March 2019 Legal Report

SWAN Legal Services Initiative

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pennsylvania
STATEWIDE ADOPTION AND PERMANENCY NETWORK

PENNSYLVANIA SUPERIOR COURT

J. & S.O. v. C.H.

Date of Decision: March 27, 2019
Cite: 1361 MDA 2018 (York)

Holding:

Superior Court held that the grandparent custody statute does not violate a widowed Father's due process or equal protection rights.

Facts and procedural posture:

Mother and Father were married and Child was born in 2009. The child had contact with Maternal Grandparents on a weekly basis, often spending the night at their home. Mother passed away in 2013. Maternal Grandparents eventually filed a Complaint in Custody which was resolved by a stipulated order. Maternal Grandparents would have visitation three days per month during the school year and seven days each month during the summer. Upon the recommendation of the child's therapist, the visitation could be modified to overnights.

Approximately a year later, Maternal Grandparents filed a Petition to Modify Custody and Contempt of Existing Order due to Father's non-compliance with the existing order. The trial court granted the request to modify custody and denied the petition for contempt. Maternal Grandparents were granted partial physical custody every other Saturday during the school year, Christmas Eve, and four additional days in the summer. It is from that order that Father appeals.

Issues:

1. Whether 23 Pa.C.S. §5325(1) which grants automatic standing to grandparents is unconstitutional and violative of a parent's 14th amendment rights.
2. Whether 23 Pa.C.S. §5325(1) creates unconstitutionally disparate treatment of widowed parents violating their 14th amendment rights under the Equal Protection Clause.
3. Whether the anti-relocation provisions are violative of a parent's Substantive Due Process rights.
4. Whether the statutory provisions at issue violate the Equal Protection Clause by its disparate and arbitrary parental classifications.

Rationale:

The Pennsylvania Supreme Court previously held that the grandparent custody infringes on the Constitutional rights of parents to the care, custody and control of their children. Consequently, any due process or equal protection challenge must survive strict scrutiny. Generally, strict scrutiny requires that any governmental action is narrowly tailored to a compelling state interest.

The compelling state interest of grandparent custody statutes is "the state's longstanding interest in protecting the health and emotional welfare of children and promoting their well-being."

The Pennsylvania Supreme Court and United States Supreme Court frequently permit the infringement of parental rights if the welfare of children is at issue.

The Court found that ensuring that children of deceased parents are not deprived of beneficial relationships with grandparents is a compelling state interest. Further, Section 5325(1) is narrowly tailored to serve that interest.

The Court relied on the opinion and analysis in *Hiller v. Fausey*, 588 Pa. 342, 904 A.2d 875 (2006) which addressed the prior version of the statute at issue. The Court noted that the language of the prior version of the grandparent custody statute is nearly identical to the current statutory construction. In *Hiller*, the Supreme Court held that the application of the portion of the statute that allowed visitation or partial custody to grandparents upon the death of the child's parent did not violate the surviving parent's due process rights. Additionally, the prior, and almost identical, version of the statute survived strict scrutiny by narrowly tailoring a grandparent's right to seek partial custody only if that grandparent's child is deceased. Finally, the Court acknowledged the statute's balance between the state's and parent's interest by ensuring that grandparent visitation would not interfere with the parent-child relationship and was in the child's best interest.

Equal Protection

Father next avers that the statute subjects widowers to court review of parenting decisions regarding grandparent visitation while non-widowed parents are not subject to court review. In employing the same analysis, the Court finds that the statute survives strict scrutiny because it is narrowly tailored. Further, it is impossible to limit standing to grandparents whose child died without singling out widows. That provision of the statute does not violate Father's equal protection rights.

While Father alleges that the portion of the statute relating to relocation is unconstitutional, he did not file a petition for relocation in the underlying action. Therefore, the Court declined to address that issue.

In the Interest of T.M.A.

