at least every 6 months.
- The court must determine and make findings regarding the following:

- Whether the youth meets the new definition of a “child” under the Juvenile Act;
- Whether the transition plan is consistent with Rule 1631 (E)(2);
- The date at which the permanency goal for the youth might be achieved;
- Whether the placement continues to be best suited to the safety, protection, and physical, mental and moral welfare of the child.
- **Comments to the Rule:**
  - The court rules requiring the youth to be present at hearings applies in these matters.
  - To the extent possible, the judge or master who heard the case prior to age 18 or prior to the youth re-entering care should preside at permanency hearings past age 18.
  - Hearings must be held at least once every six months, but more frequent review, including hearing or status conferences to address specific issues, such as transition, are encouraged and considered best practice.
  - Time to achieve permanency and address any barriers to achieving the permanency and transition plan should be addressed as soon as possible rather than waiting for a six month review.
  - Once the court resumes jurisdiction of a case, permanency reviews must be scheduled and a new transition and permanency plan must be developed for the youth.

#### **Rule 1611. Permanency Hearing Orders for Children over Eighteen.**

- **(A) The court ordered issued following the permanency hearing must state whether the transition plan is** best suited to the safety, protection, and physical, mental and moral welfare of the child.
- **(B) The order should include the determinations made consistent with Rule 1610 (D),** including
  - Whether the youth meets the new definition of a “child” under the Juvenile Act
  - Whether the transition plan is consistent with Rule 1631 (E)(2);
  - The date at which the permanency goal for the youth might be achieved; and
  - Whether the placement continues to be best suited to the safety, protection, and physical, mental and moral welfare of the child.
- **(C) The order must address education, specifically:**
  - If educational stability has been maintained and any orders need to be made to address this;
  - If an educational decision maker needs to be appointed; and
  - If any educational issues need to be addressed related to making academic progress, especially around transition issues.

- **(D) The order must address any issues around health care and disability, including**
  - If current needs are addressed and any actions to address the transition of health care or disability services to the adult systems, and
  - Orders for needed evaluations or treatment.

**Rule 1631. Termination of Court Supervision.** This is former Rule 1613 and is just renumbered with some minor amendments.

- **1631 (E)** covers termination of court supervision for youth ages 18 and older. Rule 1635 makes clear that Rule 1631 covers termination of supervision for all youth age 18 and older, including cases for which resumption of jurisdiction was granted.
- For the court to terminate supervision of a youth age 18 or older, a hearing must be held at least 90 days prior to the youth turning 18 or his or her discharge from the child welfare system.
- Prior to the hearing, the youth should have the opportunity to develop a transition plan with the child welfare agency.
- The transition plan must be presented to the court at the hearing, and must include, at a minimum:
  - The specific plans for housing;
  - A description of the youth's source of income;
  - The specific plans for pursuing educational or vocational training goals;
  - The youth's employment goals and whether the youth is employed;
  - A description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the youth;
  - A description of any available programs that would provide mentors or assistance in establishing positive adult connections;
  - Verification that all vital identification documents and records have been provided to the youth; and
  - A description of any other needed support services.
- The transition plan should also include notice to the youth that the youth can request resumption of juvenile court jurisdiction until the youth turns twenty-one years of age if specific requirements are met.
- The court shall review the transition plan and should schedule a subsequent hearing if the plan is not acceptable.
- "The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines that termination is warranted."

- **New Comments to the Rule** clarify that having a non-custodial parent available to provide care to the youth is not grounds for denying a motion for resumption of jurisdiction. This makes clear that resumption of jurisdiction cases are not new dependency cases for which new grounds of dependency must be established. Rather, these are a unique class of cases for which the court resumes jurisdiction on the case of a previously dependent child. The presence of a parent may be relevant to the transition and permanency plan established with the youth once resumption of jurisdiction is granted; it is not relevant to a youth's eligibility for resumption of jurisdiction under Act 91.

