

YORK COUNTY RULES OF ORPHANS' COURT PROCEDURE

Including Amendments Adopted Through September 1, 2016

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Short Title and Citation

Rule

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CHAPTER I PRELIMINARY RULES

York O.C. Rule. 1.1 Short Title and Citation

These Rules shall be known as the "York County Orphans' Court Rules" and shall be cited as "York O.C. Rule. ___"

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CHAPTER XV ADOPTIONS

York O.C. Rule. 15.1. Practice and Procedure.

All reports and petitions relating to adoption shall be filed with the clerk and shall be in such form as is designated from time to time by the court. All filing fees shall be paid at the time of filing. Upon the completion of any proceedings relative to adoption, all documents in connection therewith shall be handled in the manner set forth in Pennsylvania Orphans' Court Rule 15.7.

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York O.C. Rule. 15.1.1 General Practice and Procedure

All reports and petitions relating to adoption shall be filed with the clerk and shall be in such form as is designated from time to time by the court. The court may publish special filing instructions and procedures on the county website maintained by the clerk. All filing fees shall be paid at the time of filing.

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York O.C. Rule. 15.1.2 Additional Contents of Filings in Adoption Matters

(A) Telephone Number. Every petition for adoption shall include in the body of the petition or by separate attachment, personal telephone number(s) by which the court-appointed investigator may contact the petitioners to schedule the in-home investigation.

(B) Form of Certain Filings. Every report of intention to adopt and petition for adoption filed of record shall be typewritten and shall contain the caption of the case, the nature of the proceeding, the file number, and either the signature of the attorney, below which shall be the attorney's name, address, telephone number and attorney identification number, or the signature of the party, below which shall be the party's name, address, and telephone number.

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(C) Background Reports and Clearances.

(1) Required Reports and Clearances. All petitioners seeking to adopt shall submit to the court prior to or at the time of filing a petition for adoption each of the following documents, which shall be executed within one (1) year of filing the petition for adoption.

(a) Report of criminal history record information from the Pennsylvania State Police;

(b) Pennsylvania child abuse clearance certificate from the Department of Public Welfare; and

(c) Report of federal criminal history record information if a petitioner is required to file a report of intention to adopt.

(2) Residence Outside of Commonwealth. The information required in paragraphs (C)(1)(a) and (C)(1)(b) is also required from each state where every petitioner seeking to adopt has resided in the five (5) years preceding the filing of the petition for adoption.

(3) Adult Household Residents. The information required in paragraphs (C)(1) and (C)(2) is also required of every individual over eighteen (18) years of age who resides within the household of petitioners.

(4) Exception. A parent of the adoptee, by birth or previous adoption, who has joined a petition for adoption or executed a consent to the proposed adoption pursuant to 23 Pa.C.S. §2711 shall not be required to comply with paragraphs (C)(1) and (C)(2) of this rule.

Note: the background reports and clearance required by this rule are referenced in 23 Pa.C.S. §6344.

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York O.C. Rule. 15.2. Voluntary Relinquishment to Agency.

(A) Petition. A petition under Section 301 of the Adoption Act to relinquish parental rights and duties with respect to a child who has been in the care of an Agency shall include the following allegations:

(1) The name, address, age, racial background and religious affiliation of each petitioner.

(2) The information required in subparagraph (1) as to any parent who is not a petitioner, including the father of a child born out of wedlock, if he has been identified, unless the Court, for cause shown, determines such information is not essential.

(3) The marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name.

(4) The name, age, date of birth, racial background, sex and religious affiliation of the child.

(5) The name and address of the Agency having care of the child.

(6) The date when the child was placed with the Agency.

(7) When the child is born out of wedlock, whether the mother and the father of the child intend to marry.

(8) The reasons for seeking relinquishment.

(9) That each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily to promote what the petitioner believes to be in the petitioner's and the child's best interests.

(B) Exhibits. The petition shall have attached to it the following exhibits:

(1) The joinder of a parent who is not a petitioner or his or her waiver of all interest in the child, if either is obtainable.

(2) A birth certificate or certification of registration of birth of the child.

(3) The written consent of a parent or guardian of a petitioner who has not reached 18 years of age.

(4) The joinder of the Agency having care of the child and its consent to accept custody of the child until such time as the child is adopted.

