

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered March 8, 2016.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Illinois Supreme Court Rules 304, 306, 310.1, 311, 312, 367, 604, 900, 901, 902, 903, 905, 906, 907, 908, 921, 922, 923, and 924 are amended, as follows.

Amended Rule 304

Rule 304. Appeals from Final Judgments That Do Not Dispose of an Entire Proceeding

(a) Judgments As To Fewer Than All Parties or Claims—Necessity for Special Finding. If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a final judgment as to one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both. Such a finding may be made at the time of the entry of the judgment or thereafter on the court's own motion or on motion of any party. The time for filing a notice of appeal shall be as provided in Rule 303. In computing the time provided in Rule 303 for filing the notice of appeal, the entry of the required finding shall be treated as the date of the entry of final judgment. In the absence of such a finding, any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not enforceable or appealable and is subject to revision at any time before the entry of a judgment adjudicating all the claims, rights, and liabilities of all the parties.

(b) Judgments and Orders Appealable Without Special Finding. The following judgments and orders are appealable without the finding required for appeals under paragraph (a) of this rule:

(1) A judgment or order entered in the administration of an estate, guardianship, or similar proceeding which finally determines a right or status of a party.

(2) A judgment or order entered in the administration of a receivership, rehabilitation, liquidation, or other similar proceeding which finally determines a right or status of a party and which is not appealable under Rule 307(a).

(3) A judgment or order granting or denying any of the relief prayed in a petition under section 2-1401 of the Code of Civil Procedure.

(4) A final judgment or order entered in a proceeding under section 2-1402 of the Code of Civil Procedure.

(5) An order finding a person or entity in contempt of court which imposes a monetary or other penalty.

(6) A custody or allocation of parental responsibilities judgment or modification of such

judgment entered pursuant to the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 et seq.) or Illinois Parentage Act of 2015 (750 ILCS 46/101 et seq.), section 14 of the Illinois Parentage Act of 1984 (750 ILCS 45/14); or a modification of custody entered pursuant to section 610 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/610) or section 16 of the Illinois Parentage Act of 1984 (750 ILCS 45/16).

The time in which a notice of appeal may be filed from a judgment or order appealable under this Rule 304(b) shall be as provided in Rule 303.

Amended October 21, 1969, effective January 1, 1970; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, effective July 1, 1984; amended November 21, 1988, effective January 1, 1989; amended December 17, 1993, effective February 1, 1994; amended October 14, 2005, effective January 1, 2006; amended February 26, 2010, effective immediately; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 et seq.), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both “custody” and “allocation of parental responsibilities” in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comments

(Revised September 1988)

Paragraph (a)

Paragraph (a) of this rule was adopted as Rule 304, effective January 1, 1967, to supplant former paragraph (2) of section 50 of the Civil Practice Act without change of substance but with some amplification. The supplanted statutory provision, originally adopted in 1955 (Laws of 1955, p. 2238, §1) to provide an easy method of determining when certain orders were appealable (and which orders had to be appealed at the peril of the loss of a later right of appeal), proved to be anything but easy. Because this statutory paragraph was the subject of many judicial decisions (see 1965 Supplement to Historical and Practice Notes, S.H. Ill. Ann. Stats., ch. 110, par. 50), the committee concluded that it was unwise to amend the language in any substantial fashion. In moving the provision to the rules, the committee revised the language slightly, however, to emphasize the fact that it is not the court’s finding that makes the judgment final, but

it is the court's finding that makes this kind of a final judgment appealable. This did not change the law. The second and third sentences, which were new in 1967, codified existing practice.

Rule 304(a) was amended in 1988 to cure the defect that compelled the Supreme Court, in *Elg v. Whittington* (1987), 119 Ill. 2d 344, to hold that the filing of post-trial motions in the trial court do not toll the time for filing a notice of appeal under Rule 304, as it does under Rule 303. This amendment clarifies Rule 304 and makes it clear that the time for filing a notice of appeal under Rule 304 is governed by the provisions of Rule 303 and that the date on which the trial court enters its written finding that there is no just reason for delaying enforcement or appeal shall be treated as the date of the entry of final judgment for purposes of calculating when the notice of appeal must be filed.

Paragraph (b)

Paragraph (b), added in 1969, lists several kinds of judgments and orders that have been appealable without a finding that there is no just reason for delaying enforcement or appeal even though they may not dispose of the entire proceeding in which they have been entered or to which they may be related. This paragraph is intended to be declaratory of existing law and, in certain instances, to remove any doubt or room for argument as to whether the finding provided for in paragraph (a) may be necessary. It is not the intention of the committee to eliminate or restrict appeals from judgments or orders heretofore appealable.

Subparagraph (1) applies to orders that are final in character although entered in comprehensive proceedings that include other matters. Examples are an order admitting or refusing to admit a will to probate, appointing or removing an executor, or allowing or disallowing a claim.

In 1984 paragraph (b)(1) was amended to eliminate the reference to "conservatorship," inasmuch as the office of conservator has been eliminated.

Subparagraph (2) is comparable in scope to subparagraph (1) but excepts orders that are appealable as interlocutory orders under Rule 307. Examples of orders covered by subparagraph (2) are an order allowing or disallowing a claim and an order for the payment of fees.

Subparagraph (3) is derived from paragraph (6) of section 72 of the Civil Practice Act (Ill. Rev. Stat. 1967, ch. 110, par. 72(6)), which deals with relief from judgments after 30 days.

Subparagraph (4) is derived from paragraph (7) of section 73 of the Civil Practice Act (Ill. Rev. Stat. 1967, ch. 110, par. 73(7)), which deals with supplementary proceedings.

Judgments imposing sanctions for contempt of court are not included in the listing in paragraph (b), because a contempt proceeding is "an original special proceeding, collateral to, and independent of, the case in which the contempt arises," and a judgment imposing a fine or sentence of imprisonment for contempt is therefore final and appealable. (*People ex rel. General Motors Corp. v. Bua* (1967), 37 Ill. 2d 180, 191, 226 N.E.2d 6, 13.) The judgment thus disposes of the entire independent contempt proceeding.

Commentary
(December 17, 1993)

Paragraph (a) is amended to clarify that the trial court's order does not have to make reference to both the enforceability and the appealability of a judgment to render that judgment appealable. See *In re Application of Du Page County Collector* (1992), 152 Ill. 2d 545.

Contempt orders are added to the list of judgments appealable under paragraph (b) without a special finding. This change reflects current practice. See *People ex rel. Scott v. Silverstein* (1981), 87 Ill. 2d 167.

Committee Comments
(February 26, 2010)

Paragraph (b)

The term "custody judgment" comes from section 610 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/610), where it is used to refer to the trial court's permanent determination of custody entered incident to the dissolution of marriage, as distinguished from any temporary or interim orders of custody entered pursuant to section 603 of the Act (750 ILCS 5/603) and any orders modifying child custody subsequent to the dissolution of a marriage pursuant to section 610 of the Act (750 ILCS 5/610). The Illinois Parentage Act of 1984 also uses the term "judgment" to refer to the order which resolves custody of the subject child. See 750 ILCS 45/14.

Subparagraph (b)(6) is adopted pursuant to the authority given to the Illinois Supreme Court by article VI, sections 6 and 16, of the Illinois Constitution of 1970. The intent behind the addition of subparagraph (b)(6) was to supercede the supreme court's decision in *In re Marriage of Leopando*, 96 Ill. 2d 114, 119 (1983). In *Leopando*, the court held that the dissolution of marriage comprises a single, indivisible claim and that, therefore, a child custody determination cannot be severed from the rest of the dissolution of the marriage and appealed on its own under Rule 304(a). Now, a child custody judgment, even when it is entered prior to the resolution of other matters involved in the dissolution proceeding such as property distribution and support, shall be treated as a distinct claim and shall be appealable without a special finding. A custody judgment entered pursuant to section 14 of the Illinois Parentage Act of 1984 shall also be appealable without a special finding. The goal of this amendment is to promote stability for affected families by providing a means to obtain swifter resolution of child custody matters.

Amended Rule 306

Rule 306. Interlocutory Appeals by Permission.

(a) Orders Appealable by Petition. A party may petition for leave to appeal to the Appellate Court from the following orders of the trial court:

- (1) from an order of the circuit court granting a new trial;
- (2) from an order of the circuit court allowing or denying a motion to dismiss on the grounds of *forum non conveniens*, or from an order of the circuit court allowing or denying a

motion to transfer a case to another county within this State on such grounds;

(3) from an order of the circuit court denying a motion to dismiss on the grounds that the defendant has done nothing which would subject defendant to the jurisdiction of the Illinois courts;

(4) from an order of the circuit court granting or denying a motion for a transfer of venue based on the assertion that the defendant is not a resident of the county in which the action was commenced, and no other legitimate basis for venue in that county has been offered by the plaintiff;

(5) from interlocutory orders affecting the care and custody of or the allocation of parental responsibilities for unemancipated minors, if the appeal of such orders is not otherwise specifically provided for elsewhere in these rules;

(6) from an order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency; or

(7) from an order of the circuit court granting a motion to disqualify the attorney for any party;

(8) from an order of the circuit court denying or granting certification of a class action under section 2–802 of the Code of Civil Procedure (735 ILCS 5/2-802); or

(9) from an order of the circuit court denying a motion to dispose under the Citizen Participation Act (735 ILCS 110/1 *et seq.*)

If the petition for leave to appeal an order granting a new trial is granted, all rulings of the trial court on the posttrial motions are before the reviewing court without the necessity of a cross-petition.

(b) Procedure for Petitions Under Subparagraph (a)(5).

(1) *Petition; Service; Record.* Unless another form is ordered by the Appellate Court, review of an order affecting the care and custody of or the allocation of parental responsibilities for an unemancipated minor as authorized in paragraph (a)(5) shall be by petition filed in the Appellate Court. The petition shall be in writing and shall state the relief requested and the grounds for the relief requested. An appropriate supporting record shall accompany the petition, which shall include the order appealed from or the proposed order, and any supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it. The petition, supporting record and the petitioner's legal memorandum, if any, shall be filed in the Appellate Court within 14 days of the entry or denial of the order from which review is being sought, with proof of personal, e-mail or facsimile service as provided in Rule 11. A copy of the petition for leave to appeal must also be served upon the trial court judge who entered the order from which leave to appeal is sought.

(2) *Legal Memoranda.* The petitioner may file a memorandum, not exceeding 15 typewritten pages, with the petition. The respondent or any other party or person entitled to be heard in the case may file, with proof of personal, e-mail or facsimile service as provided in Rule 11, a responding memorandum within five business days following service of the petition and petitioner's memorandum. A memorandum by the respondent or other party may

not exceed 15 typewritten pages.