Date of Decision: March 29, 2019
Cite: 1147 WDA 2018 (Allegheny)

Holding:

Superior Court affirmed an order adjudicating a youth dependent pursuant to 42 Pa.C.S, §6303 (6).

Facts and Procedural Posture:

Grandmother filed an application to file a private petition alleging that her granddaughter, T.M.A., was "without proper parental care and control." Grandmother alleged that T.M.A was living in her home for the past three years, and she was in need of assistance to continue to care for her. Further, Grandmother alleged that during a juvenile delinquency proceeding, she was

encouraged by the judge to file for a dependency adjudication.

The Juvenile Court ordered CYF to investigate, granted permission for CYF to intervene and scheduled an adjudicatory hearing. At the time of the hearing, T.M.A. was attending summer school and receiving services and supervision through juvenile probation. Grandmother testified that T.M.A. lived with her off and on her whole life, but most recently due to conflict with Mother. Grandmother was in need of assistance to care for T.M.A., including health insurance and an order appointing her as medical decision maker.

Mother acknowledged that T.M.A. primarily resided with Grandmother. However, she did not consent to the arrangement. Mother, however, was not willing to have T.M.A. return to her home. Mother alleged that T.M.A. was upset because Mother was not honest about the identity of T.M.A.'s father. Further, Mother stopped providing insurance for T.M.A. because she did not reside in her home.

T.M.A. testified that she wanted to remain in Grandmother's home. T.M.A. acknowledged conflict with Mother because of the "dad thing." If ordered to return to Mother's home, T.M.A. testified that she would not return.

The agency opposed an adjudication of dependency arguing that Grandmother stood *in loco parentis*. As such, Grandmother could apply for medical assistance. Grandmother, appearing *pro se*, argued that she had no authority to make medical decisions and was in need of financial assistance to support T.M.A. T.M.A.'s counsel argued that she could be adjudicated dependent under 42 Pa.C.S. §6302 (1) or (6). The juvenile court entered an order adjudicating T.M.A. dependent under §6302(6). It is from that order that CYF appeals.

Issue:

Whether the court abused its discretion in adjudicating T.M.A. dependent when there was insufficient evidence presented to support a finding of dependency.

Rationale:

Subsection (6) of the Juvenile Act defines a dependent child as one who "has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian[,] or other custodian and who is ungovernable and found to be in need of care, treatment or supervision[.]" The Agency argues that no evidence was presented to suggest that T.M.A. is "habitually disobedient." Further, the Agency argues that T.M.A. is compliant with the terms of her probation and court ordered services.

Superior Court found no abuse of discretion in the juvenile court's finding that T.M.A. was dependent under subsection (6). The record is replete with evidence of the conflict between T.M.A. and Mother. The conflict is so significant that T.M.A. refused to reside with Mother. Further, Grandmother was not in a position to fully meet T.M.A.'s needs because she was not the legal guardian or custodian. There was no coordination of care between Mother and Grandmother. Grandmother was able to prove that the conflict between Mother and T.M.A. created a situation in which T.M.A. was left without an appropriate guardian who could adequately meet her needs.

In the Interest of H.J.

Date of Decision: March 5, 2019
Cite: 1382 MDA 2018 (Luzerne)

Holding:

Superior Court affirmed orders changing goal from reunification to adoption, holding that it was not an error of law or abuse of discretion to change the goal to adoption instead of SPLC. when safety, permanency, and well-being of the child and the best interests of the child must take precedence over all other considerations, and there is no merit to the argument that the goal of adoption should not be ordered when it might disrupt a sibling bond.

Facts and procedural posture:

Mother and Father are married. Both parents have mild range intellectual disabilities. H.J. is also diagnosed with below average IQ and developmental disabilities. H.J. and an older sibling were adjudicated dependent, removed and ultimately returned to the care of parents. The children were subsequently removed after receiving a report that Father physically and sexually abused the children. The siblings were separated and H.J. disclosed that her sister sexually abused her. H.J., approximately nine years old at the time, stated that she wanted to be adopted by her foster family.

