

NOTICE TO THE BAR

PROPOSED AMENDMENTS TO RULE 5:12-4 – PROTOCOL FOR HANDLING CHILD PROTECTION COMPLAINTS THAT CONTAIN ALLEGATIONS OF BOTH (1) ABUSE OR NEGLECT (TITLE 9), AND (2) FAILURE TO PROVIDE FOR THE SAFETY OF THE CHILD (TITLE 30)

The Supreme Court invites written comments on proposed amendments to Rule 5:12-4 (“Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings”) to standardize the procedure for certain cases filed by the Division of Child Protection and Permanency (DCP&P), in particular, complaints that contain both Title 9 and Title 30 allegations.

In child protection (FN) proceedings, DCP&P often files a complaint that includes allegations both: (1) that the parent has abused or neglected a child pursuant to N.J.S.A. 9:6-8.21 to -8.70 (Title 9); and (2) that the parent has failed to provide for the safety of the child (without a child abuse allegation) pursuant to N.J.S.A. 30:4C-11 to -12 (Title 30). The proposed amendments to Rule 5:12-4 would require the court in those instances to first resolve the more serious Title 9 allegation before proceeding with the Title 30 allegation. The recommended protocol would align with the “legislative disinclination to keep an open-ended abuse and neglect action hanging over a parent’s head.” Div. of Youth and Family Services v. I.S., 214 N.J. 8, 39 (2013).

Please send any comments on the proposed amendments to Rule 5:12-4 in writing by **Friday, June 2, 2023** to:

Administrative Director Glenn A. Grant
Administrative Office of the Courts
Attn: Proposed Amendments to Court Rule 5:12-4
Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted by email to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously.

Thus, those submitting comments by mail should include their name and address (and those submitting comments by email should include their name and e-mail address). Comments are subject to public disclosure upon receipt.

A handwritten signature in black ink, appearing to read "Glenn A. Grant", written over a horizontal line.

Glenn A. Grant
Administrative Director of the Courts

Dated: May 1, 2023

Rule 5:12-4. Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings

(a) Prompt Disposition; Case Management Conference; Adjournments

...no change

(b) Hearings in Private; Testimony of Child ...no change

(c) Examinations and Investigations ...no change

(d) Reports ...no change

(e) Written Plan ...no change

(f) Progress Reports ...no change

(g) Foreign State Placement ...no change

(h) Permanency Hearing ...no change

(i) Notice of Proceedings to Care Giver ...no change

(j) Termination of Parental Rights Proceedings; Exhibits ...no change

(k) Complaints with Both Title 9 and Title 30 Counts. When the

Division of Child Protection and Permanency (DCP&P) files a complaint that includes allegations in a child protection matter under both Title 9 (N.J.S.A. 9:6-8.21 to -8.70) and Title 30 (N.J.S.A. 30:4C-11 to -12 (Title 30)), the court shall conduct a fact-finding hearing, as follows:

(i) The court shall first apply the facts to the Title 9 allegations. If

DCP&P has met its burden of proving child abuse or neglect, then the court

will hold a disposition hearing and subsequent reviews. If DCP&P has not met its burden of proving child abuse or neglect, the Title 9 count shall be dismissed immediately; and

(ii) The court shall next apply the facts to the Title 30 allegations. If DCP&P has met its burden of proving that the parent failed to provide for the safety of a child, the court may require the parties to participate in services. If DCP&P has not met its burden of proving failure to provide for the safety of a child, the Title 30 count shall be dismissed immediately. If all allegations are dismissed, the complaint shall be dismissed immediately.

Note: Source-R. (1969) 5:7A-4. Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (e) and (f) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (g) adopted July 10, 1998 to be effective September 1, 1998; new paragraphs (h) and (i) adopted July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; note that Appendix X-A previously referenced in paragraph (a) also deleted July 28, 2004 to be effective September 1, 2004; paragraph (d) amended, and captions added to paragraphs (e), (f), and (g) June 15, 2007 to be effective September 1, 2007; paragraph (g) amended July 16, 2009 to be effective September 1, 2009; caption amended, new paragraph (j) adopted June 26, 2012 to be effective September 4, 2012; effective date of June 26, 2012 amendments changed to November 5, 2012 by order of August 20, 2012; paragraphs (d), (e), (f) and (j) amended July 9, 2013 to be effective September 1, 2013; paragraph (b) amended July 27, 2015 to be effective September 1, 2015; new paragraph (k) adopted _____ to be effective _____.