(3) *Replies; Extensions of Time.* Except by order of court, no replies will be allowed and no extension of time will be allowed.

(4) *Variations by Order of Court.* The Appellate Court may, if it deems it appropriate, order a different schedule, or order that no memoranda be filed, or order that other materials need not be filed.

(5) *Procedure if Leave to Appeal Is Granted.* If leave to appeal is granted, the circuit court and the opposing parties shall be served with copies of the order granting leave to appeal. All proceedings shall then be subject to the expedited procedures set forth in Rule 311(a). A party may allow his or her petition or answer to stand as his or her brief or may elect to file a new brief. In order to allow a petition or answer to stand as a brief, the party must notify the other parties and the Clerk of the Appellate Court on or before the due date of the brief.

(c) Procedure for All Other Petitions Under This Rule.

(1) *Petition.* The petition shall contain a statement of the facts of the case, supported by reference to the supporting record, and of the grounds for the appeal. An original and three copies of the petition (or original and five copies in workers' compensation cases arising under Rule 22(g)) shall be filed in the Appellate Court in accordance with the requirements for briefs within 30 days after the entry of the order. A supporting record conforming to the requirements of Rule 328 shall be filed with the petition.

(2) *Answer.* Any other party may file an original and three copies of an answer (or original and five copies in workers' compensation cases arising under Rule 22(g)) within 21 days of the filing of the petition, together with a supplementary supporting record conforming to Rule 328 consisting of any additional parts of the record the party desires to have considered by the Appellate Court. No reply will be received except by leave of court or a judge thereof.

(3) *Appendix to Petition; Abstract.* The petition shall include, as an appendix, a copy of the order appealed from, and of any opinion, memorandum, or findings of fact entered by the trial judge, and a table of contents of the record on appeal in the form provided in Rule 342(a). If the Appellate Court orders that an abstract of the record be filed, it shall be in the form set forth in Rule 342(b) and shall be filed within the time fixed in the order.

(4) *Extensions of Time.* The above time limits may be extended by the reviewing court or a judge thereof upon notice and motion, accompanied by an affidavit showing good cause, filed before expiration of the original or extended time.

(5) *Stay; Notice of Allowance of Petition.* If the petition is granted, the proceedings in the trial court are stayed. Upon good cause shown, the Appellate Court or a judge thereof may vacate or modify the stay, and may require the petitioner to file an appropriate bond. Within 48 hours after the granting of the petition, the clerk shall send notice thereof to the clerk of the circuit court.

(6) *Additional Record.* If leave to appeal is allowed, any party to the appeal may request that additional portions of the record on appeal be prepared as provided in Rule 321 *et seq.*, or the court may order the appellant to file the record, which shall be filed within 35 days of

the date on which such leave was allowed. The filing of an additional record shall not affect the time for filing briefs under this rule.

(7) *Briefs.* A party may allow his or her petition or answer to stand as his or her brief or may file a further brief in lieu of or in addition thereto. If a party elects to allow a petition or answer to stand as a brief, he or she must notify the other parties and the Clerk of the Appellate Court on or before the due date of the brief and supply the court with the requisite number of briefs required by Rule 341(e). If the appellant elects to file a further brief, it must be filed within 35 days from the date on which leave to appeal was granted. The appellant's brief, and other briefs if filed, shall conform to the schedule and requirements as provided in Rules 341 through 343. Oral argument may be requested as provided in Rule 352(a).

Amended October 21, 1969, effective January 1, 1970, and amended effective September 1, 1974; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended September 16, 1983, effective October 1, 1983; amended December 17, 1993, effective February 1, 1994; amended March 26, 1996, effective immediately; amended December 31, 2002, effective January 1, 2003; amended December 5, 2003, effective January 1, 2004; amended May 24, 2006, effective September 1, 2006; amended February 26, 2010, effective immediately; amended February 16, 2011, effective immediately; amended May 29, 2014, eff. July 1, 2014; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately.

Committee Comment

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 et seq.), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comment

(May 29, 2014)

Subparagraph (c)(5)

In exceptional circumstances or by agreement of the parties, it may be appropriate for the parties to continue with certain aspects of the case (such as discovery, for example), provided

that such continuation does not interfere with appellate review or otherwise offend the notions of substantial justice. If the stay is vacated or modified, the trial court remains (as with any interlocutory appeal) restrained from entering an order which interferes with the appellate review, such as modifying the trial court order that is the subject of the appeal.

Committee Comments
(February 26, 2010)

In 2010, this rule was reorganized and renumbered for the sake of clarity. No substantive changes were made in this revision.

Paragraph (b)

Paragraph (b) was added to Rule 306 in 2004 to provide a special, expedited procedure to be followed in petitioning for leave to appeal from interlocutory orders affecting the care and custody of unemancipated minors. This procedure applies only to petitions for leave to appeal filed pursuant to subparagraph (a)(5) of this rule. The goal of this special procedure is to provide a faster means for achieving permanency for not only abused or neglected children, but also children whose custody is at issue in dissolution of marriage, adoption, and other proceedings.

Paragraph (c)

Paragraph (c) sets forth the procedures to be followed in petitioning for leave to appeal pursuant to any subparagraph of paragraph (a) except subparagraph (a)(5).

Subparagraph (c)(1)

This subparagraph was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for the record be filed.

Subparagraph (c)(2)

Subparagraph (c)(2) permits answers to the petition to be filed within 21 days after the due date of the petition instead of “within 15 days after the petition is served upon him.” They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Subparagraph (c)(2) provides that there shall be no reply except by leave.

Subparagraph (c)(3)

As originally promulgated, and as amended in 1974, this subparagraph provided that “excerpts from record” or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to “excerpts from record” to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of “excerpts” from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Subparagraph (c)(4)

Subparagraph (c)(4) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this subparagraph was reworded but not changed in substance.

Subparagraph (c)(5)

Subparagraph (c)(5) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Subparagraph (c)(5) requires a bond only after a showing of good cause.

Subparagraph (c)(6)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within 35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court or the Supreme Court. Rules 306(c)(6), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in Rule 343(a) relating to the filing of the appellant's brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(c)(6) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant's brief (35 days for the appellee's brief and 14 days for a reply brief) remains governed by Rule 343(a).

Subparagraph (c)(7)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, "The case is then pending on appeal." This obvious fact was omitted from Rule 306 as unnecessary. Subparagraph (c)(7) does provide that if the appeal is granted oral argument may be requested as provided in Rule 352.

Committee Comments (Revised September 1983)

This rule replaced former Rule 30, which was in effect from January 1, 1964, to December 31, 1966, and which in turn was derived from former section 77(2) of the Civil Practice Act, repealed effective January 1, 1964 (Laws of 1963, p. 2691, § 2). The Judicial Article of the new

Illinois constitution (art. VI, § 6) contains substantially the same language on interlocutory appeals that appeared in the 1964 Judicial Amendment, and authorizes this rule in the following language:

“The Supreme Court may provide by rule for appeals to the Appellate Court from other than final judgments of the Circuit Courts.”

Paragraph (a)

Paragraph (a), as originally adopted, made no change in the prior rule except to permit the petition to be duplicated in the same manner as a brief (see Rule 344) instead of always being printed. The petition is to be filed within 30 days, subject to an extension of time under paragraph (e).

Paragraph (a) was amended in 1969 by adding subparagraph (2), denominating as subparagraph (1) what was formerly entire paragraph (a), and making appropriate changes in the headings. Subparagraph (2), together with Rule 366(b)(2)(v), also added in 1969, abrogates the ruling in *Keen v. Davis*, 108 Ill. App. 2d 55, 63-64 (5th Dist. 1969), denying reviewability, on appeal from an order allowing a new trial, of questions raised by other rulings of the trial court on the post-trial motion. Revised Rule 366(b)(2)(v) makes it clear that the absence of a final judgment is not a bar to review of all the rulings of the trial court on the post-trial motions. See the Committee Comments to that rule.

In 1982, paragraph (a)(1) was amended by adding subparagraphs (i), (ii), (iii), and (iv), expanding the instances in which appeals could be sought in the appellate court. Also in 1982, subparagraph (a)(2) was amended to make it clear that post-trial motions are before the reviewing court without the necessity of filing a cross-appeal only when the appellate court has granted a petition for leave to appeal an order granting a new trial.

In 1983, paragraph (a)(1)(ii) was amended to permit a party to seek leave to appeal from a circuit court order allowing or denying a motion to transfer a case to another county within Illinois on the grounds of *forum non conveniens*. See *Torres v. Walsh* (1983), 97 Ill. 2d 338; *Mesa v. Chicago & North Western Transportation Co.* (1933), 97 Ill. 2d 356.

Paragraph (b)

Paragraph (b) was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for record be filed.

Paragraph (c)

Paragraph (c) permits answers to the petition to be filed within 21 days after the due date of the petition instead of “within 15 days after the petition is served upon him.” They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Paragraph (c) provides that there shall be no reply except by leave.

Paragraph (d)

As originally promulgated, and as amended in 1974, paragraph (d) provided that “excerpts from record” or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to “excerpts from record” to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of “excerpts” from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Paragraph (e)

Paragraph (e) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this paragraph was reworded but not changed in substance.

Paragraph (f)

Paragraph (f) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Paragraph (f) requires a bond only after a showing of good cause.

Paragraph (g)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within 35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court or the Supreme Court. Rules 306(g), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in Rule 343(a) relating to the filing of the appellant’s brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(g) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant’s brief (35 days for the appellee’s brief and 14 days for a reply brief) remains governed by Rule 343(a).

Paragraph (h)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, “The case is then pending on appeal.” This obvious fact was omitted from Rule 306 as unnecessary. Paragraph (h) does provide that if the appeal is granted oral argument may be

requested as provided in Rule 352.

Amended Rule 310.1

Rule 310.1. Appellate Settlement Conference Program

(a) Program Purpose and Goals. The purpose of the Appellate Settlement Conference Program (Program) is to provide an alternative means for resolving certain civil appeals in the Illinois Appellate Court. The Program is intended to give parties to an appeal an opportunity and forum to discuss their case, simplify and/or limit the issues, negotiate settlement, and consider any matters that may aid in disposition of the appeal or resolution of the action or proceeding.

The Supreme Court may authorize appellate districts to undertake and conduct settlement conference programs. Such programs shall be provided at no additional court costs to the parties beyond the appellate filing fees as established by the Supreme Court.

