

TITLE 237

JUVENILE RULES

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PART I. RULES

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Source

The provisions of this Subpart A issued April 1, 2005, effective October 1, 2005, with the exception of Chapter 1, Part D, Rules 185, 187, 190, 191, and 192, which shall be effective April 1, 2006, 35 Pa.B. 2214, unless otherwise noted.

Note

The Supreme Court of Pennsylvania has adopted the Rules of Juvenile Court Procedure. The Rules will secure uniformity and simplicity in procedure throughout juvenile courts in this Commonwealth.

CHAPTER 1. GENERAL PROVISIONS

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Rule 100. Scope of Rules.

A. These rules shall govern delinquency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to domestic relations proceedings and dependency proceedings.

B. Each of the courts exercising juvenile jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may adopt local rules of procedure in accordance with Rule 121.

Comment

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100—1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100—2099).

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Juvenile Court. See 42 Pa.C.S. §§ 6321 and 6302. These rules do not govern summary offense proceedings unless: 1) the summary offense(s) was committed with a delinquent act, as defined by 42 Pa.C.S. § 6302, during the same episode or transaction, as provided in 42 Pa.C.S. § 6303(a)(5), and has been properly alleged in a delinquency petition; or 2) a juvenile has failed to comply with a lawful sentence imposed for the summary offense(s), as provided in 42 Pa.C.S. § 6302.

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to delinquency proceedings commenced pursuant to Rule 200 and 42 Pa.C.S. § 6301 *et seq.*

The Rules of Criminal Procedure apply in cases involving juveniles in summary and court cases, as defined by Pa.R.Crim.P. 103, to the extent that the Juvenile Act does not apply to these proceedings. *See, e.g.*, Pa.R.Crim.P. 100 and 400. *See also* 42 Pa.C.S. §§ 6302 and 6303.

Each judicial district may promulgate local rules that follow the requirements of Rule 121 and Pa.R.J.A. 103.

Official Note: Rule 100 adopted April 1, 2005, effective October 1, 2005. Amended May 12, 2008, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 100 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Source

The provisions of this Rule 100 amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360. Immediately preceding text appears at serial page (332713).

Rule 101. Purpose and Construction.

A. These rules are intended to provide for the just determination of every delinquency proceeding.

B. These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, and shall be construed to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

C. These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

D. To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.

Official Note: Rule 101 adopted April 1, 2005, effective October 1, 2005.

Rule 102. Citing the Juvenile Court Procedural Rules.

All juvenile court procedural rules adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968, shall be known as the Pennsylvania Rules of Juvenile Court Procedure and shall be cited as “Pa.R.J.C.P.”

Comment

The authority for rule-making is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution, which states in part, “[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts ... if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.”

Official Note: Rule 102 adopted April 1, 2005, effective October 1, 2005.

Rule 105. Search Warrants.

The Pennsylvania Rules of Criminal Procedure, Rules 200 through 211, shall apply to search warrants in juvenile delinquency matters.

Official Note: Rule 105 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 105 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

PART A. BUSINESS OF COURTS**Rule 120. Definitions.**

ADULT is any person, other than a juvenile, eighteen years old or older.

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law or local practice to maintain the official court record and docket, without regard to that person's official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases juvenile court action on a case.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

MINOR is any person, other than a juvenile, under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all court orders, court notices, docket entries,

filed documents, evidence admitted into the record, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

Comment

"Clerk of courts" is the person given the power under state law or local practice to maintain the official court record. *See* Rule 166 for additional responsibilities of the clerk of courts.

Under the term "court," to determine if masters are permitted to hear cases, *see* Rule 187. *See* Rule 210 for the power of magisterial district judges to issue arrest warrants.

The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act

pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case “with prejudice” prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation’s reports and files unless they are made a part of the official record by being filed with the clerk of courts.

Neither the definition of “law enforcement officer” nor the definition of “police officer” gives the power of arrest to any person who is not otherwise given that power by law.

A “petition” and a “written allegation” are two separate documents and serve two distinct functions. A “written allegation” is the document that initiates juvenile delinquency proceedings. Usually, the “written allegation” will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a “probable cause affidavit,” “complaint,” “police paper,” “charge form,” “allegation of delinquency,” or the like. Once this document is submitted, a preliminary determination of the juvenile court’s jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of “delinquent act,” see 42 Pa.C.S. § 6302.

Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendment to Rule 120 published with the Court’s Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 40 Pa.B. 222 (January 9, 2010).

Source

The provisions of this Rule 120 amended December 30, 2005, effective immediately, 36 Pa.B. 186; amended March 23, 2007, effective August 1, 2007, 37 Pa.B. 1483; amended February 28, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended July 28, 2009, effective immediately, 39 Pa.B. 4743; amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial pages (345000) to (345003).

Rule 121. Local Rules.

A. *Definition of Local Rule.* For the purpose of this rule, the term, “local rule” shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas to govern juvenile delinquency practice and procedure.

B. *Vacated Local Rules and Repromulgation.*

1) All local rules promulgated before October 1, 2005 were vacated at the time of the adoption of these Rules.

2) All local rules not published on the Unified Judicial System (UJS) Portal by June 1, 2010 shall be vacated.

3) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure after submission under paragraph (D).

C. *Corresponding numbers.* Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

D. *Submission to Committee.*

1) All proposed local delinquency rules and proposed amendments to local delinquency rules shall be submitted in writing to the Juvenile Court Procedural Rules Committee for the Committee to review.

2) The adopting court shall not proceed with the proposed local rule or amendment until the adopting court receives written notification from the Committee that the proposed local rule or amendment is not inconsistent with any general rule of the Supreme Court.

E. *Vacating and Suspending Local Rules.* Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

1) The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

2) The Juvenile Court Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.