The agency petitioned for a goal change hearing. Over the course of several hearings, the trial court heard testimony from several witnesses, including a psychologist, caseworker, mobile therapist and CASA. At the conclusion of the hearing, the court issued an order changing the goal to adoption. It is from this order that Mother and Father appeal.

Issues:

Whether the trial court committed an error of law or abused its discretion in changing the goal from reunification to adoption for H.J. when her sibling's goal is SPLC.

Rationale:

Mother's and Father's primary argument was that changing the goal to adoption is not in H.J.'s best interest when the sibling's goal is SPLC because it would sever the sibling bond. The evidence of record supports that a goal change to adoption was in H.J.'s best interest. The trial court found that H.J. deserved permanency and was residing with a family who was willing to adopt. Conversely, the sibling was placed in a residential treatment facility, unable to reside in a community setting. The court opined that H.J.'s life should not be put on hold for the sake of the sibling. Further, foster parents were facilitating continued contact with the sibling. Therefore, the parents' claims were speculative at best.

The trial court found that the evidence supported a goal of adoption. H.J. was in placement for well over eighteen months. Neither Mother nor Father were able to remedy the conditions that led to placement. Testimony and evidence presented to the trial court supported the conclusion that a goal of adoption was in H.J.'s best interest.

In re: Adoption of B.G.W.

Date of Decision: March 22, 2019
Cite: 2625 EDA 2018 (Montgomery)

Holding:

Superior Court affirmed an order granting Birth Mother's petition to enforce a Post Adoption Contact Agreement (PACA).

Facts and procedural posture:

The child was placed with Adoptive Parents through a private adoption agency when she was two days old. Consents were executed and confirmed. A motion to stay the adoption was filed and subsequently withdrawn. A hearing on the adoption was conducted, the adoption was finalized and a PACA was executed.

Two provisions of the PACA are at issue. First, the parties agreed to visitation three times a year, one visit is to take place around the time of the child's birthday. The duration of the visit was to be two hours until the child is three years old. Second, the parties agreed to "conduct themselves appropriately" during the visits.

The first visit after the execution of the PACA occurred around the child's first birthday. Two days after the visit, Birth Mother sent a three page letter to the court requesting enforcement of the PACA. The letter was filed with the Orphans' Court as a petition and a Rule to Show Cause was issued. Consequently, a hearing was held to address Birth Mother's request.

Birth Mother testified that Adoptive Father ignored her upon arriving at the agreed upon location. Adoptive Mother told Birth Mother where they would be playing and walked away. Adoptive Father would not permit Birth Mother to have any physical contact with the child. Adoptive Father did not dispute the testimony, but offered that there were concerns for the child's safety, although none were articulated.

The trial court issued an order directing "that the visits involve interaction and communication, including touching" and the next visit would be supervised by a neutral third party. It is from that order that Adoptive Parents appeal.

Issues:

Adoptive Parents presented three issues on appeal, all of which centered on whether Birth Mother had standing to request modification of a PACA pursuant to the clear language of the statute.

Rationale:

Adoptive Parents relied on 23 Pa.C.S. §2737(a) which permits only an adoptive parent or child to seek modification of a PACA. Conversely, 23 Pa.C.S. §2738(a) permits any party to the agreement to seek enforcement of a PACA. The Superior Court held that adoptive parents waived this argument because they did not challenge Birth Mother's standing at the hearing before the trial court. Notwithstanding, the Court did not find Adoptive Parents' argument persuasive. The evidence and resulting order make it clear that the trial court was attempting to enforce the PACA.

Adoptive Parents presented the same argument as to why the trial court erred in ordering a third party neutral to supervise visits, namely that Birth Mother does not have standing to request a modification. The Court concluded that the trial court did not err in construing Birth Mother's letter as a request for enforcement, therefore, Adoptive Parents are not entitled to relief.