(b) Applicability. Only civil appeals are eligible for assignment to the Program. However, appeals from judgments or orders entered in the following types of proceedings or actions are ineligible for inclusion in the Program: juvenile court proceedings, adoption proceedings, paternity proceedings, actions where the custody of or allocation of parental responsibilities for a minor is the sole issue, actions where the mental capacity of a party is at issue, contempt, petitions for extraordinary relief such as *mandamus*, petitions for writs of *habeas corpus*, actions for judicial review of decisions of the Illinois Workers' Compensation Commission, and election contests. Also ineligible are appeals from a judgment or order imposing sanctions upon a litigant or attorney or incarcerating a party.

(c) Local Rules.

(1) Each appellate district conducting a settlement conference program shall adopt local rules for the conduct of such a program. Local rules are to be consistent with the provisions of this rule. Prior to the establishment of a settlement conference program, the presiding judge of the appellate district, or the chairman of the executive committee in the case of the First District, shall submit to the Supreme Court for its review and approval, through its Administrative Office, rules governing the operation of the district's program.

(2) At a minimum, the rules adopted by an appellate district conducting a settlement conference program shall address:

- (i) Actions eligible for inclusion in the program consistent with paragraph (b) of this rule;
- (ii) Appointment, qualifications and compensation of the mediators;
- (iii) Selection of cases for referral to a mediator consistent with paragraphs (e) and (f) of this rule;
- (iv) Scheduling of the mediation conferences;
- (v) Conduct of the conference and role of the appellate mediator;
- (vi) Absence of a party at the conference and sanctions;
- (vii) Termination and report of mediation conference;
- (viii) Finalization of agreement;

(ix) Confidentiality;

(x) Mechanism for reporting to the Supreme Court on the settlement conference program.

(d) Administration. The Program shall be administered in each appellate district by a mediation committee consisting of two or more judges appointed under that district's rules governing operation of the Program. The mediation committee may be assisted in its duties by a settlement administrator, who may be the clerk of court. The clerk may also be a member of the mediation committee.

(e) Case Selection. Cases may be selected for the Program as follows:

(1) *Settlement Status Report.* Any party may file with the clerk of the court in the district in which the case was filed a "Settlement Status Report." Each appellate district may decide whether the filing of a "Settlement Status Report" shall be mandatory or voluntary. Notice of the filing of a "Settlement Status Report," along with a copy of same, shall be served upon all parties in accordance with the provisions of Supreme Court Rule 11.

(2) *Motions for Assignment to the Settlement Conference Program.* On his or her own motion or on motion of any party, the presiding judge of the appellate district to which a case is assigned, or the presiding judge of the division to which a case is assigned in the case of the First District, may with the approval of the judge to whom the case has been assigned for dispositional purposes, if any, recommend to the mediation committee that a civil appeal be assigned to the Program. Upon receipt of the "Settlement Status Report" or recommendation from a presiding judge, the mediation committee shall evaluate the case to determine if the case is eligible for assignment to the Program. If no objection is filed, and the case is otherwise eligible, an order shall be entered which assigns the case to the Program, transfers it to a settlement docket, and stays the filing of the record and/or briefs pending further order of court.

(f) Objection to Assignment. Any party to an appeal may object to the case being assigned to the Program. Such objections shall be in accordance with the local rules of the appellate district in which the case was filed. Upon receipt of any such objection, the settlement administrator shall send a written notice to all parties and the appellate mediator, informing them that an objection has been received and that the case will be removed from the Program.

(g) Dismissal; Agreement to Narrow Issues.

(1) If the settlement conference results in the settlement of the case and the parties agree to dismiss the appeal, an order dismissing the appeal shall be entered in the manner specified by the rules for that particular district.

(2) If the settlement conference does not result in settlement but the parties agree to narrow the issues on appeal, an order shall be prepared reciting the agreed terms. The order entered shall be binding upon the parties unless modified by subsequent order of the court. An order shall be entered removing the case from the Program, reassigning the case, and reestablishing the filing of the record and/or briefing schedule.

(h) Confidentiality. The settlement conference and all documents prepared by the parties, the appellate mediator, and the settlement administrator shall be confidential. No transcript or recording shall be made of any settlement conference and no mention of the settlement

discussions shall be made in any brief filed with this court or in oral argument. Except for orders entered by the appellate court of the district in which the appeal was filed and written stipulations and agreements entered into by the parties, documents prepared by the parties and received by the appellate mediator or the settlement administrator as part of the Program shall not be filed of record with the clerk of the appellate court of that district and, upon dismissal of the case or its removal from the Program, whichever is first to occur, shall be destroyed by the settlement administrator.

(i) Sanctions. Failure of the parties or their authorized representatives to participate in a settlement conference in good faith, failure to attend a regularly scheduled settlement conference, or failure to comply with the rules applicable to settlement conferences adopted by the district in which the case was filed may subject a party to the imposition of sanctions under Supreme Court Rule 375.

(j) Statistical Reporting. The settlement administrator shall maintain statistics as to the number and type of cases which are (1) considered by the mediation committee for inclusion in the Program, (2) assigned to the Program, (3) removed from the program on the objection of a party, (4) removed from the Program without any settlement having been reached, (5) dismissed by agreement of the parties while assigned to the Program, and (6) removed from the Program after the entry of an order narrowing the issues on appeal. The settlement administrator shall report such statistics to the mediation committee in accordance with the local rules in his or her appellate district and annually to the Director of the Administrative Office of the Illinois Courts.

Adopted October 29, 2004, effective January 1, 2005; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 et seq.), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both “custody” and “allocation of parental responsibilities” in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Amended Rule 311

Rule 311. Accelerated Docket

(a) **Mandatory Accelerated Disposition of Child Custody or Allocation of Parental Responsibilities Appeals.** The expedited procedures in this subpart shall apply to appeals from final orders in child custody or allocation of parental responsibilities cases and to interlocutory appeals in child custody or allocation of parental responsibilities cases from which leave to appeal has been granted pursuant to Rule 306(a)(5). If the appeal is taken from a judgment or order affecting other matters, such as support, property issues or decisions affecting the rights of persons other than the child, the reviewing court may handle all pending issues using the expedited procedures in this rule, unless doing so will delay decision on the child custody or allocation of parental responsibilities appeal.

(1) *Special Caption.* The notice of appeal or petition for leave to appeal, docketing statement, briefs and all other notices, motions and pleadings filed by any party in relation to an appeal involving child custody or allocation of parental responsibilities shall include the following statement in bold type on the top of the front page: THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ALLOCATION OF PARENTAL RESPONSIBILITIES, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.

(2) *Service Upon the Circuit Court.* In addition to the service required by Rule 303(c), a party filing notice of appeal in a child custody or allocation of parental responsibilities case shall, within seven days, serve copies of the same on the trial judge who entered the judgment or order appealed and the office of the chief judge of the circuit in which the judgment or order on appeal was entered. Where leave to appeal has been granted pursuant to Rule 306(a)(5), the appellant shall, within seven days, serve copies of the order granting leave to appeal upon the trial judge who entered the judgment or order appealed from and the office of the chief judge of the circuit in which the judgment or order on appeal was entered.

(3) *Status Hearing in Circuit Court.* On receipt of the notice of appeal or order granting leave to appeal under Rule 306(a)(5) in a child custody or allocation of parental responsibilities case, the trial judge shall set a status hearing within 30 days of the date of filing of the notice of appeal or order granting leave to appeal to determine the status of the case, including payments of required fees to the clerk of the circuit court and court reporting personnel as defined in Rule 46 for the preparation of the transcript of proceedings, and take any action necessary to expedite preparation of the record on appeal and the transcript of the proceedings. The trial court shall have continuing jurisdiction for the purpose of enforcing the rules for preparation of the record and transcript. The trial court may request the assistance of the chief judge to resolve filing delays, and the chief judge shall assign or reassign the court reporting personnel's work as necessary to ensure compliance with the filing deadlines.

(4) *Record.* The record on appeal and the transcript of proceedings in a child custody or allocation of parental responsibilities case shall be filed no later than 35 days after the filing of the notice of appeal or granting of leave to appeal pursuant to Rule 306(a)(5). Any request for extension of the time for filing shall be accompanied by an affidavit of the court clerk or court reporting personnel stating the reason for the delay, and shall be served on the trial judge and the

chief judge of the circuit. Lack of advance payment shall not be a reason for noncompliance with filing deadlines for the record or transcript. Any subsequent request for continuance shall be made to the appellate court by written notice and motion to all parties in accordance with rules.

(5) *Deadline for Decision.* Except for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal or granting of leave to appeal pursuant to Rule 306(a)(5).

(6) *Local Rules.* The appellate court of each district shall by administrative order or rule adopt mandatory procedures to ensure completion of child custody or allocation of parental responsibilities appeals within the time specified in paragraph (5). The order or rule may include provisions regarding the use of memoranda in lieu of briefs, expedited schedules and deadlines, provisions for the separation of child custody or allocation of parental responsibilities issues from other issues on appeal and any other procedures necessary to a fair and timely disposition of the case. The clerk of the appellate court shall be responsible for seeing that the accelerated docket is maintained and for advising the court of any noncompliance with the rules of the court concerning timely filing.

(7) *Continuances Disfavored.* Requests for continuance are disfavored and shall be granted only for compelling circumstances. The appellate court may require personal appearance by the attorney or party requesting the continuance as provided by local rule.

(8) *Effective Date.* This rule shall apply to all orders in which a notice of appeal is filed after its effective date.

(b) Discretionary Acceleration of Other Appeals. Any time after the docketing statement is filed in the reviewing court, the court, on its own motion, or on the motion of any party, for good cause shown, may place the case on an accelerated docket. The motion shall be supported by an affidavit stating reasons why the appeal should be expedited. If warranted by the circumstances, the court may enter an order accepting a supporting record prepared pursuant to Rule 328, consisting of those lower court pleadings, reports of proceedings or other materials that will fully present the issues. In its discretion the court may accept memoranda in lieu of formal briefs. The court may then enter an order setting forth an expedited schedule for the disposition of the appeal.

Adopted June 15, 1982, effective July 1, 1982; amended June 19, 1989, effective August 1, 1989; amended December 17, 1993, effective February 1, 1994; amended February 26, 2010, effective immediately; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 et seq.), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both

“custody” and “allocation of parental responsibilities” in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comments
(August 1, 1989)

Amended in 1989 to give the Appellate Court discretion, for good cause shown, to order cases to an accelerated docket on its own motion or on the motion of a party, rather than requiring that all parties agree to such action.