F. *Publication of Local Rules.* All local rules shall be published on the UJS Portal maintained by the Administrative Office of Pennsylvania Courts and in the *Pennsylvania Bulletin* to be effective and enforceable.

1) The adopting court shall publish every local rule on the UJS Portal.

a) *Current Rules.* All current local rules promulgated before March 1, 2010, shall be published on the UJS Portal by June 1, 2010 to be effective and enforceable.

b) *New Rules.* All new local rules that have been submitted to the Committee pursuant to paragraph (D)(1) shall be published on the UJS Portal no later than ninety days after receiving written notification from the Committee under paragraph (D)(2).

c) *Vacating Rules.* If local rules are not published by these time requirements, they shall be vacated pursuant to paragraph (B)(2).

2) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the statement from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

3) The adopting court shall submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:

- a) two certified copies of the local rule;
- b) a copy of the local rule on a computer diskette, CD-ROM, or electronic copy that complies with the requirements of 1 Pa. Code § 13.11(b)—(f); and
- c) a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that the local rule is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure.

4) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule on the UJS Portal and in the *Pennsylvania Bulletin*.

G. *Filing with AOPC.* Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

- 1) file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts; and
- 2) publish a copy of the local rule on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

H. *Public Inspection.*

- 1) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts.
- 2) Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

I. *Mandatory Acceptance of Filing.*

- 1) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule.
- 2) No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule.
- 3) In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

Comment

The purpose of this rule is to further the policy of the Supreme Court to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of juvenile court procedure normally preempts the subject covered. It is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation is not to determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied, the matter is a local rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

Paragraph (B)(1) vacated all current local rules on October 1, 2005, the original effective date of this rule. Paragraph (B)(2) vacated all local rules not published on the UJS Portal by June 1, 2010. The local rules are to be repromulgated to comply with this rule. This includes rekeying pursuant to paragraph (C) and meeting the appropriate filing requirements under paragraphs (F) and (G).

To simplify the use of local rules, local juvenile delinquency procedural rules are required to be given numbers that are keyed to the number of the general juvenile delinquency procedural rules to which the local rules correspond pursuant to paragraph (C). This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general juvenile delinquency procedural rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in paragraphs (F) and (G), the adopting court must submit all proposed local delinquency rules or rule amendments to the Juvenile Court Procedural Rules Committee for review.

The 2008 amendments emphasize that the adopting authority is to comply with all the provisions of this rule before any local rule, or any amendment to local rules, will be effective and enforceable.

Paragraph (F) requires the local rule to be published on the UJS Portal and in the *Pennsylvania Bulletin* to be effective.

Pursuant to the 2010 amendments under paragraph (F)(1), all current local rules are to be published on the UJS Portal by June 1, 2010 to be effective and enforceable. If they are not published by this time, they are vacated and may be repromulgated if the procedures of this Rule are followed. All new local rules promulgated after March 1, 2010 are to be published on the UJS Portal no later than ninety days after receiving written notification from the Committee that the proposed rule or amendment is not inconsistent with any general rule of the Supreme Court of Pennsylvania.

Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect or in lieu of a diskette or CD-ROM, an electronic copy may be submitted to Legislative Reference Bureau at pabsupreme@palrb.us. The diskette, CD-ROM, or email cover sheet must be labeled with the court's name and address and the local rule's computer file name. In addition, a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, that the local rule is not inconsistent with the Rules of Juvenile Court Procedure is to be submitted.

Pursuant to paragraph (F)(3), an electronic copy is a document sent via email to the *Pennsylvania Bulletin*.

Although under paragraph (F)(4) a local rule is not to be effective until at least thirty days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

Paragraph (H) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The purpose of paragraph (I) is to: 1) require that all documents presented for filing are accepted by the clerk of court, *also see* Rule 345(A)(2); and 2) prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (I) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (I), the court may impose a sanction for subsequent noncompliance either on the attorney or the juvenile if proceeding *pro se*, but may not dismiss the case, or grant or deny relief because of non-compliance.

Official Note: Rule 121 adopted April 1, 2005, effective October 1, 2005. Amended December 12, 2008, effective immediately. Amended January 11, 2010, effective March 1, 2010.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 121 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 38 Pa.B. 7080 (December 27, 2008).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 40 Pa.B. 518 (January 23, 2010).

Source

The provisions of this Rule 121 amended December 12, 2008, effective immediately, 38 Pa.B. 7080; amended January 11, 2010, effective March 1, 2010, 40 Pa.B. 518. Immediately preceding text appears at serial pages (341077) to (341078) and (345707).

Rule 122. Continuances.

A. *Generally.* In the interests of justice, the court may grant a continuance on its own motion or the motion of either party. On the record, the court shall identify the moving party and state its reasons for granting or denying the continuance.

B. *Notice and rescheduling.* If a continuance is granted, all persons summoned to appear shall be notified of the date, place, and time of the rescheduled hearing.

Comment

A party seeking a continuance should notify the court and opposing counsel as soon as possible. Whenever possible, given the time constraints, notice should be written.

Under paragraph (B), if a person is summoned to appear and the case is continued, the party is presumed to be under the scope of the original summons and a new summons is not necessary.

See Rule 344 and 345 for motion procedures.

Official Note: Rule 122 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 122 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 123. Subpoenas.

A. *Contents.* A subpoena in a delinquency case shall:

- 1) order the witness named to appear before the court at the date, time, and place specified;
- 2) order the witness to bring any items identified or described;
- 3) state on whose behalf the witness is being ordered to testify; and
- 4) state the identity, address, and phone number of the person who applied for the subpoena.