Lastly, Adoptive Parents argue that the trial court erred in modifying the PACA to include "touching." Adoptive Parents identified contract principles to argue that the intention of the parties should be considered when interpreting the PACA language. Since they did not include that term or define "visit" to include physical contact, the lower court erred in ordering "touching." The Superior Court disagreed and held that physical contact is implicit in the agreement given that the behavior was acceptable prior to the PACA and both parties voluntarily signed the PACA. As such, the lower court's interpretation of the language of the PACA was reasonable.

COMMONWEALTH COURT

J.F. v. Department of Human Services

Date of Decision: March 7, 2019
Cite: 462 C.D. 2018 (Lancaster)

Holding:

Commonwealth Court reversed an order dismissing Mother's request for a hearing on two founded reports naming her a perpetrator of abuse against her twin daughters and remanded for further proceedings.

Facts and procedural posture:

The agency received a referral that Mother was semi-conscious and intoxicated on a public street. Mother was transported to the hospital and disclosed that she left her fifteen-month-old twins home alone to go to a bar. Mother was charged with endangering the welfare of children. The agency filed two indicated reports naming Mother as a perpetrator of abuse. Mother appealed the indicated reports and requested a hearing.

Prior to the hearing, the agency changed the status of the reports from indicated to founded as a result of Mother entering into an Accelerated Rehabilitative Disposition (ARD) program to resolve the charge of child endangerment. The agency filed a petition to dismiss Mother's appeal alleging that as a perpetrator of abuse in a founded report, Mother did not have a right to a hearing. Mother's response included arguments that the facts contained in the affidavit of probable cause did not constitute serious physical neglect and that acceptance in an ARD program did not constitute an adjudication of the same facts as the founded reports. The ALJ recommended that Mother's request for a hearing be dismissed. In so deciding, the ALJ concluded that the reason Mother was accepted in the ARD program was the same factual circumstance as described in the founded report. The Bureau adopted the ALJ recommendation in its entirety. It is from that order that Mother appeals.

Issues:

Whether the Bureau erred in dismissing her appeal without an evidentiary hearing.

Rationale:

The Court reviewed the definitions of indicated and founded reports contained in the CPSL. Further, the Court considered 23 Pa.C.S. 6341(c.2) and its provision that permits a person identified as a perpetrator of abuse in an indicated report the "right to a timely hearing to determine the merits of the appeal."

In *J.G. v. Department of Public Welfare*, 795 A.2d 1089 (Pa. Cmwlth. 2002), a mother's appeal was dismissed because the CPSL did not contain a provision for a hearing on a founded report. Mother appealed and the Commonwealth Court concluded that Mother was entitled to a hearing. Despite the statutory omission, it does not mean that a perpetrator named in a founded report does not have any right of appeal. Administrative Agency Law provides that no agency adjudication is valid unless the parties are given a hearing. Consequently, a founded report, which constitutes an adjudication, requires a hearing before a party's personal rights are impacted. An administrative hearing on a founded report would not be permitted, however, if it is a collateral attack on another judicial adjudication.

The Commonwealth Court held that permitting Mother's appeal would not be an attack on the final judgment of another court, as Mother's acceptance in an ARD program put the criminal proceedings in abeyance, such that no final judgment has been rendered, and her successful completion of the program is not equivalent to a conviction.

Judge Wojcik's Dissenting Opinion

Judge Wojcik disagrees with the majority insofar as he believes the majority reframed Mother's appeal to be a denial of due process rather than a substantial evidence challenge based on an inapplicable statutory provision. He further believes that the majority opinion expands case law to mandate an evidentiary hearing by the Department to support every founded report.

Petitioner was given notice that the indicated report identified the category of child abuse as "causing serious physical neglect" and the subcategory was "repeated, prolonged or egregious failure to supervise" as a result of leaving the fifteen month old twins home alone for approximately six and a half hours. After Petitioner filed her appeal, the criminal court granted her motion to enter in an ARD program for the EWOC charges. The agency then amended the report to founded. Judge Wojcik argues that the criminal docket of Mother's admittance in an ARD program for EWOC charges is sufficient evidence to amend the report. Further, Mother never contested that she left her infant children home alone.

