

**CHAPTER 3. ACCELERATED REHABILITATIVE
DISPOSITION (ARD)**

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Committee Introduction to Chapter 3:

The rules set forth in this Chapter govern the procedures with regard to Accelerated Rehabilitative Disposition in court cases and in summary cases. See Committee Report, 14 Pa.B. 3593 (10/6/84) and 554-557 A.2d (Pennsylvania Reporter Series), for discussion of the history of the use of pretrial diversion programs in Pennsylvania.

The primary purpose of this program is the rehabilitation of the offender; secondarily, the purpose is the prompt disposition of charges, eliminating the need for costly and time-consuming trials or other court proceedings. These rules contemplate that ordinarily the defendants eligible for the ARD program are first offenders who lend themselves to treatment and rehabilitation rather than punishment and that the crime charged is relatively minor and does not involve a serious breach of the public trust. The program is intended to encourage offenders to make a fresh start after participation in a rehabilitative program and offers them the possibility of a clean record if they successfully complete the program.

Because of the rehabilitative purpose of the program, and because the program permits prompt disposition of the charges, the descriptive title “accelerated rehabilitative disposition” was selected rather than such terms as “pre-indictment probation” or “deferred disposition.”

The rules in this Chapter provide the procedural framework for the utilization of Accelerated Rehabilitative Disposition by the judges of the courts of common pleas in court cases and in summary cases, and by the minor judiciary in summary cases. These rules do not specify those classes of offenses or offenders that are eligible or ineligible for inclusion in the ARD program. In general, the district attorney has the responsibility for determining which cases will be recommended for entry into the ARD program. See *Commonwealth v. Lutz*, 495 A.2d 928 (Pa. 1985).

Recognizing the minor nature of summary offenses and that the various judicial districts have different administrative requirements for processing and disposing of ARD cases, the procedures in Rules 300, 301, and 302 were adopted in 1991 to provide each judicial district with the procedural mechanism to structure its own summary case ARD program, either before the minor judiciary or, when the local option is elected by the district attorney pursuant to Rule 300, in the court of common pleas. The statewide rules are intended to simplify the procedures for summary case ARD and to encourage prompt processing and disposition of cases considered for ARD.

In addition to the procedural aspects of ARD set forth in these rules, there are statutory provisions setting forth requirements related to ARD in certain specified classes of cases. See, e.g., Sections 1534, 1548, 1552, and 3731 of the Vehicle Code, 75 Pa.C.S. §§ 1534, 1548, 1552, and 3731, and § 1520(a) of the Judicial Code, 42 Pa.C.S. § 1520(a).

PART A. Summary Cases

Rule 300. Accelerated Rehabilitative Disposition in Summary Cases.

(A) Unless the district attorney has elected, pursuant to paragraph(B)(1), that ARD in summary cases proceed in the court of common pleas, ARD in summary cases shall proceed in the office of the proper issuing authority as provided in Rule 301.

(B) The district attorney, by filing a certification with the president judge, may:

(1) elect that ARD in summary cases proceed in the court of common pleas pursuant to Rule 302; and/or

(2) designate certain classes of offenses or offenders, in addition to those statutorily excluded, that shall not be considered for summary case ARD.

(C) When a certification has been filed by the district attorney pursuant to this rule, the president judge shall promulgate a local rule in substantially the following form:

RULE. SUMMARY CASE ARD.

The District Attorney of _____ County has filed a certification pursuant to Pa.R.Crim.P. 300, and:

- (1) has elected that ARD in summary cases shall proceed in the court of common pleas pursuant to the procedures in Pa.R.Crim.P. 302; and/or
- (2) has designated the following classes of offenses and/or offenders, in addition to those which are statutorily excluded, as ineligible for summary case ARD:

(D) The president judge of each judicial district shall formulate local procedures to provide uniformity within the judicial district for ARD in summary cases before the minor judiciary under Rule 301, and in the court of common pleas under Rule 302.

(1) The locally formulated procedures shall be in writing, filed with the clerk of courts, and served upon all judges handling summary case ARD in the court of common pleas and upon all issuing authorities within the judicial district.

(2) The local procedures shall, at a minimum, establish:

- (a) costs and administrative expenses taxable for summary case ARD;
- (b) procedures for restitution;
- (c) conditions of the program;
- (d) record checking, record keeping, and reporting requirements;
- (e) procedures requiring each issuing authority to submit a monthly report on the disposition of all the cases eligible for ARD to the official designated by the president judge to compile such reports and monitor the cases; and
- (f) procedures for completion or termination of the program.