B. *Service.*

- 1) *Method of Service.* A subpoena shall be served upon a witness by:
 - a) in-person delivery;
 - b) registered or certified mail, return receipt requested, or
 - c) by first class mail.
- 2) *Proof of Service.* The following shall be prima facie evidence of service of the subpoena:

- a) A completed return receipt;
 - b) Hand signed receipt of personal delivery; or
 - c) Affidavit of in-person delivery signed by a process server.
- C. *Duration.* A subpoena shall remain in force until the end of a proceeding.
- D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 140.
- E. *Parental notification.*
- 1) *Generally.* If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.
 - a) notified that the minor has been subpoenaed; and
 - b) provided with a copy of the subpoena.
 - 2) *Exception.* Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained *ex parte*.

Comment

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. *See* Rule 140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishing juveniles for contempt.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

Official Note: Rule 123 adopted April 1, 2005, effective October 1, 2005. Amended February 26, 2008, effective June 1, 2008. Amended May 12, 2008, effective immediately. Amended September 16, 2009, effectively immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 123 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 123 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 123 published with the Court's Order at 39 Pa.B. 5544 (September 26, 2009).

Source

The provisions of this Rule 123 amended February 26, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended September 16, 2009, effective immediately, 39 Pa.B. 5544. Immediately preceding text appears at serial pages (342282) and (335179).

Rule 124. Summons and Notice.

- A) *Requirements of the summons.* The summons shall:
- 1) be in writing;
 - 2) set forth the date, time, and place of the hearing;

1-10.1

- 3) instruct the juvenile about the juvenile's right to counsel, and if the juvenile cannot afford counsel, the right to assigned counsel; and
 - 4) give a warning stating that the failure to appear for the hearing may result in arrest.
- B) *Method of Service*. Summons or notice shall be served:
- 1) in-person; or
 - 2) by first-class mail.
- C) *Bench Warrant*. If any summoned person fails to appear for the hearing and the judge finds that sufficient notice was given, the court may issue a bench warrant pursuant to Rule 140.

Comment

See Rules 360(A), 500(A), and 600(A) for service of the guardian for a proceeding. Nothing in these rules gives the guardians of juveniles legal standing in the matter being heard by the court or creates a right for juveniles to have their guardians present. See 42 Pa.C.S. § 6310(e). See Rule 140 for procedures on bench warrants.

Official Note: Rule 124 adopted April 1, 2005, effective October 1, 2005; amended February 26, 2008, effective June 1, 2008.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 124 published with the Court's Order at 38 Pa.B. 1145 (March 8, 2008).

Source

The provisions of this Rule 124 amended February 28, 2008, effective June 1, 2008, 38 Pa.B. 1142. Immediately preceding text appears at serial pages (310555) to (310556).

Rule 125. Habeas Corpus.

A. The petition for writ of habeas corpus challenging the legality of the juvenile's detention or placement shall be filed with the clerk of courts of the judicial district in which the order directing the juvenile's detention or placement was entered.

B. The clerk of courts shall forward the petition immediately to the presiding juvenile court judge for review and shall identify the petition as time sensitive.

Comment

See Rules 344 and 345 for motion procedures.

See *In re Crouse*, 4 Whart. 9 (Pa. 1839).

Official Note: Rule 125 adopted April 1, 2005, effective October 1, 2005.

Rule 126. Defects in Form, Content, or Procedure.

A juvenile shall not be discharged, nor shall a case be dismissed, because of a defect in the form or content of the petition, written allegation, or warrant, or a defect in the procedures of these rules, unless the juvenile raises the defect prior to the commencement of the adjudicatory hearing, and the defect is prejudicial to the rights of the juvenile.

Comment

Nothing in this rule prevents the amendment of a written allegation or petition or the filing of a new written allegation, a new petition, or the reissuance of process.

See Rule 334 for amendment of a petition.

Official Note: Rule 126 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 126 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 127. Recording and Transcribing Juvenile Court Proceedings.

A. *Recording.* There shall be a recording of all juvenile delinquency proceedings, including proceedings conducted by masters, except as provided in Rule 242(B)(2).

B. *Transcribing.* Upon the motion of any party, upon its own motion, or as required by law, the court shall order the record to be transcribed.

C. *Modifying.* At any time before an appeal is taken, the court may correct or modify the record in the same manner as is provided by Rule 1926 of the Pennsylvania Rules of Appellate Procedure.

Comment

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. *See, e.g.,* Pa.R.A.P. 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). No substantive change in law is intended by this rule; rather it is intended to provide a mechanism to ensure appropriate recording and transcribing of court proceedings. Under Rule 800, 42 Pa.C.S. § 6336(c) was suspended only to the extent that proceedings are to be recorded, except as provided in Rule 242(B)(2). Full minutes are not recordings. This change was to effectuate effective appellate review.

The rule is intended to apply to all juvenile delinquency proceedings and to ensure all proceedings are recorded, including proceedings before masters, with the exception of detention hearings.

Paragraph (B) of the rule is intended to authorize courts to require transcription of only such portions of the record, if any, as are needed to review claims of error.

Paragraph (C) provides a method for correcting and modifying transcripts before an appeal is taken by incorporating Pa.R.A.P. 1926, which otherwise applies only after an appeal has been taken. It is intended that the same standards and procedures apply both before and after appeal.

Official Note: Rule 127 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 127 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 128. Proceedings in Absentia.

The court may proceed with a hearing in the absence of the juvenile if the court finds that the juvenile was properly subpoenaed or summoned to appear and has willfully failed to attend, and the juvenile's attorney is present.

Comment

The court has discretion whether to proceed if the court finds that the juvenile received proper notice of the hearing and has willfully failed to appear. Requiring the juvenile's attorney to be present protects the juvenile's interest if the proceeding is conducted in the juvenile's absence.