Judge Wojcik distinguishes *J.G.* and *R.F.* from the instant matter. In *J.G.*, the court held that a founded report is appealable only for the limited purpose of determining whether the underlying adjudication supports a founded report that the named perpetrator is responsible for the abuse. Here, there is no question that Mother is responsible for leaving the children alone. Additionally, Judge Wojick opines that a founded report is a reflection of a prior adjudication, and not an adjudication in and of itself.

Likewise, *R.F.* is distinguishable. A parent was entitled to a hearing on a founded report to determine whether the *nolo contendre* plea established child sexual abuse. Judge Wojcik emphasizes that in this case, there is no dispute about the identity of the perpetrator or her conduct.

Judge Wojcik analyzes the language in the CPSL that defines a founded report. Specifically, the focus is on 6303(a)(2), which permits a finding based on the acceptance in an ARD program so long as the factual circumstances are the same. The language of §6303(a)(2) plainly provides as follows:

> "There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse."

It is noted that this is a voluntary occurrence which will ultimately result in the expungement of one's record if the ARD is successfully completed. Of importance, Mother does not argue that the facts are not the same, but rather that there was no determination regarding the severity of the risk created by her actions. As such, she is not challenging the plain language of the statute.

R.H. v. Department of Human Services

Date of Decision: March 8, 2019
Cite: 724 C.D. 2018 (Bedford)

Holding:

Commonwealth Court reversed an order dismissing R.H.'s request for appeal *nunc pro tunc* from an indicated report of child abuse based on the application of the mailbox rule when there was no evidence entered that the required notice was actually mailed.

Facts and Procedural Posture:

Bedford County filed an indicated report of child abuse based on the alleged sexual abuse of a minor in Kentucky nine years earlier. On February 7, 2017, the agency mailed R.H. notice that he is listed in the statewide registry as a perpetrator in an indicated child abuse report. The letter advised R.H. of his right to appeal within ninety days of the mailing of the notice. The letter was not returned as undeliverable and R.H., through counsel, faxed a notice of appeal on December 21, 2017.

A hearing was held and R.H. testified that the letter was sent to the address where he resides, he was interviewed by the State Police and the local agency but never received the notification in question. R.H. further testified that he first became aware of the indicated report when his employer ran a background check sometime in the summer of 2017. R.H. also checked the Department's website and notified counsel of the indicated report. R.H. and his counsel were questioned about the delay from learning of the report in the summer to the

Did you know?

The English translation for ***nunc pro tunc*** is "now for then."

A *nunc pro tunc* order has the effect of changing back to an earlier date of an order, judgment or filing of a document, oftentimes to allow for an appeal that is otherwise untimely.

Such a retroactive re-dating requires a court order that can be obtained by a showing that the earlier date would have been legal and there was error, accidental omission or neglect that has caused a problem or inconvenience and can be cured.

December 21, 2017 appeal. R.H. testified, and counsel confirmed, that he was advised to wait until he received the official notice in the mail and he never received the notice. The ALJ found that R.H. had 90 days from February 7, 2017 to file an appeal. The appeal period expired May 8, 2017, therefore, the December 21, 2017 appeal was untimely.

A late appeal may be permitted under extraordinary circumstances. The petitioner has the burden of establishing "(1) he filed the appeal within a short time after learning of and having an opportunity to address the untimeliness; (2) the elapsed period of time is of short duration; and (3) the respondent is not prejudiced by the delay." The ALJ applied the mailbox rule opining that Childline mailed the letter, USPS did not return the letter, and R.H. confirmed that he did in fact reside at that address. Therefore, a rebuttable presumption was created that the letter was received. R.H.'s testimony that he did not receive the letter does not nullify the presumption nor does it establish a breakdown of administrative process. Additionally, R.H. failed to take any necessary steps within a short time after learning about the indicated report. Consequently, the ALJ dismissed the appeal as untimely and the BHA adopted the recommendation in its entirety. It is from that order that R.H. appeals.

