

**PART B
PERMANENCY HEARING**

RULE 1607. REGULAR SCHEDULING OF PERMANENCY HEARINGS

A. **Thirty days.** The court shall conduct permanency hearings within thirty days of:

- 1) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made;
- 2) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;
- 3) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent; or
- 4) a motion alleging that the hearing is necessary to protect the safety or physical, mental, or moral welfare of a dependent child.

B. **Six months.** The court shall conduct a permanency hearing within six months of:

- 1) the date of the child's removal from the child's guardian for placement pursuant to 42 Pa. C.S. §§ 6324 or 6332, or pursuant to a transfer of legal custody, or other disposition pursuant to Rule 1515, whichever is earliest; or
- 2) each previous permanency hearing until the child is **[returned to the child's guardian or]** removed from the jurisdiction of the court pursuant to Rule 1613.

COMMENT

See 42 Pa.C.S. § 6351(e)(3).

Paragraph (A) provides when permanency hearings are to be held within thirty days. If the requirements of paragraph (A) do not apply, the court is to hold a permanency hearing every six months in every case until the child is removed from the jurisdiction of the court pursuant to paragraph (B). This includes cases when the child is not removed from the home or the child was removed and subsequently returned to the guardian, but the child is under the court's supervision.

See Rule 1800(11).

Official Note: Rule 1607 adopted August[,] 21, 2006, effective February 1, 2007. **Amended September 16, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1607 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the amendments to Rule 1607 published with the Court's Order at 39 Pa.B. -- (--, 2009).**

CHAPTER 18 SUSPENSIONS

1800. SUSPENSIONS OF ACTS OF ASSEMBLY

This rule provides for the suspension of the following Acts of Assembly that apply to dependency proceedings only:

- 1) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with Rule 1124, which requires a summoned person to fail to appear and the court to find that sufficient notice was given.
- 2) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rules 1127(A) & 1242(B)(2), which requires all proceedings to be recorded, except for shelter care hearings.
- 3) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6311(b)(9), which provide that there is not a conflict of interest for the guardian *ad litem* in communicating the child's wishes and the recommendation relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, is suspended only insofar as the Act is inconsistent with Rule 1151, which allows for appointment of separate legal counsel and a guardian *ad litem* when the guardian *ad litem* determines there is a conflict of interest between the child's legal interest and best interest.
- 4) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the child, is suspended only insofar as the Act is inconsistent with Rule 1152, which does not allow a guardian to waive the child's right to counsel and a child may not waive the right to a guardian *ad litem*.
- 5) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may direct hearings in any case or classes of cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 1187, which allows masters to hear only specific classes of cases.
- 6) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers taking a child into custody.

- 7) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty-four hours or the next business day of the admission of the child to shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the next business day from the shelter care hearing if the child is in protective custody under Rules 1242 and 1330(A).
- 8) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 1320, 1321, and 1330, which provide that the county agency may file a petition and any other person shall file an application to file a petition.
- 9) The Act of December 19, 1990, P.L. 1240, No. 206, § 2, 23 Pa.C.S. § 6339, which provides for the confidentiality of reports made pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 *et seq.*, is suspended only insofar as the Law is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.
- 10) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides that a copy of the petition is to accompany a summons, is suspended only insofar as the Act is inconsistent with Rule 1360, which provides that the summons is to include a copy of the petition unless the petition has been previously served.
- 11) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6351(e)(3)(i)(B), which provides for permanency hearings within six months of each previous permanency hearing until the child is returned home or removed from the jurisdiction of the court, is suspended only insofar as the Act is inconsistent with Rule 1607, which requires permanency hearings in all cases until the child is removed from the jurisdiction of the court.**

COMMENT

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See *also* Rule 1102.

Official Note: Rule 1800 adopted August[,] 21, 2006, effective February 1, 2007. **Amended September 16, 2009, effective immediately.**

Committee Explanatory Reports:

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