Cf. Commonwealth v. Ford, 650 A.2d 433 (Pa. 1994); *Commonwealth v. Sullens*, 619 A.2d 1349 (Pa. 1992).

Official Note: Rule 128 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 128 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 129. Open Proceedings (Reserved).**Rule 130. Public Discussion by Court Personnel of Pending Matters.**

All court personnel including, among others, juvenile probation officers, court clerks, bailiffs, tipstiffs, sheriffs, and court stenographers, are prohibited from disclosing to any person, without authorization from the court, information relating to a pending juvenile case that is not part of the court record otherwise available to the public or not part of the record in an open proceeding. This rule specifically prohibits the divulgence of information concerning arguments and proceedings that are closed proceedings, held in chambers, or otherwise outside the presence of the public.

Official Note: Rule 130 adopted April 1, 2005, effective October 1, 2005.

Rule 131. Guardian's Presence.

The court may, when the court determines that it is in the best interest of the juvenile, order a guardian of a juvenile to be present at and to bring the juvenile to any proceeding. The court shall insure timely notice of the proceeding to the guardian.

Comment

Nothing in these rules gives the guardian legal standing in the matter being heard by the court or creates a right of a juvenile to have his or her guardian present. *See* 42 Pa.C.S. §§ 6310, 6335(b), 6336.1.

Official Note: Rule 131 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 131 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 132. Victim's Presence.

The victim, counsel for the victim, and other persons accompanying a victim for his or her assistance shall be permitted to attend the proceedings, except as provided in Rule 311.

Comment

See 42 Pa.C.S. § 6336(d) and 18 P.S. § 11.201 et seq.

The court has discretion to maintain confidentiality of mental health, medical, or juvenile institutional documents or juvenile probation reports. *See* 42 Pa.C.S. § 6336(f).

Official Note: Rule 132 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 132 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 135. Captions.

All court documents and orders shall contain a caption that includes the following:

- 1) "In the interest of (the juvenile's name);"
- 2) the juvenile's case docket number; and
- 3) the name of the court.

Official Note: Rule 135 adopted April 1, 2005, effective October 1, 2005.

Rule 140. Bench Warrants for Failure to Appear at Hearings.

A. *Issuance of warrant.*

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

B. *Entry of warrant information.* Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

C. *Juvenile.*

- 1) *Where to take the juvenile.*

a) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the juvenile is not brought before a judge, the juvenile shall be released unless:

i) the warrant specifically orders detention of the juvenile; or

ii) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

c) If a juvenile is detained, the juvenile shall be detained in a detention facility or other facility designated in the bench warrant by the judge pending a hearing.

2) *Prompt hearing.*

a) If a juvenile is detained pursuant to a specific order in the bench warrant, the juvenile shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (C)(4) within seventy-two hours.

b) If the juvenile is not brought before a judge within this time, the juvenile shall be released.

3) *Notification of guardian.* If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the juvenile shall be made immediately.

c) If transportation cannot be arranged immediately, then the juvenile shall be taken without unnecessary delay to a judge of the county where the juvenile is found.

d) The judge will identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the juvenile to the county of issuance.

5) *Time requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

D. *Witnesses.*

1) *Where to take the witness.*

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

- b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.
 - c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.
 - 1) *Minor.* If a detained witness is a minor, the witness shall be detained in a detention facility.
 - 2) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.
 - 2) *Prompt hearing.*
 - a) If a witness is detained pursuant to paragraph (D)(1)(c) or brought back to the county of issuance pursuant to paragraph (D)(4)(f), the witness shall be brought before the judge by the next business day.
 - b) If the witness is not brought before a judge within this time, the witness shall be released.
 - 3) *Notification of guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.
 - 4) *Out-of-county custody.*
 - a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.
 - b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.
 - c) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order that arrangements be made to transport the witness to the county of issuance.
 - d) Arrangements to transport the witness shall be made immediately.
 - e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.
 - i) *Minor.* If the witness is a minor, the witness may be detained in an out-of-county detention facility.
 - ii) *Adult.* If the witness is an adult, the witness may be detained in an out-of-county jail.
 - f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.
 - g) If the time requirements of this paragraph are not met, the witness shall be released.
- E. *Return and execution of the warrant for juveniles and witnesses.*
 - 1) The bench warrant shall be executed without unnecessary delay.

- 2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.
- 3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.
- 4) Upon the return of the warrant, the judge shall vacate the bench warrant.
- 5) Once the warrant is vacated, the juvenile probation officer or other court designee shall remove or request that a law enforcement officer remove the bench warrant in all appropriate registries.

Comment

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. This rule, however, does not prohibit probation from recommending detention for a juvenile. The normal rules of procedure in these rules are to be followed if a juvenile is detained. *See* Chapter Two, Part D.

Pursuant to paragraph (C), the “juvenile” is the subject of the delinquency proceedings. When a witness is a child, the witness is referred to as a “minor.” This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. *See* paragraph (C) for alleged delinquents and paragraph (D) for witnesses. *See* also Rule 120 for definition of “juvenile” and “minor.”

Pursuant to paragraph (C)(1)(a), the juvenile is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (C)(1)(b), if a bench warrant specifically provides that the juvenile may be detained in a detention facility, the juvenile may be detained without having to be brought before the judge until a hearing within seventy-two hours under paragraph (C)(2)(a). The juvenile is not to languish in a detention facility. Pursuant to this paragraph, if a hearing is not held promptly, the juvenile is to be released. *See* paragraph (C)(2)(b).

Under paragraphs (C)(2) and (C)(4), a juvenile taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the juvenile is found. *See* Rule 240(C).

Pursuant to paragraph (C)(4), the juvenile may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (C)(5), the time requirements of all other rules are to apply to juveniles who are detained. *See, e.g.*, Rules 240, 391, 404, 510, and 605.