Comment

Recognizing the minor nature of summary offenses, this rule provides the general, statewide procedural framework for implementing ARD in summary cases. It is intended that the president judge of each judicial district will establish procedures under paragraph (D) that are specific to summary case ARD within the judicial district consistent with this rule and with Rules 301 and 302. These procedures should encourage the prompt processing and disposition of summary cases considered for ARD.

The district attorney is responsible for designating which classes of offenses or offenders may not be considered for ARD in summary cases. This is accomplished, pursuant to paragraph (B)(2), by the district attorney's filing a certification with the president judge. In addition, there may be classes of offenses or offenders that are statutorily excluded. See, e.g., Section 1520(a) of the Judicial Code, 42 Pa.C.S. § 1520(a), which excludes cases charging offenses under Titles 34 and 75 from being considered for or included in the summary case adjudication alternative authorized by the statute.

Paragraph (A) provides that ordinarily summary case ARD will proceed before the minor judiciary. See Rule 301 for the general procedures in such cases. As an alternative local option, Rule 300 also authorizes the district attorney to elect that ARD in summary cases be removed to the court of com-

mon pleas for processing and disposition, and paragraph (B)(1) requires that the district attorney file a certification with the president judge to implement this election. See Rule 302 for the general procedures when this local option has been elected.

When a certification is filed, the president judge must promulgate the effectuating local rule. The local rule mechanism has the advantage of notice, publication, and recordation, which are inherent in the local rule process.

The district attorney (or a successor district attorney) may withdraw the election to move summary ARD consideration to the court of common pleas, and/or change the designation of classes of offenses or offenders that are not eligible for ARD, by filing a new certification. When a new certification is filed, the president judge must rescind or modify the local rule.

The president judge in each judicial district must formulate local procedures pursuant to paragraph (D) for the actual implementation of the summary case ARD programs in the court of common pleas or before the minor judiciary within his or her judicial district, thereby providing county-wide uniformity. These locally formulated procedures may include procedures that are in addition to those required by the Rules of Criminal Procedure to take into account the special nature and the special dispositional and administrative requirements of summary cases generally and specifically within the judicial district. For example, the costs imposed on a defendant who is admitted into a summary case ARD program should not be the same as the costs imposed on a defendant for ARD in a court case, but rather should be adjusted downward and kept minimal to reflect the minor nature of the summary case. The president judge, however, must implement without change the district attorney's elections made pursuant to paragraph (B). See *Commonwealth v. Lutz*, 495 A.2d 928 (Pa. 1985).

This rule should not be construed as mandating new programs. Rather, summary case ARD programs may be established within the parameters of existing programs, and should be adapted to meet the needs of the defendants in summary cases. See, e.g., 42 Pa.C.S. § 1520(b).

Official Note: Previous Rule 160 adopted April 10, 1989, effective July 1, 1989; rescinded January 31, 1991, effective July 1, 1991, and replaced by Rules 300, 301, and 302. Present Rule 160 adopted January 31, 1991, effective July 1, 1991; renumbered Rule 300 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa. B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 301. Procedures for Accelerated Rehabilitative Disposition in Summary Cases Before the Minor Judiciary.

(A) Unless the district attorney has elected that ARD in summary cases proceed in the court of common pleas pursuant to Rule 300(B)(1), if the defendant is eligible for inclusion in an ARD program, the issuing authority may admit the defendant into an ARD program subject to the local procedures formulated by the president judge pursuant to Rule 300(D). If the issuing authority does not admit a defendant who is eligible for ARD, the issuing authority shall include in the monthly report required by Rule 300(D)(2)(e) a written statement of the reasons for not admitting the defendant.

(B) If the defendant declines to accept or fails to complete the program, or if the issuing authority does not admit the case for ARD, the case shall proceed to trial as provided in Chapter 4.

Comment

This rule provides the general procedures for summary case ARD before the minor judiciary. Working within the procedural framework of this rule and Rule 300, the president judge is responsible for establishing the specific local procedures which will govern ARD in summary cases before the minor judiciary in the judicial district as required in Rule 300(D).

Official Note: Rule 161 adopted January 31, 1991, effective July 1, 1991; renumbered Rule 301 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 302. Procedures for Accelerated Rehabilitative Disposition in Summary Cases in the Court of Common Pleas—Local Option.