Issues:

1. Whether the BHA erred in ruling that R.H. was not entitled to an appeal *nunc pro tunc* because of the ALJ's application of the mailbox rule.
2. Whether the ALJ erred in determining that no basis existed for allowing R.H.'s appeal *nunc pro tunc*.

Rationale:

Commonwealth Court found that the record failed to establish sufficient evidence to trigger the application of the mailbox rule. The Department did not offer evidence to establish that the letter was written in the ordinary course of business and placed in the regular place of mailing, which is required to trigger the application of the mailbox rule. The Department only introduced the first page of the letter and an affidavit of mailing signed by a clerical supervisor.

The Court applied its analysis from *L.H. v. Department of Human Services*, 197 A.310 (Pa.Cmwlth. 2018) to reiterate that absent any evidence that a letter was actually mailed, there can be no presumption that the letter was received. In L.H., an affidavit of mailing was part of the reproduced record, but never introduced as an exhibit in the hearing. Similarly, in the instant matter, the affidavit of mailing was not introduced as an exhibit in the hearing. Consequently, the mailbox rule cannot be applicable.

The Commonwealth Court rejected the ALJ's ninety-day time frame for purposes of appeal. There was no proof that the notice was mailed on February 7, 2017. At best, R.H. learned of the indicated report from his employer in late summer 2017. As such, the December 21, 2017 cannot be characterized as "greatly delayed or untimely." Further, a person named as a perpetrator of child abuse is entitled to clear and unequivocal right to notice of a post-deprivation hearing to satisfy due process. There is no evidence to suggest that R.H. ever received such notice. The Department would not be prejudiced if R.H. was permitted to appeal. The order was reversed and the matter remanded for further proceedings.

S.K. v. Department of Human Services

Date of Decision: March 27, 2019
Cite: 685 C.D. 2018 (Lawrence)

Holding:

Commonwealth Court reverses an order denying S.K.'s request to expunge his indicated report of child abuse from the Childline registry when his actions as a staff member of a residential facility were not reckless and therefore did not constitute child abuse.

Facts and procedural posture:

S.K. was a staff member at a residential facility for youth who were adjudicated dependent or delinquent or youth with mental health issues. The Department of Human Services' Office of Children, Youth and Families (OCYF) received a report that S.K. caused bodily injury to a youth residing at the facility.

The youth threatened to engage in potentially unsafe behavior in the morning of the day in question. As the day progressed, the youth's behavior was causing concern for his safety. S.K. attempted to restrain the youth, but ultimately ended up restraining the youth in a manner that was inconsistent with the expectations of the facility.

Upon investigation, a video showed S.K. grabbing the youth around the waist, lifting him off the floor, "rotated in the air, and put on ground with force causing [Minor] to land on [his] shoulders, neck and back. The force was enough to cause [Minor's] legs/feet to approach [his] head when [Minor] landed on [his] shoulders/head. [Minor] has a diagnosed concussion as a result of being thrown on the ground." S.K. provided statements that were consistent with the video of the event.

Following the incident, S.K. escorted the youth back to his room and contacted the infirmary. The youth complained of neck and back pain and vomited several times. He was transported to the hospital and diagnosed with a concussion. S.K. was terminated as a result of using improper restraint techniques. Consequently, OCYF filed an indicated report of child abuse naming S.K. as a perpetrator of abuse.

S.K. requested a review of the finding by DHS and was advised by the DHS Secretary's designee that the report was accurate and would be maintained in a manner consistent with the CPSL. S.K. appealed to the BHA, a hearing was held and the ALJ recommended that the appeal be denied. The ALJ further determined that the evidence demonstrated that S.K.'s actions were reckless and constituted child abuse. It is from that order that S.K. appeals.