Committee Comments
(February 26, 2010)

Paragraph (a)

Paragraph (a) was originally enacted as Rule 306A in 2004 to expedite the resolution of appeals affecting the care and custody of children. In 2010, Rule 306A was moved to paragraph (a) of this rule. The purpose of this amendment was to streamline the wording of the rule and facilitate its use. The amendment was also intended to clarify that the rule addresses only the procedures to be followed in order to expedite disposition of child custody appeals. Importantly, this rule does not confer any new appeal rights or affect finality for purposes of appellate jurisdiction. The appealability of any order affecting child custody is governed principally by Rules 301, 304, 303, and 306. The expedited procedures set forth in paragraph (a) apply to all child custody appeals, whether they have been taken from final orders appealable as of right or interlocutory orders from which the court has granted leave to appeal. The goal of paragraph (a) remains to promote stability for not only abused and neglected children, but also children whose custody is an issue in dissolution of marriage, adoption, and other proceedings, by mandating swifter disposition of these appeals.

Paragraph (b)

Paragraph (b) encompasses the pre-2010 amendment version of Rule 311, which permits the expedited resolution of any appeal upon the request of any party and at the discretion of the appellate court.

Amended Rule 312

Rule 312. Docketing Statement

(a) Appellant’s Docketing Statement. All appellants, including cross-appellants and separate appellants, whether as a matter of right or as a matter of the court’s discretion, shall file a docketing statement with the clerk of the reviewing court. In the case of an appeal as of right, the appellant shall file the statement within 14 days after filing the notice of appeal or petition for review of an administrative order or the date upon which a motion to file late notice of appeal is allowed. In the case of a discretionary appeal pursuant to Rule 306 or Rule 308, the statement shall be due at the time that the appellant files his or her Rule 306 petition or Rule 308 application. In cases of appeal pursuant to Rule 307(a), the docketing statement shall be filed within 7 days from the filing of the notice of appeal. The docketing statement shall be accompanied by the required reviewing court filing fee if it has not been previously paid. The docketing statement shall be accompanied by any written requests to the circuit clerk or court reporting personnel as defined in Rule 46 for preparation of their respective portions of the record on appeal and be served on all parties to the case with proof of service attached. Within 7 days thereafter, appellee, if it is deemed necessary, may file a short responsive statement with the clerk of the reviewing court with proof of service on all parties.

The form and contents of the docketing statement shall be as follows:

Docket Number in the Reviewing Court

Case Title (Complete))	Appeal from _____ County
)	Circuit Number _____
)	Trial Judge _____
)	Date of Notice of Appeal _____
)	Date of Judgment _____
)	Date of Postjudgment Motion Order _____
)	_____
)	Supreme court rule which confers jurisdiction upon the reviewing court _____

DOCKETING STATEMENT

(Civil)

1. Is this a cross-appeal, separate appeal, joining in a prior appeal, or related to another appeal which is currently pending or which has been disposed of by this court? _____

If so, state the docket number(s) of the other appeal(s):

2. If any party is a corporation or association, identify any affiliate, subsidiary, or parent group:

3. Full name and complete address of appellant(s) filing this statement:

Name: _____

Address: _____

Telephone: _____

Email address: _____

*use additional page if multiple appellants.

Counsel on Appeal for appellant(s) filing this statement:

Name: _____ ARDC # _____

Address: _____

Telephone: _____

Email address: _____

Fax: _____

4. Full name and complete address of appellee(s): (Use additional page for multiple appellees.)

Name: _____

Address : _____

Telephone: _____

Counsel on Appeal for appellee(s): (Use additional page for multiple appellees.)

Name: _____

Address: _____

Telephone: _____

Email address: _____

Fax: _____

5. Court reporting personnel: (If more space is needed, use other side.)

Name: _____

Address: _____

Telephone: _____

Email address: _____

6. Is this appeal from a final order in a matter involving child custody or allocation of parental responsibility pursuant to Illinois Supreme Court Rule 311(a) which requires **Mandatory Accelerated Disposition of Child Custody or Allocation of Parental Responsibilities Appeals?**

Yes: _____ No: _____

*If yes, this docketing statement, briefs and all other notices, motions and pleadings filed by any party shall include the following statement in bold type on the top of the front page:

THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ALLOCATION OF PARENTAL RESPONSIBILITIES, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.

7. State the general issues proposed to be raised (failure to include an issue in this statement will not result in the waiver of the issue on appeal):

As ___ attorney for the appellant ___ *Pro Se* appellant, I hereby certify that on the ___ day of _____, 20___, I asked / made a written request to the clerk of the circuit court to prepare the record on appeal, and on the ___ day of _____, 20___, I made a written request to the court reporting personnel to prepare the transcript(s).

Date Appellant's Attorney *Pro Se* Appellant

In lieu of court reporting personnel's signature I have attached the written request to the court reporting personnel to prepare the transcript(s).

Date Appellant's Attorney *Pro Se* Appellant

I hereby acknowledge receipt of an order for the preparation of a report of proceedings.

Date

Court Reporting Personnel or Supervisor

*If the other parties of record are numerous, they may be listed on a separate page instead of in the caption.

Adopted December 17, 1993, effective February 1, 1994; amended December 13, 2005, effective immediately; corrected February 10, 2006, effective immediately; amended Dec. 12, 2012, eff. Jan. 1, 2013; amended Jan. 17, 2013, eff. immediately; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both “custody” and “allocation of parental responsibilities” in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Amended Rule 367

Rule 367. Rehearing in Reviewing Court

(a) Time; Length. A petition for rehearing may be filed within 21 days after the filing of the judgment, unless on motion the time is shortened or enlarged by the court or a judge thereof. Motions to extend the time for petitioning for rehearing are not favored and will be allowed only in the most extreme and compelling circumstances. Unless authorized by the court or a judge thereof, the petition shall be limited to 27 pages, or alternatively 8,000 words, and in either case be supported by a certificate of compliance in accordance with Rule 341(c).

(b) Contents. The petition shall state briefly the points claimed to have been overlooked or misapprehended by the court, with proper reference to the particular portion of the record and brief relied upon, and with authorities and argument, concisely stated in support of the points. Reargument of the case shall not be made in the petition.

(c) Form; Copies; Service; Notification of Reporter. The number of copies of the petition, and of any answer or reply (see paragraph (d)), the form, cover and service shall conform to the requirements for briefs (see Rule 341), except that, in the Supreme Court, petitions for rehearing shall be delivered or mailed by first-class mail or delivered by third-party commercial carrier,

and a copy of the petition or any motion seeking to change the time for filing the petition shall also be delivered or mailed by first-class mail or delivered by third-party commercial carrier to the Reporter of Decisions, ~~P.O. Box 3456~~, 207 W. Jefferson, Suite 305, Bloomington, Illinois ~~61701 61702-3456~~, and a certificate of mailing or delivery shall be supplied to the clerk of the Supreme Court.

(d) Answer; Reply; Oral Argument. No answer to a petition for rehearing will be received unless requested by the court or unless the petition is granted. No substantive change in the relief granted or denied by the reviewing court may be made on denial of rehearing unless an answer has been requested. If the petition is granted or if an answer is requested, the opposing party shall have 21 days from the request or the granting of the rehearing to answer the petition, and petitioner shall have 14 days after the due date of the answer within which to file a reply. Unless authorized by the court or a judge thereof, the answer shall be limited to 27 pages, or alternatively 8,000 words, the reply shall be limited to 10 pages, or alternatively 3,500 words, and each must be supported by a certificate of compliance in accordance with Rule 341(c). Three copies (or one copy if by e-mail service) of each shall be served on opposing counsel and proof of service filed with the clerk. The original briefs of the parties, and the petition for rehearing, the answer, and the reply shall stand as briefs on the rehearing. Oral argument will be permitted only if ordered by the court on its own motion.

(e) Limitation on Petitions in Appellate Court. When the Appellate Court has acted upon a petition for rehearing and entered judgment on rehearing no further petitions for rehearing shall be filed in that court.

Amended October 1, 1976, effective November 15, 1976; amended February 19, 1982, effective April 1, 1982; amended April 10, 1987; amended June 12, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended October 14, 2005, effective January 1, 2006; amended May 24, 2006, effective September 1, 2006; amended December 29, 2009, effective immediately; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately.

Commentary
(December 17, 1993)

The rule is modified to reflect that all types of reviewing court dispositions are subject to the rehearing procedures and time limits (see *Woodson v. Chicago Board of Education* (1993), 154 Ill. 2d 391).

Committee Comments
(Revised February 1982)

This rule is based upon former Rule 44.

Paragraph (a)

As adopted in 1967, paragraph (a) changed the time limit provided in former Rule 44 to 21 days in accordance with the general principle that time periods should be multiples of seven

days. The flat prohibition against extensions of time appearing in former Rule 44 was removed in favor of a statement that extensions were not favored. In 1976, the paragraph was amended to strengthen the language disfavoring extensions of time.

(Paragraph (b))

This paragraph is the second and third sentences of former Rule 41(1) without change of substance.

Paragraph (c)

This paragraph was derived from a part of the first sentence of former Rule 44(1) and the third sentence of paragraph (2) of that rule. There was no change of substance until 1982, when the rule was reworded to specifically require that the parties furnish the Reporter of Decisions a copy of any rehearing petition or any motion seeking to change the time for filing a rehearing petition.

Paragraph (d)

This paragraph is based primarily upon former Rule 44(3). It does not change the preexisting practice.

Paragraph (e)

This new provision is applicable only to the Appellate Court. When that court has twice considered a case, once initially and a second time on rehearing, there would seem to be no need for further consideration, especially when there is a higher court from which relief can be sought. See Rules 315(b), 316, and 317 as to the date from which the time for seeking Supreme Court review begins to run.

Amended Rule 604

Rule 604. Appeals from Certain Judgments and Orders

(a) Appeals by the State.

(1) *When State May Appeal.* In criminal cases the State may appeal only from an order or judgment the substantive effect of which results in dismissing a charge for any of the grounds enumerated in section 114-1 of the Code of Criminal Procedure of 1963; arresting judgment because of a defective indictment, information or complaint; quashing an arrest or search warrant; or suppressing evidence.

(2) *Leave to Appeal by State.* The State may petition for leave to appeal under Rule 315(a).

(3) *Release of Defendant Pending Appeal.* A defendant shall not be held in jail or to bail during the pendency of an appeal by the State, or of a petition or appeal by the State under Rule 315(a), unless there are compelling reasons for his or her continued detention or being held to bail.

(4) *Time Appeal Pending Not Counted.* The time during which an appeal by the State is pending is not counted for the purpose of determining whether an accused is entitled to discharge under section 103-5 of the Code of Criminal Procedure of 1963.