(A) When the district attorney has filed a certification to proceed by local option under Rule 300, after institution of criminal proceedings in a summary case, the issuing authority, the defendant, the defendant's attorney, or any other interested person may request that the district attorney consider the defendant's case for inclusion in the Accelerated Rehabilitative Disposition Program.

(B) If the district attorney decides to move for the defendant's inclusion in an ARD program, the case shall proceed as provided in Rules 311—320, subject to the local procedures formulated by the president judge pursuant to Rule 300(D).

(C) If the district attorney decides not to move for the defendant's inclusion in an ARD program, or if the defendant declines to accept or fails to complete the program, or if the judge does not accept the case for ARD, the case shall be referred to the proper issuing authority and shall proceed as provided in Chapter 4.

Comment

This rule provides the general procedures for ARD in a summary case that has been removed to the court of common pleas by the filing of a certification by the district attorney pursuant to Rule 300(B)(1). Working within the procedural framework of this rule, the president judge has the responsibility of establishing for the judicial district the specific local procedures which will govern ARD in summary cases in the court of common pleas as required in Rule 300(D).

Unless provided otherwise in the local procedures formulated by the president judge, when the district attorney decides to move for the defendant's inclusion in an ARD program pursuant to paragraph (B), the issuing authority must be notified of that decision. Thereafter, the issuing authority should immediately file the transcript of any proceedings, the original complaint or citation, the summons or warrant of arrest, if any, and the bail bond, if any, with the officer of the court of common pleas designated to receive such papers.

As used in paragraph (A), “any other interested person” would include, for example, the parent of a juvenile charged with a summary offense, the law enforcement officer who instituted the proceedings, or a representative from the community service program or the probation department.

Official Note: Rule 162 adopted January 31, 1991, effective July 1, 1991; renumbered Rule 302 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1477 (March 18, 2000).

PART B. Court Cases

Rule 310. Motion for Accelerated Rehabilitative Disposition.

After criminal proceedings in a court case have been instituted, the attorney for the Commonwealth may move, before a judge empowered to try court cases, that the case be considered for accelerated rehabilitative disposition.

Comment

A request for inclusion into the program may be made to the district attorney by the defendant, the defendant’s attorney, or an interested agency or institution.

See Rule 300 with regard to accelerated rehabilitative disposition in summary cases.

Official Note: Rule 176 approved May 24, 1972, effective immediately; amended February 15, 1974, effective immediately; amended April 10, 1989, effective July 1, 1989; renumbered Rule 310 and Comment revised March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 311. Application Process and Notice of Motion by Attorney for the Commonwealth.

(A) When accelerated rehabilitative disposition proceedings are initiated, the attorney for the Commonwealth shall advise the defendant and the defendant’s attorney of the attorney for the Commonwealth’s intention to present the case to an appropriate judge. Notice of the proceedings shall be given also to any victim or victims of the offense charged.

(B) Information or statements supplied by the defendant to the attorney for the Commonwealth in an ARD application shall not be used against the defendant for any purpose in any criminal proceedings except a prosecution based on the falsity of the information or statement supplied.

Comment

No particular form of ARD application or application procedure is required.

Official Note: Rule 177 approved May 24, 1972, effective immediately; amended April 10, 1989, effective July 1, 1989; amended January 31, 1991, effective July 1, 1991; renumbered Rule 311 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Rule 312. Hearing, Explanation of Program.

Hearing on a motion for accelerated rehabilitative disposition shall be in open court in the presence of the defendant, the defendant's attorney, the attorney for the Commonwealth, and any victims who attend. At such hearing, it shall be ascertained on the record whether the defendant understands that:

- (1) acceptance into and satisfactory completion of the accelerated rehabilitative disposition program offers the defendant an opportunity to earn a dismissal of the pending charges;
- (2) should the defendant fail to complete the program, the defendant waives the appropriate statute of limitations and the defendant's right to a speedy trial under any applicable Federal or State constitutional provisions, statutes or rules of court during the period of enrollment in the program.

Comment

Although acceptance into an ARD program is not intended to constitute a conviction under these rules, it may be statutorily construed as a conviction for purposes of computing sentences on subsequent convictions. See, e.g., Vehicle Code 3731(e)(2), added by 75 Pa.C.S. § 731(e)(2).

Official Note: Rule 178 approved May 24, 1972; effective immediately; amended February 15, 1974, effective immediately; amended April 10, 1989, effective July 1, 1989; renumbered Rule 312 and Comment revised March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Rule 313. Hearing, Manner of Proceeding.