Pursuant to paragraph (D)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (D)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (D)(1)(c), a motion for

detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (D)(2) is to be held by the next business day or the witness is to be released. *See* paragraph (D)(2)(b).

Pursuant to paragraph (D)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. *See* paragraph (D)(4)(f).

Pursuant to paragraph (E)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (E)(3).

Pursuant to paragraph (E)(4), the bench warrant is to be vacated after the return of the warrant is executed. "Vacated" is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (E)(5), once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

See 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.

Official Note: Rule 140 adopted February 26, 2008, effective June 1, 2008; amended September 30, 2009, effective January 1, 2010.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 140 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendments to Rule 140 with the Court's Order at 39 Pa.B. 6033 (October 17, 2009).

Source

The provisions of this Rule 140 adopted February 26, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended September 30, 2009, effective January 1, 2010, 39 Pa.B. 6029. Immediately preceding text appears at serial pages (332723) to (332727).

Rule 141. Bench Warrants for Absconders.

A. *Issuance of warrant.* The juvenile probation officer shall immediately notify the court upon notification or recognition that a juvenile has absconded from the supervision of the court. The court may issue a bench warrant for the juvenile.

B. *Entry of warrant information.* Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

C. *Where to take the juvenile.* The juvenile shall be detained in a detention facility or other facility designated in the bench warrant pending a hearing pursuant to paragraph (D).

D. *Prompt hearing.* The juvenile shall have a detention hearing within seventy-two hours of the placement in detention.

E. *Time requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

F. *Notification of guardian.* When the juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

G. *Return and execution of the warrant.*

- 1) The bench warrant shall be executed without unnecessary delay.
- 2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.
- 3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.
- 4) Upon the return of the warrant, the judge shall vacate the bench warrant.
- 5) Once the warrant is vacated, the court shall order the probation officer or other court designee to remove or request that a law enforcement officer remove the warrant from all appropriate registries.

Comment

Pursuant to paragraph (A), when a juvenile: 1) escapes from a placement facility, detention facility, shelter care facility, foster-care, or other court-ordered program or placement; 2) fails to report to juvenile probation; 3) cannot be located by juvenile probation; or 4) otherwise leaves the jurisdiction of the court, the court may issue a warrant for the juvenile.

Pursuant to paragraph (B), the court is to notify the juvenile probation officer or another court designee to enter or request that a law enforcement officer enter the bench warrant in all appropriate registries, such as JNET, CLEAN, PCIC, and NCIC.

Pursuant to paragraph (C), the juvenile is to be detained in a detention facility or any other facility designated in the bench warrant. If a juvenile is taken into custody pursuant to the bench warrant in a county other than the county of issuance, the juvenile is to be transported back to the county of issuance prior to the seventy-two-hour detention hearing mandated pursuant to paragraph (D).

Pursuant to paragraphs (D) and (E), the time requirements of the Rules of Juvenile Court Procedure are to apply, including the seventy-two hour detention hearing. *See, e.g.*, Rules 240, 391, 404, 510, and 605.

The arresting officer is to notify the juvenile's guardian of the arrest, the reasons for the arrest, and the juvenile's whereabouts under paragraph (F).

Pursuant to paragraph (G)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (G)(3).

Pursuant to paragraph (G)(4), the bench warrant is to be vacated after the return of the warrant is executed. "Vacated" is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (G)(5), once the warrant is vacated, the juvenile probation officer or other court designee is to remove the warrant or request that a law enforcement officer remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

Official Note: Rule 141 adopted September 30, 2009, effective January 1, 2010.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 141 published with the Court's Order at 39 Pa.B. 6033 (October 17, 2009).

Source

The provisions of this Rule 141 adopted September 30, 2009, effective January 1, 2010, 39 Pa.B. 6029.

PART B. COUNSEL

Rule 150. Attorneys—Appearances and Withdrawals.

A. *Appearances.*

1) Counsel for the juvenile shall file an entry of appearance with the clerk of courts promptly after being retained, and serve a copy on the attorney for the Commonwealth and the juvenile probation office.

a) If a firm name is entered, the name of the individual lawyer who is designated as being responsible for the conduct of the case shall be entered.

b) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

2) When counsel is appointed pursuant to Rule 151 (Assignment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

B. *Duration.* Once an appearance is entered or the court assigns counsel, counsel shall represent the juvenile until final judgment, including any proceeding upon direct appeal and dispositional review, unless permitted to withdraw pursuant to paragraph (C).

C. *Withdrawals.*

1) Upon motion, counsel shall be permitted to withdraw only:

a) by order of the court for good cause shown; or

b) if new counsel has entered an appearance in accordance with paragraph (A).

2) A motion to withdraw shall be:

a) filed with the clerk of courts, and a copy concurrently served on the attorney for the Commonwealth and the juvenile; or

b) made orally on the record in open court in the presence of the juvenile.

Comment

Under paragraph (C), withdrawal is presumed when a court's jurisdiction is terminated because the juvenile reaches the age of twenty-one. *See* 42 Pa.C.S. §§ 6302, 6352.

Under paragraph (C)(1)(a), a court can terminate an attorney's representation if there is good cause shown. The court should allow an attorney to withdraw from a case for good cause if the standards for termination of representation are met, as provided for in Pa.R.P.C. 1.16.

Under paragraph (C)(1)(b), because the attorney for the Commonwealth and the juvenile probation officer will be on notice of the identity of the new attorney, they should comply with the discovery requirements of Rule 340.

Under paragraph (C)(2), counsel is to file a motion to withdraw in all cases. Counsel's obligation to represent the juvenile, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. *See, e.g., Commonwealth v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). The court is to make a determination of the status of the case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine if new counsel needs to be appointed, and that the change in attorneys will not delay the proceedings or prejudice the juvenile, particularly concerning time limits.