#### **Rule 1634. Motion for Resumption of Jurisdiction.**

- **(A) Venue--Where are motions filed:** Motions must be filed in the county of the court that first terminated court supervision of the youth. The **Comments to the Rule** state that if the youth has moved to another county, the court may transfer the case pursuant to Rule 1302 at any time after the filing the of motion, including prior to the hearing on the motion.
- **Who can file the motion:** The **Comments to the Rule** state that a motion can be filed by "the child, county agency, or attorney for the child."
- **Who is obligated to assist the youth in filing the motion: The Comments to the Rule** state that an attorney or county agency approached by the child to file a motion "is to assist the child in the filing of the motion." See Rule 1150 above for guidance on how a case should be handled when an attorney has extenuating circumstances that may prevent him or her from taking the case. The Comments to Rule 1150 indicate that the attorney at minimum should assist the youth in filing the resumption of jurisdiction motion and in that motion request that a new attorney be appointed.
- **Appointment of Counsel:** If the youth does not have counsel at the time of filing the motion, the court is to assign legal counsel pursuant to Rule 1151 and immediately order service of the motion on appointed counsel. Best practice is to appoint the youth's former attorney, however, the role of the attorney is of legal counsel, not guardian *ad litem*.
- **(B) Contents--What must the motions contain:**
  - That dependency jurisdiction was terminated within 90 days of the youth's 18<sup>th</sup> birthday or on or after the youth's 18<sup>th</sup> birthday, and
  - The youth is under age 21, and
  - The youth was adjudicated dependent before turning age 18, and
  - The youth has requested that the court resume jurisdiction, and
  - The youth is doing at least one of the following:

- Completing post-secondary education or an equivalent credential
- Enrolled in an institution which provides postsecondary or vocational education,
- Participating in a program actively designed to promote or prevent barriers to employment,
- Employed at least 80 hours per month; or
- Is incapable of doing any of activities listed above due to a medical or behavioral health condition supported by regularly updated information in the permanency plan for the child.
- Whether the youth would like his or her guardian or other interested adult involved in the court proceedings;
- That a verification has been signed by the youth attesting the above requirements have been met; and
- Whether an expedited hearing for placement and services is being requested due to the youth's current living arrangement.
- **(C) Service:** A copy of the motion shall be served on:
  - The county agency;
  - The attorney for the county agency;
  - The youth;
  - The youth's attorney; and
  - The guardian or other interested adult if the youth requesting resumption of jurisdiction would like the guardian or other interested adult involved in the case.
  - **Comments to the Rule:** If it is the youth who filed the motion, the President Judge of each judicial district is to designate a person to serve the other parties for the child.
- **Template Motions:**
  - In the Comments to the Rules there is a link to a template motion for resumption of jurisdiction, which is available at <http://www.pacourts.us/assets/files/setting-2797/file-2922.pdf?cb=3ba9f5>.
  - The Template contains a check off box that the youth has signed a verification. If you use the template motion, you will need to include a verification.

#### **Rule 1635. Hearing on Motion for Resumption of Jurisdiction.**

- **(A) Timing:** A hearing shall be held within thirty days of being filed with the court.

- **How should emergency situations be handled: NOTE: The Template Motion contains a section to request “an expedited hearing for placement and services based on the child’s current living arrangement.”** When you use the template or draft your own motion, remember to state whether an expedited hearing is being requested if you do not think the youth has a safe living situation or has needs that require a more immediate response.
- **(B) Notice of the hearing shall be given to:**
  - The county agency;
  - The attorney for the county agency;
  - The youth;
  - The youth’s attorney; and
  - The guardian or other interested adult if the child requesting resumption of jurisdiction would like the guardian or other interested adult involved in the case.
- **(C) At the hearing, the court shall make the following findings:**
  - Whether the youth is under age 21;
  - Whether dependency jurisdiction was previously terminated within 90 days of the youth turning age 18 or after turning age 18;
  - Whether the youth continues to meet the definition of a “child” pursuant to 42 Pa. C.S.A. 6302. (Act 91 Criteria);
  - Whether reasonable efforts were made by the county agency to prevent the return of the child to juvenile court jurisdiction unless, due to the child’s immediate need for assistance, such lack of efforts was reasonable;
  - Whether exercising jurisdiction under 42 Pa. C.S.A. 6351 (j) is best suited to the protection and physical, mental, and moral welfare of the child;
  - Whether a guardian or other interested adult should be involved in the child’s case;
  - Whether the youth has any health or educational needs to be addressed; and
  - Whether the county agency has developed an appropriate transition plan.
- **(D) Orders Following the Hearing.** After the hearing, the court shall
  - Enter an order granting or denying the motion for resumption of jurisdiction.
  - If the motion to resume is granted, the court shall order:
    - That resumption of jurisdiction is best suited to the protection and physical, mental, and moral welfare of the child;
    - Any findings as to the transition plan for the child;
    - Regular scheduling of permanency hearings pursuant to Rule 1608;
    - Any designations of custody and/or placement of the child; and
    - Any evaluations, tests, or treatments for the health and educational needs of the child.

- **(E) Termination of Court Supervision in Resumption Cases.**
  - Termination of court supervision for resumption of jurisdiction cases is handled in the same fashion as all termination of court supervision cases pursuant to the requirements of now Rule 1631 (E)(2) (“Termination of Court Supervision”) (formerly Rule 1613).