(b) Appeals When Defendant Placed Under Supervision or Sentenced to Probation, Conditional Discharge or Periodic Imprisonment. A defendant who has been placed under supervision or found guilty and sentenced to probation or conditional discharge (see 730 ILCS 5/5-6-1 through 5-6-4), or to periodic imprisonment (see 730 ILCS 5/5-7-1 through 5-7-8), may appeal from the judgment and may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He or she may also appeal from an order modifying the conditions of or revoking such an order or sentence.

(c) Appeals From Bail Orders by Defendant Before Conviction.

(1) *Appealability of Order With Respect to Bail.* Before conviction a defendant may appeal to the Appellate Court from an order setting, modifying, revoking, denying, or refusing to modify bail or the conditions thereof. As a prerequisite to appeal the defendant shall first present to the trial court a written motion for the relief to be sought on appeal. The motion shall be verified by the defendant and shall state the following:

- (i) the defendant's financial condition;
- (ii) his or her residence addresses and employment history for the past 10 years;
- (iii) his or her occupation and the name and address of his or her employer, if he or she is employed, or his or her school, if he or she is in school;
- (iv) his or her family situation; and
- (v) any prior criminal record and any other relevant facts.

If the order is entered upon motion of the prosecution, the defendant's verified answer to the motion shall contain the foregoing information.

(2) *Procedure.* The appeal may be taken at any time before conviction by filing a verified motion for review in the Appellate Court. The motion for review shall be accompanied by a verified copy of the motion or answer filed in the trial court and shall state the following:

- (i) the court that entered the order;
- (ii) the date of the order;
- (iii) the crime or crimes charged;
- (iv) the amount and condition of bail;
- (v) the arguments supporting the motion; and
- (vi) the relief sought.

No brief shall be filed. A copy of the motion shall be served upon the opposing party. The State may promptly file an answer.

(3) *Disposition.* Upon receipt of the motion, the clerk shall immediately notify the opposing party by telephone of the filing of the motion, entering the date and time of the notification on the docket, and promptly thereafter present the motion to the court.

(4) *Report of Proceedings.* The court, on its own motion or on the motion of any party, may order court reporting personnel as defined in Rule 46 to file in the Appellate Court a

report of all proceedings had in the trial court on the question of bail.

(5) *No Oral Argument.* No oral argument shall be permitted except when ordered on the court's own motion.

(d) Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty. No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment. No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending. The motion shall be in writing and shall state the grounds therefor. When the motion is based on facts that do not appear of record it shall be supported by affidavit unless the defendant is filing the motion *pro se* from a correctional institution, in which case the defendant may submit, in lieu of an affidavit, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered, then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel. If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. ~~If a motion to withdraw the plea of guilty is to be filed,~~ ¶The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by phone, mail, electronic means or in person to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings. The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived.

The certificate of counsel shall be in the following form:

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
COUNTY OF _____
(Or, IN THE CIRCUIT COURT OF COOK COUNTY)

PEOPLE OF THE STATE
OF ILLINOIS,
Plaintiff

vs. CASE NO. _____

Defendant

**CERTIFICATE OF COUNSEL
PURSUANT TO ILLINOIS SUPREME COURT RULE 604(d)**

I, _____, attorney for Defendant, certify pursuant to Supreme Court Rule 604(d) that:

1. I have consulted with the Defendant in person, by mail, by phone or by electronic means to ascertain the defendant's contentions of error in the entry of the plea of guilty and in the sentence;
2. I have examined the trial court file and report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing; and
3. I have made any amendments to the motion necessary for the adequate presentation of any defects in those proceedings.

Respectfully submitted,

Date

Attorney for the Defendant

(e) Appeal From an Order Finding Defendant Unfit to Stand Trial or Be Sentenced. The defendant or the State may appeal to the Appellate Court from an order holding the defendant unfit to stand trial or be sentenced.

(f) Appeal by Defendant on Grounds of Former Jeopardy. The defendant may appeal to the Appellate Court the denial of a motion to dismiss a criminal proceeding on grounds of former jeopardy.

(g) Appeal From an Order Granting a Motion to Disqualify Defense Counsel. The defendant may petition for leave to appeal to the Appellate Court from an order of the circuit court granting a motion to disqualify the attorney for the defendant based on a conflict of interest. The procedure for bringing interlocutory appeals pursuant to this subpart shall be the

same as set forth in Supreme Court Rule 306(c).

Amended effective July 1, 1969; amended October 21, 1969, effective January 1, 1970; amended effective October 1, 1970, July 1, 1971, November 30, 1972, September 1, 1974, and July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000; amended February 1, 2005, effective immediately; amended December 13, 2005, effective immediately; amended February 10, 2006, effective July 1, 2006; amended Nov. 28, 2012, eff. Jan. 1, 2013; amended Feb. 6, 2013, eff. immediately; amended Dec. 11, 2014, eff. immediately; amended Dec. 3, 2015, eff. immediately; amended March 8, 2016, eff. immediately.

Committee Comment

(February 10, 2006)

Paragraph (g)

Paragraph (g) permits interlocutory review of certain attorney disqualification orders but does not change attorney disqualification law. The circuit court still has discretion to accept or reject a defendant's conflict of interest waiver, based on consideration of the interests identified in *People v. Ortega*, 209 Ill. 2d 354 (2004).

Committee Comments

(February 1, 2005)

The language in paragraph (a) allowing interlocutory appeals from orders decertifying a prosecution as a capital case or finding the defendant to be mentally retarded provides for the kinds of appeals contemplated by section 9-1(h-5) of the Criminal Code of 1961 (720 ILCS 5/9-1(h-5)) and section 114-15(f) of the Code of Criminal Procedure of 1963 (725 ILCS 5/114-15(f)).

Committee Comments

(Revised July 1, 1975)

Rule 604 was amended in September 1969 to add paragraph (b), dealing with appeals when probation has been granted. The 1969 amendment made what was formerly the entirety of Rule 604 into paragraph (a) and made an appropriate change in the title of the rule.

Paragraph (a)

Subparagraph (1) of paragraph (a) is former Rule 27(4), as it existed until January 1, 1967, with slight changes in language. (Rule 27(4) was derived from sections 121-1 and 120-2 of the Code.) The rule makes it clear that an order dismissing an indictment, information or complaint for any of the grounds enumerated in section 114-1 of the Code is appealable.

Subparagraph (2) was added by amendment effective November 30, 1972.

Subparagraph (3) is former section 120-3(a) of the Code without change.

Subparagraph (4) is section 120-3(b) of the Code without change.

Paragraph (b)

Paragraph (b) is based upon sections 117-1(d) and 117-3(e) of the Code and is included in the rule in conformity with the policy of covering all appeals in the supreme court rules, as contemplated by the judicial article of the Constitution. (Ill. Const., art. VI, §16.) Paragraph (b) was amended in 1974 to cover conditional discharge and periodic imprisonment, new forms of sentence created by the adoption in Illinois of the Unified Code of Corrections.

Paragraph (c)

Paragraph (c) was added in 1971 to establish a procedure for appeals from orders in criminal cases concerning bail. Prior to its adoption, the only avenue of relief was an original petition to the Supreme Court for a writ of *habeas corpus*. Subparagraph (c)(2) was amended in 1974 to provide that the State may file an answer.

Paragraph (d)

Paragraph (d), added in 1975, provides that before a defendant may file a notice of appeal from a judgment entered on his plea of guilty, he must move in the trial court to vacate the judgment and withdraw his plea. Issues not raised in such a motion are waived. The time within which an appeal may be taken runs from the date on which the order disposing of the motion is entered. Provision is made for appointment of counsel and provision of a free transcript of the proceedings, which, under Rule 402(e), are required to be transcribed, filed, and made a part of the common law record.

Amended Article IX, Part A

ARTICLE IX. CHILD CUSTODY OR ALLOCATION OF PARENTAL RESPONSIBILITIES PROCEEDINGS

PART A. RULES OF GENERAL APPLICATION TO CHILD CUSTODY OR ALLOCATION OF PARENTAL RESPONSIBILITIES PROCEEDINGS

Amended Rule 900

Rule 900. Purpose and Scope

(a) **Purpose.** Trial courts have a special responsibility in cases involving the care and custody or allocation of parental responsibilities of children. When a child is a ward of the court, the physical and emotional well-being of the child is literally the business of the court. The purpose of this article (Rules 900 *et seq.*) is to expedite cases affecting the custody or allocation of parental responsibilities of a child, to ensure the coordination of custody or allocation of parental responsibilities matters filed under different statutory Acts, and to focus child custody or allocation of parental responsibilities proceedings on the best interests of the child, while protecting the rights of other parties to the proceedings.

(b)(1) Definitions. For the purposes of this article, “child custody or allocation of parental responsibilities proceeding” means an action affecting child custody or allocation of parental responsibilities, or visitation, or parenting time. “Relocation” ~~“Removal”~~ means an action involving relocation ~~removal~~ of a minor child pursuant to section 609.2 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/609). “Child” means a person who has not attained the age of 18.

(b)(2) Part A. Scope. Rules 900 through 920, except as stated therein, apply to all child custody or allocation of parental responsibilities proceedings initiated under article II, III, or IV of the Juvenile Court Act of 1987, the Illinois Marriage and Dissolution of Marriage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, the Illinois Parentage Act of 2015 ~~1984~~, the Illinois Domestic Violence Act of 1986 and article 112A of the Code of Criminal Procedure of 1963, and guardianship matters involving a minor under article XI of the Probate Act of 1975.

(b)(3) Part B. Scope of Rules 921 through 940. Rules 921 through 940 apply to ~~child custody~~ allocation of parental responsibilities proceedings initiated under the Illinois Marriage and Dissolution of Marriage Act, and the Illinois Parentage Act of 2015 ~~1984~~.

(b)(4) Part C. Scope of Rule 942. Rule 942 applies to child custody proceedings under articles II, III, and IV of the Juvenile Court Act of 1987.

(c) Applicability of Other Rules. Applicable provisions of articles I and II of these rules shall continue to apply in child custody or allocation of parental responsibilities proceedings except as noted in this article.

Adopted February 10, 2006, effective July 1, 2006; amended July 1, 2013, eff. Sept. 1, 2013; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Rule 900 emphasizes the importance of child custody or allocation of parental responsibilities proceedings and highlights the purpose of the rules that follow, which is to ensure that child custody and allocation of parental responsibilities proceedings are expeditious, child-focused and fair to all parties.