See also Rule 631 for termination of court supervision.

Under Rule 800, the Public Defender Act, 16 P.S. § 9960.1 *et seq.*, was suspended only to the extent that the Public Defender Act conflicts with this rule and that separate counsel is to be appointed for juveniles when there is a conflict of interest. *See* Pa.R.P.C. Rules 1.7 and 1.9.

Official Note: Rule 150 adopted April 1, 2005, effective October 1, 2005; amended February 26, 2008, effective April 1, 2008.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 150 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 150 published with the Court's Order at 38 Pa.B. 1147 (March 8, 2008).

Source

The provisions of this Rule 150 adopted February 26, 2008, effective April 1, 2008, 38 Pa.B. 1146. Immediately preceding text appears at serial pages (310559) to (310560).

Rule 151. Assignment of Counsel.

A. *General.* If counsel does not enter an appearance for the juvenile, the court shall inform the juvenile of the right to counsel prior to any proceeding. In any case, the court shall assign counsel for the juvenile if the juvenile is without financial resources or otherwise unable to employ counsel.

B. *Time.*

1) If the juvenile is detained and is without counsel and the requirements of paragraph (A) are met, the court shall assign counsel prior to the detention hearing.

2) If the juvenile is not detained and is without counsel and the requirements of paragraph (A) are met, the court shall assign counsel prior to the adjudicatory hearing.

Comment

Counsel may be present at an intake hearing or participate in the decision to place the juvenile on informal adjustment with the probation office.

See also 42 Pa.C.S. § 6337 and *In re A.M.*, 766 A.2d 1263 (Pa. Super. Ct. 2001).

Under Rule 800, the Public Defender Act, 16 P.S. § 9960.1 *et seq.*, was suspended only to the extent that the Public Defender Act conflicts with this rule and that separate counsel is to be appointed to juveniles when there is a conflict of interest. *See* Pa.R.P.C. Rules 1.7 and 1.9.

Official Note: Rule 151 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 151 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 152. Waiver of Counsel.

A. *Waiver requirements.* A juvenile may not waive the right to counsel unless:

- 1) the waiver is knowingly, intelligently, and voluntarily made; and
- 2) the court conducts a colloquy with the juvenile on the record.

B. *Stand-by counsel.* The court may assign stand-by counsel if the juvenile waives counsel at any proceeding or stage of a proceeding.

C. *Notice and revocation of waiver.* If a juvenile waives counsel for any proceeding, the waiver only applies to that proceeding, and the juvenile may revoke the waiver of counsel at any time. At any subsequent proceeding, the juvenile shall be informed of the right to counsel.

Comment

It is recommended that, at a minimum, the court ask questions to elicit the following information in determining a knowing, intelligent, and voluntary waiver of counsel:

- 1) Whether the juvenile understands the right to be represented by counsel;
- 2) Whether the juvenile understands the nature of the allegations and the elements of each of those allegations;
- 3) Whether the juvenile is aware of the dispositions, community service, or fines that may be imposed by the court;
- 4) Whether the juvenile understands that if he or she waives the right to counsel, he or she will still be bound by all the normal rules of procedure and that counsel would be familiar with these rules;
- 5) Whether the juvenile understands that there are possible defenses to these allegations that counsel might be aware of, and if these defenses are not raised at the adjudicatory hearing, they may be lost permanently;
- 6) Whether the juvenile understands that, in addition to defenses, the juvenile has many rights that, if not timely asserted, may be lost permanently; and if errors occur and are not timely objected to, or otherwise timely raised by the juvenile, these errors may be lost permanently;
- 7) Whether the juvenile knows the whereabouts of absent guardians and if they understand they should be present; and

8) Whether the juvenile has had the opportunity to consult with his or her guardian about this decision.

This rule is not meant to preclude the guardian's presence at any hearing. As provided in Rule 131 and the Juvenile Act, 42 Pa.C.S. §§ 6310, 6335(b), and 6336.1, the court can order the guardian's presence if the court determines that it is in the best interests of the juvenile. When conducting the colloquy, the court should also keep in mind the age, maturity, intelligence, and mental condition of the juvenile, as well as, the experience of the juvenile, the juvenile's ability to comprehend, the guardian's presence and consent, and the juvenile's prior record.

This rule requires the juvenile to waive the right to counsel. A guardian may not waive the juvenile's right to counsel. To implement this rule, Rule 800 suspends 42 Pa.C.S. § 6337 only to the extent that the right to waiver of counsel belongs to the juvenile and the guardian may not waive the right for the juvenile.

Official Note: Rule 152 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 152 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of the Official Court Record.

- A. *General Rule.* The official court record is only open to inspection by:
- 1) the judges, masters, juvenile probation officers, and staff of the court;
 - 2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except at the discretion of the court;
 - 3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;
 - 4) a court, its probation officers, other officials or professional staff, and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;
 - 5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;
 - 6) the Administrative Office of Pennsylvania Courts;
 - 7) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;
 - 8) officials of the Department of Corrections, a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been com-

mitted, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

9) a parole board, court, or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

10) the State Sexual Offenders Assessment Board for use in completing assessments; and

11) with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. *Public availability.* Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:

- a) the juvenile's name;
- b) the juvenile's age;
- c) the juvenile's address; and
- d) the offenses alleged in the juvenile's petition.

2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:

- a) the juvenile's name;
- b) the juvenile's age;
- c) the juvenile's address;
- d) the offenses alleged in the juvenile's petition;
- e) the adjudication on each allegation; and
- f) the disposition of the case.

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

See Rule 120 for definition of the "official court record."

This rule is meant to include the contents of the official court record as described in Rule 166.

