

RULE 573. DISCOVERY OF CHILDREN AND YOUTH RECORDS IN NON-DEPENDENCY CASES

Pursuant to the Juvenile Act, 42 Pa. C.S. §6307, and the Child Protective Services Law, 23 Pa. C.S. §6840, any party to litigation seeking discovery of confidential reports and records of Dauphin County Services for Children and Youth (Child Protective Service Agency) shall file a motion stating with particularity the scope, necessity, and authority for the discovery sought.

The motion shall be served on any adverse party, on the Dauphin County Children and Youth Agency, and on the guardian ad litem (if any) for the child.

Any objection must identify that portion of the reports of records sought to be withheld and state with particularity any privilege asserted thereto.

Thereafter, the court shall either a) schedule a hearing on the motion; or b) schedule an in-camera conference; or c) issue an order based on the averments in the motion and in any response filed thereto.

Comments:

Nothing in this rule shall preclude a party from filing a motion for a protective order.

Certain privileges are absolute and are not overcome by a defendant's Sixth Amendment right to cross-examine a witness or to due process of law. Examples of the foregoing are:

- Domestic Violence Advocate/Counselor
23 Pa. C.S. §6116; V.B.T. v. Family Services of Western Pa.,
705 A.2d 1325 (Pa.Super. 1998)
- Sexual Assault Counselor Privilege
42 Pa. C.S. §5945; Commonwealth v. Wilson,
602 A.2d 1290 (Pa. 1992)
- Psychotherapist Privilege
42 Pa. C.S. §5944; Commonwealth v. Counterman,
719 A.2d 284 (Pa. 1998)

Comment

This rule is intended to apply not only in criminal cases. This procedure should be used when such records are requested in custody cases or in any other civil case.