(C) Notice and Hearing. If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights and duties in and to the child or joined in the other parent's petition hereunder, then notice of the hearing on the petition to relinquish rights and duties shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right to such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the Court.

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York O.C. Rule. 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child.

(A) Petition. A petition under Section 302 of the Adoption Act to relinquish parental rights with respect to a child who has been in the exclusive care of an adult or adults, who have filed a Report of Intention to Adopt shall include the allegations required under subparagraphs (1), (2), (3), (4), (7), (8) and (9) of Rule 15.2(A) and the following:

(1) The date when the Report of Intention to Adopt was filed.

(2) The date when the child was placed with the adult or adults.

(B) Exhibits. The petition shall have attached to it the first three exhibits specified in Rule 15.2(B) and the separate consent of the adult or adults to accept custody of the child.

(C) Notice and Hearing. If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights in the child or joined in the petition hereunder, then notice of the hearing on a parent's petition to relinquish rights shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right of such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the Court.

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York O.C. Rule.15.4 Involuntary Termination of Parental Rights

(A) Petition. A petition or involuntary termination of parental rights under Sections 311 and 312 of the Adoption Act shall include the following allegations:

- (1) The name and address of the petition and his or her standing.
- (2) The name, age, date of birth, racial background, sex and religious affiliation of the child
- (3) The name, address, age, racial background and religious affiliation of the parent or parents, including the father of a child born out of wedlock, if he has been identified.
- (4) The marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name.
- (5) The date when the child was placed in the care of the petitioner.
- (6) Facts constituting grounds for the involuntary termination under Section 311 of the Adoption Act, and a reference to the applicable subsection or subsections.
- (7) Whether either parent of the child is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C.A. §501 et seq.).
- (8) That the petitioner will assume custody of the child until such time as the child Is adopted.

(B) Exhibits. The petition shall have attached to it the following exhibits:

- (1) A birth certificate or certification of registration of birth of the child.
- (2) The joinder of a parent of a petitioner who is under the age of 18, unless excused by the Court.

(C) Guardian Ad Litem.

(1) When the termination of the parental rights of a parent who has not attained the age of 18 years is sought, unless the Court finds the parent is already adequately represented, the Court shall appoint a guardian ad litem to represent the parent. The appointment of a guardian ad litem may be provided for in the preliminary order attached to the petition for involuntary termination of parental rights.

(2) The decree appointing a guardian ad litem shall give the name, date of birth and address (if known) of the individual whom the guardian ad litem is to represent and the proceedings and period of time for which the guardian ad litem shall act

(D) Notice and Hearing. Notice of the hearing on the petition shall be given, in accordance with Rule 15.6 hereof, to the parent or parents whose rights are sought to be terminated, including the parent of a child born out of wedlock, to any intermediary named in the Report of Intention to Adopt, if one has been filed, and to the guardian of the person or guardian ad litem of any parent or parents who is or are under the age of 18 years. Each petitioner, each person whose joinder or consent is attached to the petition and any intermediary named in a Report of Intention to Adopt shall be examined under oath at the hearing unless they are excused by the Court.

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York O.C. Rule. 15.4.1 Certificates.

In every proceeding brought to terminate any parental rights as to a child born in the Commonwealth of Pennsylvania, petition shall obtain and provide to the Court at the time of the hearing thereon official certification obtained from the Pennsylvania Department of Welfare (formerly obtained from the Pennsylvania Department of Health, Bureau of Vital Statistics) identifying any paternity acknowledgements or paternity claims on file with the Department in accordance with 23 Pa.C.S. §5103(b) as to each such child as to whom termination of parental rights is sought.

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York O.C. Rule. 15.5 Adoption.

(A) Petition. The petition shall contain all declarations and information required by Section 401 of the Adoption Act and any additional information required by local rules.

(B) Notice or Consent - Parents of Child. Notice as provided by Rule 15.6 shall be given to each parent unless

(1) He or she has consented in writing to the adoption and waived notice of hearing
or;

(2) He or she has voluntarily relinquished his or her parental rights in a proceeding under Rule 15.2 or Rule 15.3, or;

(3) His or her parental rights have been involuntarily terminated in a proceeding under Rule 15.4.

(C) Investigation. A petition for adoption shall be subject to investigation as prescribed by local rules. The investigation report shall cover the matters alleged in the petition, any other matters that may affect the welfare of the child, and the information required by Sections 335 and 424 of the Adoption Act.