(A) When the defendant, with the advice and agreement of the defendant's attorney, indicates understanding of these proceedings, requests acceptance into the program, and agrees to the terms set forth in Rule 312, the stenographer shall close the record.

(B) The judge thereupon shall hear the facts of the case as presented by the attorney for the Commonwealth, and such information as the defendant or the defendant's attorney may present, and shall hear from any victim present. No statement presented by the defendant shall be used against the defendant for any

purpose in any criminal proceeding except a prosecution based on the falsity of the information or statement supplied.

(C) After hearing the facts of the case, if the judge believes that it warrants accelerated rehabilitative disposition, the judge shall order the stenographer to reopen the record and shall state to the parties the conditions of the program. If the judge does not accept the case for accelerated rehabilitative disposition, the judge shall order that the case proceed on the charges as provided by law. No appeal shall be allowed from such order.

(D) After the stenographer reopens the record, the defendant shall thereupon state to the judge whether the defendant accepts the conditions and agrees to comply. If the statement is in the affirmative, the judge may grant the motion for accelerated rehabilitative disposition and shall enter an appropriate order as set forth in Rules 314 and 315. If the defendant answers in the negative, the judge shall proceed as set forth in Rule 317.

(E) Upon the judge's granting of the motion for accelerated rehabilitative disposition, bail shall be terminated, and any money or other form of security deposited shall be returned in accordance with the rules pertaining to bail.

Comment

The phrase "or civil" was deleted from paragraph (B) in the 1989 general revision of the ARD rules. Whether a defendant's statement may be used in a noncriminal proceeding is a matter of substantive law.

In any case in which a summary offense has been joined with the misdemeanor or felony charges that have been disposed of by the defendant's acceptance into an ARD program, if the summary offense has not been disposed of prior to the ARD hearing, the trial judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. The Crimes Code § 110, 18 Pa.C.S. § 110, *Commonwealth v. Cauffman*, 541 Pa. 299, 662 A.2d 1050 (1995), and *Commonwealth v. Campana*, 455 Pa. 622, 304 A.2d 432 (1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 (1974), may require in a particular case that the trial judge have the defendant execute a "*Campana*" waiver prior to disposing of the summary offense at the ARD hearing.

When bail is terminated upon acceptance of the defendant into the ARD program, such action constitutes a "full and final disposition" for purposes of Rule 534 (Duration of Obligation) and Rule 535 (Receipt of Deposit; Return of Deposit).

Official Note: Rule 179 approved May 24, 1972, effective immediately; amended April 10, 1989, effective July 1, 1989; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered 313 and amended March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective September 1, 2006.

Committee Explanatory Reports:

Final Report explaining the September 13, 1995 amendments published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor or felony charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Source

The provisions of this Rule 313 amended March 9, 2006, effective September 1, 2006, 36 Pa.B. 1385. Immediately preceding text appears at serial pages (264169) to (264170).

Rule 314. Deferring Action Upon Admission to Program Before Information.

When a defendant is accepted into the program of accelerated rehabilitative disposition before the filing of an information, the judge shall order that no information shall be filed with the court on the charges contained in the transcript during the term of the program.

Official Note: Rule 180 adopted May 24, 1972, effective immediately; amended February 15, 1974, effective immediately; amended June 19, 1996, effective July 1, 1996; renumbered Rule 314 March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 315. Deferring Adjudication of the Charges Upon Admission to Program After Information.

When a defendant is accepted into the program of accelerated rehabilitative disposition after the filing of an information, the judge shall order that further proceedings on the charges shall be postponed during the term of the program.

Official Note: Rule 181 adopted May 24, 1972, effective immediately; amended February 15, 1974, effective immediately; amended June 19, 1996, effective July 1, 1996; renumbered Rule 315 March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 316. Conditions of the Program.

(A) The conditions of the program may be such as may be imposed with respect to probation after conviction of a crime, including restitution, except that a fine may not be imposed. In addition, the conditions of the program may include the imposition of costs, the imposition of a reasonable charge relating to the expense of administering the program, and such other conditions as may be agreed to by the parties.

(B) The period of such program for any defendant shall not exceed two years.

Comment

Paragraph (A) makes it clear that reasonable charges for the expense of administering the program may be imposed on defendants. It is intended that these charges may be imposed on those admitted into the program and that no separate fees be required for application for admission into the program.

The practice has been to permit qualified individuals who are indigent to participate in the ARD program without payment of costs or charges. The 1983 amendment is not intended to change this practice; rather, it is intended that such practice will continue.