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file, which is the official court record, and the disclosure requirements of this rule apply.

Under paragraph (B), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as the only document available for inspection by the general public. All other information contained in the official court record is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. Amended May 12, 2008, effective immediately. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Source

The provisions of this Rule 160 amended December 30, 2005, effective immediately, 36 Pa.B. 186; amended August 21, 2007, effective December 1, 2007, 37 Pa.B. 4866; amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial pages (329422) and (335181) to (335182).

Rule 163. Release of Information to School.

A. *Generally.* Upon finding a juvenile to be a delinquent, the court shall, through the juvenile probation office, provide the following information to the building principal or his or her designee of any public, private, or parochial school in which the juvenile is enrolled:

- 1) name and address of the juvenile;
- 2) the delinquent act or acts that the juvenile was found to have committed;
- 3) a brief description of the delinquent act or acts; and
- 4) the disposition of the case.

B. *Additional information.*

1) If the juvenile is adjudicated delinquent of a felony offense, the court, through the juvenile probation office, shall provide to the building principal or his or her designee relevant information regarding the juvenile contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history, and the supervision plan of the juvenile.

2) The court or the juvenile probation office shall have the authority to share any additional information regarding the juvenile under its jurisdiction with the building principal or his or her designee as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the juvenile.

C. *Transfers to other schools.* Any information provided to and maintained by the building principal or his or her designee under this rule shall be transferred

to the building principal or his or her designee of any public, private, or parochial school to which the juvenile transfers enrollment.

D. *Maintained separately.* Any information provided to the building principal or his or her designee under this rule shall be maintained separately from the juvenile's official school record.

Comment

The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court.

For further dissemination and usage in school, *see* 42 Pa.C.S. § 6341(b.1).

Official Note: Rule 163 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 163 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

PART C(2). MAINTAINING RECORDS

Rule 165. Design of Forms.

The Court Administrator of Pennsylvania, in consultation with the Juvenile Court Procedural Rules Committee, shall design and publish forms necessary to implement these rules.

Comment

The purpose of the unified judicial system can be further achieved by creating uniform forms to implement a particular rule.

Official Note: Rule 165 adopted April 1, 2005, effective October 1, 2005.

Rule 166. Maintaining Records in the Clerk of Courts.

A. *Generally.* The juvenile court file is the official court record and shall contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the official court record and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

- 1) the juvenile's name, last known address, date of birth, if known;

- 2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);
- 3) notations concerning all papers filed with the clerk, including all court notices, appearances, admissions, motions, orders, findings and adjudications, and dispositions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;
- 4) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;
- 5) a notation of every judicial proceeding, continuance, and disposition;
- 6) the location of exhibits made part of the record during the proceedings;
- 7)
 - a) the date of receipt in the clerk's office of the order or court notice;
 - b) the date appearing on the order or court notice; and
 - c) the date and manner of service of the order or court notice; and
- 8) all other information required by Rule 345.

Comment

This rule sets forth the mandatory contents of the list of docket entries and the official court record. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a juvenile case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by masters. Nothing in this rule is intended to preclude the use of automated or other electronic means for time stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by masters, at any stage of the delinquency case.

This rule is not intended to include items contained in the juvenile probation records or reports. *See* Rule 160 (Inspection of the Official Court Record) and its *Comment* for items contained in juvenile probation records or reports.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any juvenile in the case. The requirement also ensures that attorneys are served as required by Rules 167 and 345. *See also* Rule 345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(2) is to include the facsimile number or electronic address.

Paragraph (C)(4) recognizes that occasionally resolution of oral motions presented in open court should be reflected in the docket, such as motions and orders related to omnibus motions as provided in Rule 346.

Official Note: Rule 166 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 166 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Source

The provisions of this Rule 166 amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial pages (310565) to (310566).

Rule 167. Filings and Service of Court Orders and Notices.**A. Filings.**

- 1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time stamped promptly with the date of receipt.
- 2) All orders and court notices shall be filed in the official court record.

B. Service.

- 1) A copy of any order or court notice shall be served promptly on each party's attorney, and the juvenile, if unrepresented.
- 2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or court administrator.

3) *Methods of service.* Service shall be:

- a) in writing by:
 - i) personal delivery to the party's attorney, and if unrepresented, the juvenile;
 - ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;
 - iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;
 - iv) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement;
 - v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the juvenile has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case; or
 - vi) delivery to the party's attorney, and if unrepresented, the juvenile by carrier service; or
- b) orally in open court on the record.

C. Unified Practice. Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the juvenile's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the juvenile, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time stamping.

Official Note: Rule 167 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 167 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 167 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Source

The provisions of this Rule 167 amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial pages (310566) to (310567).

PART C(3). EXPUNGING OR DESTROYING RECORDS**Rule 170. Expunging or Destroying Juvenile Court Records.**

- A. *Motion.* Juvenile records may be expunged upon motion.
- B. *Contents of Motion.* A motion, which shall take the form of a proposed court order, shall contain the following information:
- 1) The name of the juvenile;
 - 2) the date of birth of the juvenile, if known;
 - 3) the juvenile's case docket number, if any;
 - 4) the allegations to which the order pertains;
 - 5) the law enforcement agency that initiated the allegations;
 - 6) the reference number of the police report or written allegation to be expunged or destroyed;
 - 7) the date of arrest;
 - 8) the disposition of the written allegation or petition;
 - 9) the reasons and statutory authority for expunging or destroying the document; and
 - 10) the agencies upon which certified copies of the court order shall be served.

C. *Service of Motion.* In addition to the service required by Rule 345, the movant shall serve the motion on the chief juvenile probation officer.

D. *Answer.* The attorney for the Commonwealth, and any other person upon whom the motion was served, may file an answer to the motion.