(D) Disclosure of Fees and Costs. At the hearing there shall be offered in evidence a report, certified by counsel for the petitioner, setting forth the amount of fees and expenses paid or to be paid to counsel and any other fees, costs and expenses paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

(E) Adult - Change of Name. When the person to be adopted is over the age of 18 years and desires to assume the surname of the adopting parent or parents, evidence showing compliance with the law relating to change of name must be introduced before a decree will be made.

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York O.C. Rule. 15.5.1 Notice in Adoption Proceedings

(A) General Rule. Notice of any hearing related to an adoption shall be given in strict conformity with the Adoption Act, 23 Pa.C.S. §§ 2301 et seq., and the Orphans' Court Rules of this Commonwealth and this county.

(B) Specific Circumstances and Exceptions.

(1) Adult Adoptee. If an adoptee is eighteen (18) years of age or older, a separate petition to waive notice of the hearing(s) to any parent of the adoptee may be filed by the prospective adoptive parent(s).

(2) Notice by Publication. If a person to be notified is not represented by legal counsel, cannot be personally served with notice, and cannot be served by mail because his or her residence is not known, a separate petition seeking authority to provide notice by publication may be filed by the prospective adoptive parent(s). Facts supporting the petition that cannot be verified by the petitioner(s) shall be stated in an affidavit accompanying the petition. If the petition is granted, notice by publication shall comply with York O.C. Rule 5.1.1 and be given at least once a week during three successive calendar weeks in a newspaper of general circulation published at or near the last known address of the person to be notified and also in the legal periodical, if any, in that county.

(3) Identity of Person to be Notified Unknown. If, after reasonable investigation, the identity of a person to be notified is unknown, a separate petition to waive notice to that person may be filed by the prospective adoptive parents(s). The petition shall set forth all information known relating to the identity or possible whereabouts of the person to be notified and what reasonable investigation was undertaken to identify that individual. Facts supporting the petition that cannot be verified by the petitioner(s) shall be stated in an affidavit accompanying the petition.

(4) Verification and Proposed Order. Each petition allowed by section (B) of this rule shall be accompanied by a verification and a proposed court order.

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York O.C. Rule. 15.5.2 Adult Adoptee Name Change - Alternative Procedure

(A) Application for Change of Name as Exhibit to Petition for Adoption. In lieu of filing a separate petition for change of name with the prothonotary required by York R.C.P. 5730, petitioners seeking to adopt and requesting a change of an adult adoptee's name may instead initiate a change of name proceeding for an adult adoptee by attaching as an exhibit to their

petition for adoption, an application for change of name in conformity with 54 Pa.C.S § 701(a.1)(2). Attached to the application for change of name shall be a fingerprint card completed by the adult adoptee and a verification form signed by the adult adoptee and petitioners. The application for change of name shall be filed with the clerk of the orphans' court and does not have to comply with the requirements in York R.C.P. 205.2 as stated in York R.C.P. 5703(a)(1).

(B) Evidence of Notice. Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to the alternative procedure in this rule shall comply with the requirements in York R.C.P. 5730(b) and (c)(1).

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York O.C. Rule. 15.6 Notice to Persons; Method; Notice of Orphans' Court Proceedings Filed on Dependency Docket.

(A) Notice to every person to be notified shall be by personal service, service at his or her residence on an adult member of the household, or by registered or certified mail to his or her last known address. If such service is not obtainable and the registered or certified mail is returned undelivered, then:

(1) No further notice shall be required in proceedings under Rule 15.2 or 15.3.

(2) In proceedings under Rules 15.4 and 15.5, further notice by publication or otherwise shall be given if required by general rule or special order of the Court.

(B) If, after reasonable investigation, the identity of a person to be notified is unknown, notice to him or her shall not be required.

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York O.C. Rule. 15.7 Impounding; Docket Entries; Reports; Privacy.

(A) All proceedings shall be impounded, docket entries made, report made to the Department of Public Welfare, and certificates of adoption issued as provided in Sections 505,506, 507 and 508, respectively, of the Adoption Act.

(B) The name or names of the natural parents and the name or names of the child before adoption shall not be entered on any docket which is subject to public inspection.

(C) No decision under the Adoption Act of any hearing judge or appellate Court publicly reported or in any other way made available to the public by the Court shall disclose the identity of the individual parties.

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