Concerning restitution, see 42 Pa.C.S. § 9728 (Collection of restitution, reparation, fees, costs, fines, and penalties).

A defendant may be required to accept conditions of the program as provided by statute. See, e.g., 75 Pa.C.S. § 3731(e)(6).

Official Note: Rule 182 approved May 24, 1972, effective immediately; amended January 28, 1983, effective February 1, 1983; Comment revised April 10, 1989, effective July 1, 1989; Comment revised September 26, 1996, effective immediately; renumbered Rule 316 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the September 26, 1996 Comment revision published with the Court's Order at 26 Pa.B. 4894 (October 12, 1996).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 317. Procedure Upon Refusal to Accept The Conditions.

If a defendant refuses to accept the conditions required by the judge, the judge shall deny the motion for accelerated rehabilitative disposition. In such event, the case shall proceed in the same manner as if these proceedings had not taken place.

Official Note: Rule 183 approved May 24, 1972, effective immediately; renumbered Rule 317 March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 318. Procedure on Charge of Violation of Conditions.

(A) If the attorney for the Commonwealth files a motion alleging that the defendant during the period of the program has violated a condition thereof, or objects to the defendant's request for an order of discharge, the judge who entered the order for ARD may issue such process as is necessary to bring the defendant before the court.

(B) A motion alleging such violation filed pursuant to paragraph (A) must be filed during the period of the program or, if filed thereafter, must be filed within a reasonable time after the alleged violation was committed.

(C) When the defendant is brought before the court, the judge shall afford the defendant an opportunity to be heard. If the judge finds that the defendant has committed a violation of a condition of the program, the judge may order, when appropriate, that the program be terminated, and that the attorney for the Commonwealth shall proceed on the charges as provided by law. No appeal shall be allowed from such order.

Comment

See Rules 600(D)(3) and 1013(I) and Comments for the time within which to commence trial following a termination order.

Official Note: Rule 184 approved May 24, 1972, effective immediately; amended September 3, 1993, effective January 1, 1994; renumbered Rule 318 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 319. Procedure for Obtaining Order for Dismissal Upon Successful Completion of the Program.

When the defendant shall have completed satisfactorily the program prescribed and complied with its conditions, the defendant may move the court for an order dismissing the charges. This motion shall be supported by affidavit of the defendant and by certification of the agency or person charged with supervising the defendant's program, if any. A copy of the motion shall be served on the attorney for the Commonwealth who shall within 30 days after service advise the judge of any objections to the motion, serving a copy of such objections on the defendant or the defendant's attorney. If there are no objections filed within the 30-day period, the judge shall thereafter dismiss the charges against the defendant. If there are objections filed with regard to the dismissal of charges, the judge shall proceed as set forth in Rule 318.

Comment

In some counties, court agencies or the district attorney's office have procedures for initiating the dismissal of the charges upon the defendant's successful completion of the program. This rule is not intended to preclude these procedures.

For the procedures for expungement when there is a dismissal, see Rule 320.

Official Note: Rule 185 approved May 24, 1972, effective immediately; amended April 10, 1989, effective July 1, 1989; renumbered Rule 319 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Rule 320. Expungement Upon Successful Completion of ARD Program.

(A) When the judge orders the dismissal of the charges against the defendant, the judge shall also order the expungement of the defendant's arrest record, subject to the provisions of paragraph (B).

(B) If the attorney for the Commonwealth objects to the automatic expungement, the objections shall be filed with the judge, together with the objections to dismissal, if any, within 30 days after service of a motion for dismissal under Rule 319, and copies of the objections shall be served on the defendant or the defendant's attorney.

(C) If the objections are filed, the judge shall hold a hearing on the objections, affording all parties an opportunity to be heard.

Comment

The cases have held that a defendant's arrest record shall be expunged upon successful completion of an ARD program, unless the Commonwealth presents compelling reasons why the arrest record should be retained. See, e.g., *Commonwealth v. Armstrong*, 434 A.2d 1205 (Pa. 1981). Cf., *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981). For processes and limitations with regard to expungement generally, see Section 9122 of the Criminal History Record Information Act, 18 Pa.C.S. § 9122 (1983). See also, Vehicle Code, §§ 543(b) and 3731(e)(2), added by 75 Pa.C.S. §§ 1534(b) and 3731(e)(2).

Official Note: Rule 186 adopted April 10, 1989, effective July 1, 1989; renumbered Rule 320 and amended March 1, 2000, effective April 1, 2001.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

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