The rules in the 900 series were written by the Special Supreme Court Committee on Child Custody Issues. The Special Committee was appointed shortly after our Supreme Court adopted the rules promulgated by the Special Supreme Court Committee on Capital Cases. See Rule 43 (judicial seminars on capital cases), Rule 411 (applicability of discovery rules to capital sentencing hearings), Rule 412(c) (State identification of material that may be exculpatory or mitigating), Rule 417 (DNA evidence), and Rules 701(b) and 714 (Capital Litigation Bar). These rules were designed to improve pretrial and trial procedures in capital cases. In appointing the Special Committee on Child Custody Issues, our Supreme Court indicated its strong desire to address problems which were apparent in the most significant cases courts must decide—those

involving child custody or allocation of parental responsibilities.

Our Supreme Court and legislature have repeatedly stressed the need for child custody or allocation of parental responsibilities proceedings to be handled expeditiously, with great emphasis on the best interest of the child. As pointed out by our Supreme Court in *In re D.F.*, 208 Ill. 2d 223, 241 (2003), the Juvenile Court Act of 1987 (705 ILCS 405/2–14(a)), sets forth the “legislature’s stated policy and purpose of expediting juvenile court proceedings and seeking permanency for children in a ‘just and speedy’ manner.” Similarly, the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/606(a)) provides: “Custody proceedings shall receive priority in being set for hearing.” As explained by our Supreme Court in *In re A.W.J.*, 197 Ill. 492, 497-98 (2001): “Like proceedings under the Adoption Act (750 ILCS 50/1 *et seq.* (West 1994)) and the Juvenile Court Act of 1987 (705 ILCS 405/2–1 *et seq.* (West 1994)) custody proceedings under the Marriage and Dissolution Act are guided by the overriding lodestar of the best interests of the child or children involved.”

The Special Committee noted that proceedings under the Adoption Act “shall receive priority over other civil cases in being set for hearing,” and that appealable orders under the Adoption Act “shall be prosecuted and heard on an expedited basis.” 750 ILCS 50/20.

The Special Committee also noted that, effective July 1, 2004, our Supreme Court adopted Rule 306 A, Expedited Appeals in Child Custody Cases. Rule 306 A (f) provides that “Except for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal.” Rule 306 A (h) provides in part: “Requests for continuance are disfavored and shall be granted only for compelling circumstances.”

Paragraph (b)(1) defines “Child custody or allocation of parental responsibilities proceedings” broadly for the purposes of the rules. The broad definition is important, because the need to expedite custody and allocation of parental responsibilities decisions applies to all types of custody and allocation of parental responsibilities cases and coordination of these custody cases is essential.

The rest of Rule 900(b) sets out the scope of the Committee’s other rule proposals.

Paragraph (b)(2) explains that Part A of the rules, consisting of Rules 900 through 920, is applicable to all child custody and allocation of parental responsibilities proceedings, except as noted. Rules 909 through 920 are reserved.

Paragraph (b)(3) explains that Part B of the rules, consisting of Rules 921 through 940, deals with dissolution of marriage and paternity cases. Rules 925 through 940 are reserved.

Paragraph (b)(4) explains that Part C of the rules, consisting only of Rule 942, Court Family Conferences, applies to nondelinquency juvenile cases.

Other Supreme Court rules will continue to apply in child custody or allocation of parental responsibilities proceedings unless noted.

The 900 series of rules does not address proceedings arising under the Adoption Act (750 ILCS 50/1 *et seq.*). The Special Committee believes that adoption is qualitatively different from the child custody and allocation of parental responsibilities proceedings addressed in the Rule 900 series. Consequently, any rule changes applicable to proceedings under the Adoption Act will be addressed separately.

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016)

(amending 750 ILCS 5/101 et seq.), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both “custody” and “allocation of parental responsibilities” in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Amended Rule 901

Rule 901. General Rules

(a) Expedited Hearings. Child custody and allocation of parental responsibilities proceedings shall be scheduled and heard on an expedited basis. Hearings in child custody and allocation of parental responsibilities proceedings shall be held in strict compliance with applicable deadlines established by statute or by this article.

(b) Setting of Hearings. Hearings in child custody and allocation of parental responsibilities proceedings shall be set for specific times. At each hearing, the next hearing shall be scheduled and the parties shall be notified of the date and time of the next hearing. Hearings rescheduled following a continuance shall be set for the earliest possible date.

(c) Continuances. Parties, witnesses and counsel shall be held accountable for attending hearings in child custody and allocation of parental responsibilities proceedings. Continuances shall not be granted in child custody and allocation of parental responsibilities proceedings except for good cause shown and may be granted if the continuance is consistent with the health, safety and best interests of the child. The party requesting the continuance and the reasons for the continuance shall be documented in the record.

(d) In any child custody, allocation of parental responsibilities, or relocation proceeding taken under advisement by the trial court, the trial judge shall render its decision as soon as possible but not later than 60 days after the completion of the trial or hearing.

(e) Appeals. Appeals from orders entered in child custody and allocation of parental responsibilities proceedings shall be pursuant to the applicable civil appeals rules. All such proceedings shall be expedited according to Rule 311(a).

Adopted February 10, 2006, effective July 1, 2006; amended February 26, 2010, effective immediately; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues
Rule 901 includes procedures that are designed and proven to expedite child custody and

allocation of parental responsibilities proceedings.

Paragraph (a) requires strict compliance with statutory and rule based deadlines for child custody and allocation of parental responsibilities proceedings.

Paragraphs (b) and (c) concerning the setting of hearings and limitations on continuances should help to significantly reduce delays in child custody and allocation of parental responsibilities proceedings.

Paragraph (d) requires timely disposition of cases taken under advisement by the trial court.

Amended Rule 902

Rule 902. Pleadings

(a) Complaint or Petition. The initial complaint or petition in a child custody or allocation of parental responsibilities proceeding shall state (1) whether the child involved is the subject of any other child custody or allocation of parental responsibilities proceeding pending before another division of the circuit court, or another court or administrative body of Illinois or of any other state, an Indian tribe, or a foreign country and (2) whether any order affecting the custody, allocation of parental responsibilities, or visitation, or parenting time of the child has been entered by the circuit court or any of its divisions, or by another court or administrative body of Illinois or of any other state, an Indian tribe, or a foreign country. If any child custody or allocation of parental responsibilities proceeding is pending with respect to the child, or any order has been entered with respect to the custody, allocation of parental responsibilities, or visitation, or parenting time of the child, the initial complaint or petition shall identify the tribunal involved and the parties to the action.

(b) Verification of Initial Complaint or Petition. The plaintiff or petitioner in a child custody or allocation of parental responsibilities proceeding shall verify the pleadings required by paragraph (a) of this rule. If the plaintiff or petitioner is a public agency, the verification shall be on information and belief of the attorney filing the pleading and shall state that reasonable efforts were made to obtain all information relevant to the matters verified.

(c) Answer or Appearance. In a child custody or allocation of parental responsibilities proceeding the defendant's (or respondent's) answer, if required, shall include a verified disclosure of any relevant information known to the defendant (or respondent) regarding any pending proceedings or orders described in paragraph (a) of this rule. Any defendant or respondent who appears but is not required to file an answer in the child custody or allocation of parental responsibilities matter shall be questioned under oath by the court at the party's first appearance before the court regarding any proceedings or orders described in paragraph (a) of this rule.

(d) Continuing Duty. The parties have a continuing duty to disclose information relating to other pending child custody or allocation of parental responsibilities proceedings or any existing orders affecting the custody, allocation of parental responsibilities, or visitation, or parenting time of the child, and shall immediately disclose to the court and the other parties to the proceeding any such information obtained after the initial pleadings, answer or appearance.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The purpose of Rule 902 is to ensure that the trial court is aware of all custody and allocation of parental responsibilities proceedings and orders relating to the child who is before the court. The Special Committee found that child custody and allocation of parental responsibilities, visitation and parenting time may be the subject of multiple proceedings and orders. Rule 902 addresses the problem of multiple proceedings that may occur intrastate and intra-circuit. Multiple proceedings may arise intra-circuit when parties file for relief under different statutory provisions (*e.g.*, an abuse case and a simultaneous guardianship case).

Paragraph (a) provides that the initial pleading of a party to a custody or allocation of parental responsibilities proceeding must include information regarding other pending custody or allocation of parental responsibilities proceedings and prior orders relating to custody, allocation of parental responsibilities, visitation or parenting time. Information in paragraph (a) may be submitted to the court in a joint filing including the information required by section 209(a) of the Uniform Child-Custody and Enforcement Act (750 ILCS 36/209(a)).

Paragraph (b) requires that the pleadings required by paragraph (a) of this rule be verified by the plaintiff or petitioner in child custody or allocation of parental responsibilities proceedings.

Paragraph (c) provides that parties not required to file pleadings may be questioned by the trial court regarding other pending matters and prior orders.

Paragraph (d) provides that all parties have a continuing duty to disclose such matters to the court.

Requiring disclosure of other proceedings and orders should minimize the possibility of inconsistent child custody or allocation of parental responsibilities orders and help to prevent forum shopping.

Amended Rule 903

Rule 903. Assignment and Coordination of Cases

Whenever possible and appropriate, all child custody and allocation of parental responsibilities proceedings relating to an individual child shall be conducted by a single judge. Each judicial circuit shall adopt a rule or order providing for assignment and coordination of child custody and allocation of parental responsibilities proceedings. Assignments in child custody and allocation of parental responsibilities proceedings shall be in accordance with the circuit rule or order then in force.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Rule 903 encourages the assignment of all custody and allocation of parental responsibilities proceedings concerning a child to a single judge. The rule does not mandate consolidation of child custody or allocation of parental responsibilities proceedings, because consolidation may be inadvisable in certain cases. Moreover, in some counties mandatory consolidation may be impracticable because of the arrangement of courtrooms and facilities.

Rule 903 encourages the consolidation of cases by requiring that the judicial circuits adopt rules or orders concerning the assignment and coordination of child custody and allocation of parental responsibilities proceedings, and by providing that the assignment of child custody and allocation of parental responsibilities proceedings will be in accordance with those rules.

Adopted February 10, 2006, effective July 1, 2006.

Amended Rule 905

Rule 905. Mediation

(a) Each judicial circuit shall establish a program to provide mediation for cases involving the custody or allocation of parental responsibilities of a child or ~~removal~~ relocation of a child or visitation or parenting time issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in child custody, allocation of parental responsibilities, removal relocation, and visitation, and parenting time cases shall address: (i) mandatory training for mediators; (ii) limitation of the mediation program to child custody, allocation of parental responsibilities, removal and relocation, visitation, and parenting time issues; (iii) (unless otherwise provided for in this article) standards to determine which child custody, allocation of parental responsibilities, removal and relocation, visitation, and parenting time issues should be referred to mediation and the time for referral; and (iv) excuse from referral to mediation if the court determines an impediment to mediation exists. The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody, allocation of parental responsibilities, removal and relocation, visitation, and parenting time matters.