Issues:

1. Whether the BHA erred in concluding that S.K.'s actions were reckless, thus constituting child abuse.
2. Whether the BHA erred in concluding that S.K. did not use reasonable force.

Rationale:

The CPSL provides for the expunction of an indicated report on grounds that the report is inaccurate or being maintained in a manner inconsistent with the law. The facts in the instant matter are not in dispute. S.K. was responsible for the welfare of the youth and was trained and authorized to use Safe Crisis Management restraint techniques to prevent a youth from harming one's self or others.

The BHA held that S.K.'s actions were reckless, thus constituting child abuse as defined in the CPSL. The term "recklessly" is defined in the CPSL through reference to the definition in the Crimes Code which provides:

> A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

To meet the definition, S.K. must have consciously disregarded the risk associated with his actions. Additionally, S.K.'s conscious disregard of the risk must have grossly deviated from conduct a reasonable person in the same circumstance would have found acceptable.

The Commonwealth Court also refers to the Restatement (Second) of Torts and its definition of recklessness in its analysis of S.K.'s conduct and ultimately concludes that the evidence of record does not support the denial of S.K.'s expungement request.

The Court found that the evidence demonstrated that S.K. attempted to de-escalate the youth without success. The youth continued to display agitated and aggressive behaviors. Without any additional staff support, S.K. attempted an approved restraint and it did not go as planned. OCYF failed to establish that S.K. consciously disregarded or was indifferent to the risk that the youth may be injured if a restraint was required. Further, the evidence did not demonstrate a gross deviation from what a reasonable person would find acceptable under the circumstances.

SPOTLIGHT

Legislative Updates

Act 1 of 2019 (formerly Senate Bill 113)

An Act amending the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act, further providing for definitions, for disqualification and forfeiture of benefits as a result of any job-related felony offense, and for restitution for monetary loss; and repealing a retroactivity provision. This Act applies to any public official or public employee entitled to or receiving retirement benefits, including judges, magisterial district judges, and members of the General Assembly.

Rules of Juvenile Court Procedure

Pa.R.J.C.P. 170 Motion to Expunge or Destroy Records and Pa.R.J.C.P. 172 Order to Expunge or Destroy

On March 1, 2019, the Supreme Court amended Rule of Juvenile Court Procedure 170 to require the inclusion of additional information in a motion for expungement. The offenses to which the original order pertains, as well as the juvenile offense tracking number (JOTN), if available, are now to be included in the motion. Rule 172 requires the Pennsylvania State Police and the Juvenile Court Judges' Commission to be served a copy of the expungement order. The amendments will be effective July 1, 2019.

Pa.R.J.C.P. 161 Inspecting, Copying and Disseminating Juvenile Probation Files

Rule of Juvenile Court Procedure 161 is amended to clarify that "juvenile probation files" used in paragraph (A) includes records existing in both paper and digital form; and (2) distinguish between "juvenile probation files" and other information maintained by the juvenile probation office. The amendments will be effective July 1, 2019.

Rules of Appellate Procedure

Pa.R.A.P., Rule 126 Citation of Authorities

This Rule of Appellate Procedure is substantially amended to provide litigants with additional clarity regarding the citation of non-precedential decisions, single Judge opinions of the Commonwealth Court and law of the case and related doctrines. The amendment will be effective May 1, 2019.

Pa.R.A.P., Rule 511 Cross Appeals

This Rule of Appellate Procedure is amended to include case law regarding cross appeals in the comments. This amendment is effective July 1, 2019.

Rules of Civil Procedure

Pa. R.C.P. No. 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

This Rule of Civil Procedure includes several amendments to the forms used for notice, orders, etc. in a PFA proceeding, including, but not limited to, questions regarding a party's status as a perpetrator in an indicated or founded report of child abuse. These amendments are effective as of April 10, 2019.