E. *Hearing.* Unless the attorney for the Commonwealth consents to expunging the records, the court shall schedule and conduct a hearing, and thereafter grant or deny the motion.

Comment

See 18 Pa.C.S. § 9123 for records that may be expunged and 42 Pa.C.S. § 6341(a) for destruction of fingerprints and photographs.

Under paragraph (B)(6), any number assigned to police papers helpful in tracking the police report or written allegation that would assist the law enforcement agency in expunging or destroying the document is to be listed. A reference number could be an offense tracking number, district control number, crime control number, incident number, Philadelphia identification number, or another number assigned by the law enforcement agency to track the document.

Official Note: Rule 170 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 170 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 172. Order to Expunge or Destroy.

A. *Contents.* Any order to expunge or destroy the official court record, juvenile probation records, docket entries, law enforcement records, or fingerprints and photographs shall include the following information:

- 1) All items contained in Rule 170(B);
- 2) the printed name and signature of the judge issuing the order; and
- 3) the date of the court order.

B. *Service.* In addition to the service required by Rule 167, the clerk of courts shall serve certified copies of the order on the chief juvenile probation officer and any other person or agency as directed by the court.

Official Note: Rule 172 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 172 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Source

The provisions of this Rule 172 amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial page (310568).

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PART D. MASTERS

Rule 185. Appointment to Cases.

A. *Appointment.* If necessary to assist the juvenile court judge, the president judge or his or her designee may appoint masters to hear designated juvenile delinquency matters.

B. *Prohibited practice.* Masters shall not engage in practice before the juvenile court in the same judicial district where they preside over juvenile matters.

Official Note: Rule 185 adopted April 1, 2005, effective April 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 185 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 187. Authority of Master.

A. *Cases to be heard by Master.* A master shall have the authority to preside over only the following:

- 1) detention hearings, detention review hearings, or shelter-care hearings;
- 2) discovery, pre-adjudicatory, or preliminary proceedings for misdemeanors;
- 3) any hearing in which the petition alleges only misdemeanors; and
- 4) uncontested dispositional review hearings and uncontested probation revocation hearings.

B. *No authority.* A master shall not have the authority to:

- 1) conduct transfer hearings pursuant to Rule 394;
- 2) issue warrants; and
- 3) hear requests for writs of habeas corpus.

C. *Right to hearing before judge.* Prior to the commencement of any proceeding, the master shall inform the juvenile, the juvenile's guardian(s), if present, the juvenile's attorney, and the attorney for the Commonwealth that the juvenile and the Commonwealth have a right to have the matter heard by a judge. If the juvenile or the Commonwealth objects to having the matter heard by the master, the case shall proceed before the judge.

Comment

A master's authority is limited under paragraph (A) to specifically those types of cases provided. To implement this rule, Rule 800 suspends 42 Pa.C.S. § 6305(b) only to the extent that masters may not hear all classes of cases.

Under paragraph (B)(2), nothing is intended to limit the master's ability, in a proper case before the master, to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (C), *see* 42 Pa.C.S. § 6305(b).

See Rule 127 for recording of proceedings before a master.

Official Note: Rule 187 adopted April 1, 2005, effective April 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 187 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 190. Admissions Before Master.

- A. *Types of cases.* A master may accept an admission to any misdemeanor.
- B. *Requirements.* The admission requirements of Rule 407 shall be followed.

Official Note: Rule 190 adopted April 1, 2005, effective April 1, 2006.

Rule 191. Master's Findings and Recommendation to the Judge.

A. *Announcement of Findings and Recommendation.* At the conclusion of the hearing, the master shall announce in open court on the record, the master's findings and recommendation to the judge.

B. *Submission of Papers and Contents of Recommendation.* Within one business day, the master shall submit a summary of the recommendation to the juvenile court judge. If requested, a copy of the summary shall be given to the juvenile's attorney, the juvenile, if unrepresented, the attorney for the Commonwealth, and the juvenile probation officer. The summary shall specifically state a recommendation to the judge.

C. *Judicial Action.* The judge shall by order:

- 1) accept the recommendation;
 - 2) reject the recommendation and issue an order with a different disposition;
 - 3) send the recommendation back to the master for more specific findings;
- or
- 4) schedule a rehearing under Rule 192 within seven days.

Comment

The juvenile court may promulgate a form for masters to use. The summary of the recommendation may take the form of a court order to be adopted by the court.

If a party contests the master's decision, the copy of the summary may be used as an attachment in a motion for a rehearing in front of the judge.

The master's decision is subject to approval of the judge. When the judge, in rejecting the master's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the master's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. See *In re Perry*, 459 A.2d 789 (Pa. Super. Ct. 1983). The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. See *In re Stephens*, 419 A.2d 1244 (Pa. Super. Ct. 1980).

Nothing in this rule prohibits the court from modifying conclusions of law made by the master.

Official Note: Rule 191 adopted April 1, 2005, effective April 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 191 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 192. Challenge to Master's Recommendation.

A. *Time limitation.* A party may challenge the master's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation. The motion shall request a rehearing by the judge and aver reasons for the challenge.

B. *Rehearing.* The judge shall act on the challenge within seven days of the date of the motion. The detention status of the juvenile will remain the same pending the rehearing unless otherwise ordered by the judge.

Comment

Under paragraph (A), the petition for a rehearing may be oral or written.

Under paragraph (B), the judge does not have to grant a rehearing. A judge may deny the request based on the petition. If the judge does grant a hearing, it should be held within seven days of the date of the challenge.

The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. *See In re Stephens*, 419 A.2d 1244 (Pa. Super. Ct. 1980).

Official Note: Rule 192 adopted April 1, 2005, effective April 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 192 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

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