(b) Each judicial circuit shall establish a program to provide mediation for dissolution of marriage and paternity cases involving the custody, allocation of parental responsibilities of a child, ~~or removal~~ relocation of a child, ~~or~~ visitation or parenting time issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in dissolution of marriage and paternity cases shall address: (i) mandatory expertise requirements of a mediator; (ii) mandatory training for mediators; (iii) limitation of the mediation program to child custody, allocation of parental responsibilities, removal relocation, and visitation, and parenting time issues; and (iv) referral of

child custody, allocation of parental responsibilities, ~~removal~~ relocation, ~~and~~ visitation, and parenting time issues to mediation, pursuant to Rule 923(a)(3), unless the court determines an impediment to mediation exists. The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody, allocation of parental responsibilities, relocation, ~~removal~~ and visitation, and parenting time matters. In cases where a litigant can only communicate in a language other than English, the court will make a good-faith effort to provide a mediator, and a *pro bono* attorney where applicable, and/or an interpreter who speaks the language of the litigant who needs English assistance.

(c) Every judicial circuit shall file a quarterly report with the Administrative Office of the Illinois Courts setting out the number of custody, allocation of parental responsibilities, visitation, parenting time, and ~~removal~~ relocation cases referred to mediation, the number of custody, allocation of parental responsibilities, visitation, parenting time, and ~~removal~~ relocation cases where mediation was referred but did not proceed, the number of cases referred on a *pro bono* basis, the number of cases where there was a full settlement, the number of cases where there was a partial settlement, and the percentage of cases wherein the parties were satisfied or unsatisfied with the process. Every judicial circuit shall require the completion of a mediation report filled out by a mediator on every custody, allocation of parental responsibilities, visitation, parenting time, and ~~removal~~ relocation case referred to mediation as well as the parties' evaluation of the mediation on forms prescribed by the Administrative Office of the Illinois Courts. The information contained in the mediator and parties' evaluation reports shall remain confidential and shall only be utilized for administrative and statistical purposes as well as the court's review of the efficacy of the mediation program.

(d) In addition to meeting the requirements of Rule 905(a), (b), and (c), local circuit rules may also impose other requirements as deemed necessary by the individual circuits.

Adopted February 10, 2006, effective January 1, 2007; amended May 19, 2006, effective January 1, 2007; amended July 1, 2013, eff. Sept. 1, 2013; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

~~(amended May 19, 2006)~~

The Committee believes mediation can be useful in nearly all contested custody or allocation of parental responsibilities proceedings. Mediation can resolve a significant portion of custody and allocation of parental responsibilities disputes and often has a positive impact even when ~~custody~~ these issues are not resolved. The process of mediation focuses the parties' attention on the needs of the child and helps parties to be realistic in their expectations regarding custody or allocation of parental responsibilities.

Many counties and judicial circuits have had mandatory mediation programs in place in their domestic relations courts for years. Cook County and Du Page County have utilized mandatory mediation programs for more than a decade. To date, these mandatory mediation programs have been implemented by the judicial circuits under the auspices of Rule 99, Mediation Programs.

Rule 905 requires each judicial circuit to establish a mediation program for child custody and allocation of parental responsibilities proceedings. Local circuit court rules will address the specifics of the mediation programs. The Cook County model for mediation programs, which provides county-employed mediators at no cost to the parties, may not be financially or administratively feasible for every circuit. Alternatively, some circuits have required approved mediators to mediate a certain number of reduced fee or *pro bono* cases per year as identified by the court. The individual judicial circuits may implement rules which are particularly appropriate for them, including provisions specifying responsibility for mediation costs.

Paragraph (a) applies to cases involving custody, allocation of parental responsibilities, visitation, or parenting time issues, other than those arising in dissolution of marriage and paternity cases. It requires local circuit court rules to address mandatory training for mediators and limits the mediation program to issues involving child custody, allocation of parental responsibilities, ~~and~~ visitation, and parenting time. Paragraph (a) also requires local circuit court rules to set standards to use in determining which child custody, allocation of parental responsibilities, ~~and~~ visitation, and parenting time issues should be referred to mediation and also address when the referral will be made.

Paragraph (b) provides for mediation of disputed custody, allocation of parental responsibilities, ~~and~~ visitation, parenting time, and relocation issues in dissolution of marriage and paternity cases. The timing and manner of referral to mediation in dissolution of marriage and paternity cases is provided for in Rule 923.

Parties may be excused from referral under both paragraphs (a) and (b) if the court determines an impediment to mediation exists. Such impediments may include family violence, mental or cognitive impairment, alcohol abuse or chemical dependency, or other circumstances which may render mediation inappropriate or would unreasonably interfere with the mediation process.

Amended Rule 906

Rule 906. Attorney Qualifications and Education in Child Custody, Allocation of Parental Responsibilities, ~~and~~ Visitation, and Parenting Time Matters

(a) Statement of Purpose. This rule is promulgated to insure that counsel who are appointed by the court to participate in child custody, allocation of parental responsibilities, ~~and~~ visitation, and parenting time matters, as delineated in Rule 900(b)(2), possess the ability, knowledge, and experience to do so in a competent and professional manner. To this end, each circuit court of this state shall develop a set of qualifications and educational requirements for attorneys appointed by the court to represent children in child custody and allocation of parental responsibilities cases and guardianship cases when custody or visitation is an issue and shall further develop a plan for the procurement of qualified attorneys in accordance with the plan.

(b) Submission of Qualifications and Plan. The Chief Judge of a judicial circuit shall be responsible for the creation of the qualifications and Plan and for submitting them to the Conference of Chief Judges for approval. The Chief Judges of two or more contiguous judicial circuits may submit a Plan for the creation of a single set of qualifications and Plan encompassing those judicial circuits or encompassing contiguous counties within the circuits.

(c) Qualifications and Plan. The qualifications shall provide that the attorney is licensed and in good standing with the Illinois Supreme Court. Certification requirements may address minimum experience requirements for attorneys appointed by the court to represent minor children. In addition, the qualifications may include one or all of the following which are recommended: (1) Prior to appointment the attorney shall have 10 hours in the two years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development; roles of guardian *ad litem* and child representative; ethics in child custody and allocation of parental responsibilities cases; relevant substantive state, federal, and case law in custody, allocation of parental responsibilities, and visitation, and parenting time matters; family dynamics, including substance abuse, domestic abuse, and mental health issues. (2) Periodic continuing education in approved child related courses shall be required to maintain qualification as an attorney eligible to be appointed by the court in child custody, allocation of parental responsibilities, and visitation, and parenting time cases. (3) Requirements for initial pro bono representation. (4) Attorneys who work for governmental agencies may meet the requirements of this rule by attending appropriate in-house legal education classes.

(d) Conference of Chief Judges Review and Approval. The Conference of Chief Judges shall review and approve the Plan or may request that the Chief Judge modify the submitted list of qualifications and Plan. Upon approval, the Chief Judge of each circuit shall be responsible for administering the program and insuring compliance. An attorney approved to be appointed by the Court to participate in child custody, allocation of parental responsibilities, and visitation, and parenting time matters under a Plan approved in one county or judicial circuit shall have reciprocity to participate in child custody, allocation of parental responsibilities, and visitation, and parenting time matters in other counties and judicial circuits in Illinois.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Paragraph (a) requires each judicial circuit to establish qualifications and educational requirements for attorneys who are appointed by a court to represent children in child custody and allocation of parental responsibilities proceedings. The circuits would also be required to establish a plan for procuring the services of qualified attorneys for child custody and allocation of parental responsibilities cases.

Paragraph (b) requires that attorney qualification and procurement plans be submitted to the Conference of Chief Circuit Judges for approval. It also provides that attorney qualification and procurement plans may be drafted to apply to contiguous circuits or to contiguous counties within two or more circuits.

Paragraph (c) specifies that attorneys appointed to represent children must be licensed and in good standing as attorneys. It also provides that the qualifications and standards must include a minimum experience requirement, and may include criteria concerning initial and continuing

legal education requirements and requirements for initial *pro bono* representation. Attorneys approved under a circuit plan would be eligible for appointment in cases in other areas of the state on the basis of reciprocity.

In writing Rule 906, the Special Committee considered Rule 714, Capital Litigation Trial Bar, which imposes minimum requirements upon trial counsel in order to insure that counsel who participate in capital cases possess the ability, knowledge and experience to do so in a competent and professional manner. The Special Committee believes that cases involving child custody, allocation of parental responsibilities, ~~and~~ visitation and parenting time issues demand the same high standards of advocacy as do capital cases.

The Special Committee is mindful that many judicial circuits will find it very difficult to find funds to pay for the plans under which counsel are appointed. Ideally, the State would provide sufficient funding to reimburse the private attorneys who are appointed by the court. In the absence of such funding, the individual judicial circuits will need to be innovative in meeting the financial requirements of the plans. In addition to requiring the parties to pay for the appointed lawyer's services, the local rules could provide for the targeting of court filing fees. Voluntary *pro bono* service is also strongly encouraged.

Amended Rule 907

Rule 907. Minimum Duties and Responsibilities of Attorneys for Minor Children

(a) Every child representative, attorney for a child and guardian *ad litem* shall adhere to all ethical rules governing attorneys in professional practice, be mindful of any conflicts in the representation of children and take appropriate action to address such conflicts.

(b) Every child representative, attorney for a minor child and guardian *ad litem* shall have the right to interview his or her client(s) without any limitation or impediment. Upon appointment of a child representative, attorney for the child or guardian *ad litem*, the trial court shall enter an order to allow access to the child and all relevant documents.

(c) As soon as practicable, the child representative, attorney for the child or guardian *ad litem* shall interview the child, or if the child is too young to be interviewed, the attorney should, at a minimum, observe the child. The child representative, attorney for the child or guardian *ad litem* shall also take whatever reasonable steps are necessary to obtain all information pertaining to issues affecting the child, including interviewing family members and others possessing special knowledge of the child's circumstances.

(d) The child representative, attorney for the child or guardian *ad litem* shall take whatever reasonable steps are necessary to determine what services the family needs to address the custody or allocation of parental responsibilities dispute, make appropriate recommendations to the parties, and seek appropriate relief in court, if required, in order to serve the best interest of the child.

(e) The child representative, attorney for the child or guardian *ad litem* shall determine whether a settlement of the custody or allocation of parental responsibilities dispute can be achieved by agreement, and, to the extent feasible, shall attempt to resolve such disputes by an agreement that serves the best interest of the child.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments

Special Supreme Court Committee on Child Custody Issues

Rule 907 establishes minimum standards of practice for attorneys who represent children.

Paragraph (a) sets out the responsibility of an attorney representing a child in any capacity to act in accordance with the rules of ethics and avoid conflicts of interest.

Paragraphs (b) and (c) provide guidance on the attorney's essential duty of investigation: the duty to determine the child's circumstances and the family's needs. In aid of this duty, the rule provides specifically that an attorney has the right to interview a child client without limitation or impediment. Paragraph (b) also provides that the trial court shall enter an order allowing the child representative, attorney for the child or guardian *ad litem* access to all relevant documents.

Paragraph (d) addresses advocacy. The attorney for a child is required to make appropriate recommendations to the parties, seek resolution by agreement where it is in the best interests of the child, and seek relief on behalf of the child in court, when needed.

The Special Committee is aware that the American Bar Association and the National Conference of Commissioners on Uniform State Laws have taken the position that there should be three distinct types of appointments: (1) a child's attorney, who provides independent legal counsel in the same manner as to an adult client; (2) a "best interest attorney," such as Illinois' child representatives, who provide independent legal services for the child's best interests but who does not make general "recommendations"; (3) a guardian *ad litem*, who gathers information for the court and helps identify other needed services for the child or family.

In its Standards of Practice for Attorneys Representing Children in Custody Cases, the ABA recommended that attorneys not serve as GALs unless they do so as would a non-lawyer. However, the Illinois Marriage and Dissolution of Marriage Act mandates that GALs appointed under the Act be attorneys and that they may actually act in *loco parentis* for the child. See 750 ILCS 5/506. It is the position of the Special Committee that none of these concerns require changes in the language of Rule 907 or any other rule.

Amended Rule 908

Rule 908. Judicial Training on Child Custody and Allocation of Parental Responsibilities Issues

(a) Meeting the challenge of deciding child custody and allocation of parental responsibilities cases fairly and expeditiously requires experience or training in a broad range of matters including, but not limited to: (1) child development, child psychology and family dynamics; (2) domestic violence issues; (3) alternative dispute resolution strategies; (4) child sexual abuse issues; (5) financial issues in ~~custody~~ these matters; (6) addiction and treatment issues; (7) statutory time limitations; and (8) cultural and diversity issues.

(b) Judges should have experience or training in the matters described in paragraph (a) of this rule before hearing ~~child custody~~ these cases. Before a judge is assigned to hear child custody

cases or allocation of parental responsibilities cases, the Chief Judge of the judicial circuit should consider the judge's judicial and legal experience, any prior training the judge has completed and any training that may be available to the judge before he or she will begin hearing ~~child-custody~~ these cases.

(c) Judges who, by specific assignment or otherwise, may be called upon to hear child custody or allocation of parental responsibilities cases should participate in judicial education opportunities available on these topics, such as attending those sessions or portions of the Education Conference, presented bi-annually at the direction of the Supreme Court, which address the topics described in paragraph (a) of this rule. Judges may also elect to participate in any other Judicial Conference Judicial Education Seminars addressing these topics, participate in other judicial education programs approved for the award of continuing judicial education credit by the Supreme Court, complete individual training through the Internet, computer training programs, video presentations, or other relevant programs. The Chief Judges of the judicial circuits should make reasonable efforts to ensure that judges have the opportunity to attend programs approved for the award of continuing judicial education credit by the Supreme Court which address the topics and issues described in paragraph (a) of this rule.

Adopted February 10, 2006, effective July 1, 2006; amended May 19, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Proposed Rule 908 recognizes the complexity of child custody and allocation of parental responsibilities cases and the broad range of experience and training that would be helpful to judges hearing these cases.

Paragraph (b) requires that chief judges consider a judge's experience and training before the judge is assigned to hear ~~child-custody~~ such cases. This provision does not establish a mandatory prerequisite to such an assignment.

Paragraph (c) requires that trial judges who will hear child custody and allocation of parental responsibilities cases should participate in Judicial Education opportunities on these type of matters ~~attend a seminar on child custody matters at least once every two years~~. The proposed rule encourages personal attendance at seminars, but emphasizes that other forms of training may be used.

Amended Part B

PART B – ALLOCATION OF PARENTAL RESPONSIBILITIES CHILD CUSTODY PROCEEDINGS UNDER THE ILLINOIS MARRIAGE AND DISSOLUTION OF MARRIAGE ACT AND THE ILLINOIS PARENTAGE ACT OF 1984.

Amended Rule 921

Rule 921. General Provisions

In addition to the rules in Part A of this article, the rules in this Part B shall apply to ~~child custody~~ allocation of parental responsibilities proceedings filed under the Illinois Marriage and Dissolution of Marriage Act, and the Illinois Parentage Act of 1984.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Rule 921 establishes the scope of Part B, which includes Rules 921 through 924. Rules 925 through 940 are Reserved. Rules 921 through 924 apply to ~~child custody~~ allocation of parental responsibilities proceedings filed under the Illinois Marriage and Dissolution of Marriage Act, and the Illinois Parentage Act of 1984. The requirements of Rules 921 through 924 are in addition to the requirements of Part A found in Rules 900 through 908 as applicable.

Amended Rule 922

Rule 922. Time Limitations

All ~~child custody~~ allocation of parental responsibilities proceedings under this rule in the trial court shall be resolved within 18 months from the date of service of the petition or complaint to final order. In the event this time limit is not met, the trial court shall make written findings as to the reason(s) for the delay. The 18-month time limit shall not apply if the parties, including the attorney representing the child, the guardian *ad litem* or the child representative, agree in writing and the trial court makes a written finding that the extension of time is for good cause shown. In the event the parties do not agree, the court may consider whether an extension of time should be allowed for good cause shown.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

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Rule 922 provides that ~~custody~~ allocation of parental responsibilities matters in dissolution of marriage and paternity cases must be resolved within 18 months. Written findings are required if the deadline is not met, and extensions of the time limit may only be granted for good cause shown, on written finding by the trial court.

Amended Rule 923

Rule 923. Case Management Conferences

(a) Initial Conference. In an ~~child-custody~~ allocation of parental responsibilities proceeding under this part, an initial case management conference pursuant to Rule 218 shall be held not later than 90 days after service of the petition or complaint is obtained. In addition to other matters the court may choose to address, the initial conference shall cover the following issues:

(1) *Parenting Education.* The parents shall show proof of completion of an approved parenting education program as required by Rule 924, provide a fixed schedule for compliance, or show cause to excuse compliance;

(2) ~~Custody~~ Allocation of Parental Responsibilities and Parenting Plan. The parents shall provide the court with an agreed order regarding ~~custody~~ allocation of parental responsibilities and an agreed parenting plan, if there is an agreement. In the event that the parents do not agree to a parenting plan, then each parent must submit a proposed parenting plan to the Court within 120 days after service or filing of a petition for allocation of parental responsibilities;

(3) *Mediation.* If there is no agreement regarding ~~custody~~ allocation of parental responsibilities or a parenting plan or both, the court shall schedule the matter for mediation in accordance with Rule 905(b) and shall advise each parent of the responsibilities imposed upon them by the pertinent local court rules.

(b) A full case management conference shall be held not later than 30 days after mediation has been completed. In addition to other matters the court may choose to address at the conference, and if the court has not appointed counsel previously, the court shall address whether to appoint an attorney for the child or a guardian *ad litem* or a child representative in accordance with section 506 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/506).

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Committee Comments
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Paragraph (a) provides that an initial case management conference is required within 90 days after service of a petition or complaint is obtained in a dissolution of marriage case involving a child or in a paternity case. At the initial conference the trial court will ensure compliance with parenting education requirements (Rule 924) and determine whether the parents have agreed to a ~~custody~~ the allocation of parental responsibilities and parenting plan. Parents not in agreement regarding ~~custody~~ allocation of parental responsibilities and parenting plan issues at the time of the initial case management conference will be referred to mediation. The trial court may also use the initial case management conference to address other matters it deems proper.

Each judicial circuit which currently has a mediation program has a provision in their local circuit court rules explaining how parents whose children are the subject of an custodial allocation of parental responsibilities dispute must comply with the circuit court rules. These rules vary from judicial circuit to judicial circuit. In Cook County, parents are required to attend the mediation session but, if they do not agree with the mediator's decision, the parents merely bring this fact to the attention of the circuit court. In Du Page County, if the parents do not agree on ~~child custody~~ allocation of parental responsibilities after they have completed the requirements of the mediation program, they ~~are~~ may be required to see a clinical psychologist for a mandatory evaluation. Another difference between the judicial circuits is how the costs of mediation are paid. While many mediation programs impose costs, the Cook County Circuit Court's Marriage and Family Counseling Service is free.

Paragraph (a)(3) supports the Special Committee's goal of allowing the individual judicial circuits to adopt rules and set up programs which best suit that circuit's needs.

Paragraph (b) provides that in cases referred to mediation under the rule, a full case management conference is required within 30 days after mediation is completed. At the full case management conference, the court will consider, inter alia, the appointment of counsel for the child as provided in section 506 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/506).

Amended Rule 924

Rule 924. Parenting Education Requirement

(a) Program. Each circuit or county shall create or approve a parenting education program consisting of at least four hours covering the subjects of ~~visitation~~ parenting time and ~~custody~~ allocation of parental responsibilities and their impact on children.

(b) Mandatory Attendance. Except when excused by the court for good cause shown, all parties shall be required to attend and complete an approved parenting education program as soon as possible, but not later than 60 days after an initial case management conference. In the case of a default or lack of jurisdiction over the respondent, only the petitioning party is required to attend but if the respondent later enters an appearance or participates in postjudgment proceedings, then the party who has not attended the program shall attend. The court shall not

excuse attendance unless the reason is documented in the record and a finding is made that excusing one or both parents from attendance is in the best interests of the child.

(c) Sanctions. The court may impose sanctions on any party willfully failing to complete the program.

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Parenting education can have a very positive impact on the outcome of an child custody allocation of parental responsibilities proceeding. Parenting education encourages parents to think about the impact of their actions on their children and teaches parents to deal with adult problems in ways that avoid harm to their children.

Paragraph (a) requires each judicial circuit or county to create or approve a parenting education program and sets out the minimum requirements of such a program. Individual judicial circuits or counties may permit the circuit courts to impose additional educational requirements on one or all of the parties.

Paragraph (b) requires parenting education for all dissolution of marriage cases involving a child and all parentage cases, absent good cause shown. Compliance with the parenting education requirement will be reviewed at the initial case management conference. Parents are expected to complete parenting education not later than 60 days after the initial case management conference.

Paragraph (c) provides that sanctions may be imposed on parties who willfully fail to comply with the parenting education requirement.