

# STATEMENTS OF POLICY

## Title 37—LAW

## Title 237—JUVENILE RULES

### JUVENILE COURT JUDGES' COMMISSION

[37 PA. CODE CH. 200]

[237 PA. CODE CHS. 101, 201 AND 301]

#### Transfer of Standards

The Juvenile Court Judges' Commission submits this notice for the purpose of renumbering certain existing standards and a statement of policy. This renumbering is in response to the establishment of the Juvenile Court Procedural Rules Committee by the Supreme Court and to reserve Title 237 for Juvenile Court Procedural Rules.

JAMES E. ANDERSON,  
*Executive Director*

**Fiscal Note:** 23-SOP-3. No fiscal impact; (8) recommends adoption.

#### Table of Standards to be Transferred

The following chapters are transferred from Title 237 to Title 37:

| Former Pa. Code Reference | New Pa. Code Reference                       |
|---------------------------|--|
| 237 Pa. Code Chapter 101  | 37 Pa. Code Chapter 200, Subchapters A and B |
| 237 Pa. Code Chapter 201  | 37 Pa. Code Chapter 200, Subchapter C        |
| 237 Pa. Code Chapter 301  | 37 Pa. Code Chapter 200, Subchapter D        |

#### Annex A

### TITLE 37. LAW

#### PART III. AGENCIES AND OFFICES

##### Subpart N. JUVENILE COURT JUDGES' COMMISSION

#### CHAPTER 200. JUVENILE COURT JUDGES' COMMISSION

##### Subchap.

- A. STANDARDS GOVERNING THE USE OF SECURE DETENTION UNDER THE JUVENILE ACT
- B. STANDARDS GOVERNING HEARINGS AND ADMINISTRATIVE REVIEWS FOR CHILDREN HELD IN SECURE DETENTION
- C. STANDARDS GOVERNING THE QUALIFICATIONS AND TRAINING OF COURT-APPOINTED SPECIAL ADVOCATES
- D. STANDARDS GOVERNING HEARING PROCEDURES

##### Subchapter A. STANDARDS GOVERNING THE USE OF SECURE DETENTION UNDER THE JUVENILE ACT

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#### Preamble

The purpose of Pennsylvania's juvenile justice system is to provide programs of supervision, care and rehabilitation which are consistent with the protection of the public interest and which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

Secure detention services must be understood within the context of the services available within the juvenile justice system, and within the broader context of the purpose of the system, and of the juvenile justice process. A child admitted to a juvenile detention center is provided access to a wide range of services, custody, supervision, and assessments.

The "Standards Governing the Use of Secure Detention Under The Juvenile Act" adopted by the Juvenile Court Judges' Commission were developed with an understanding that overcrowding in juvenile detention centers presents danger to both residents and staff and can severely disrupt programs and services. Consequently, juvenile court judges and chief juvenile probation officers should take a leadership role in advocating for adequate juvenile detention services and alternatives, in monitoring detention center populations at the local level, and in developing strategies to be undertaken as facilities approach capacity.

These Standards were also developed on the premise that decisions regarding admissions to secure detention facilities must be based on a commitment to utilize the most appropriate level of care consistent with the circumstances of the individual case. When the admission of a child to a secure detention facility is being considered by a judge, master, or juvenile probation officer, preference should be given to nonsecure alternatives which could reduce the risk of flight or danger to the child or community.

#### § 200.1. Scope.

(a) These standards shall be applied in determining whether a child who is alleged to be or has been found to be a delinquent child may be detained. A child who is alleged to be or has been found to be a dependent child may not be detained in a secure detention facility unless the child is also alleged to be or has been found to be a delinquent child.

(b) Even though eligibility criteria may indicate that a particular child may be detained, detention is not mandatory. In every situation in which secure detention is to be considered, forms of control short of secure detention which could substantially reduce the risk of flight or danger to the child or the community shall be given preference.

(c) Preadjudication detention may never be imposed as a means of punishment or to apply sanctions.

(d) Secure detention is not to be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the child.

**§ 200.2. Statement of reasons requirement.**

(a) If secure detention is ordered or authorized, except as provided in subsections (b) and (c) whether at intake or at a detention or other hearing before a Juvenile Court Judge or Juvenile Court Master, a contemporaneous written statement of reasons and facts shall accompany the detention decision specifying the following:

(1) There is a reasonable basis to believe that the child has committed the act for which he is being detained—in the case of judicial authorities, that probable cause exists—and that the child is not excluded from the jurisdiction of Juvenile Court by age or another reason.

(2) That the child's detention is permitted under this subchapter.

(3) The alternatives to secure detention which were considered and rejected.

(4) The reason or reasons why secure detention is required and alternatives are not appropriate. Separate reasons need not be given for each alternative considered.

(b) If secure detention is ordered after the child is found to have committed a delinquent act but prior to the Court's determination that residential placement will be ordered at disposition, the Court shall indicate on the record or in a court order why secure detention is required and alternatives are not appropriate. Separate reasons need not be given for each alternative considered.

(c) Once the court has determined that residential placement will be ordered or continued, if previously ordered, no statement of reasons is required regarding the use of secure detention pending placement.

**§ 200.3. Detention required to protect the person or property of others or of the child.**

A child may not be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release of delivery to court; and release from detention or commencement of proceedings) for the purpose of protecting the person or property of others or of the child unless one of the following exists:

(1) The child is alleged to be a delinquent child on the basis of acts which would constitute the commission of, conspiracy, solicitation or an attempt to commit any of the following crimes:

(i) Criminal homicide, 18 Pa.C.S. §§ 2502, 2503 or 2504 (relating to murder; voluntary manslaughter or involuntary manslaughter).

(ii) Rape, 18 Pa.C.S. § 3121 (relating to rape).

(iii) Robbery, 18 Pa.C.S. § 3701 (relating to robbery).

(iv) Robbery of motor vehicle, 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(v) Aggravated assault, 18 Pa.C.S. § 2702 (relating to aggravated assault).

(vi) Involuntary deviate sexual intercourse, 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(vii) Aggravated Indecent Assault, 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(viii) Kidnapping, 18 Pa.C.S. § 2901 (relating to kidnapping).

(ix) Arson, 18 Pa.C.S. § 3301 (relating to arson and related offenses).

(x) Burglary, 18 Pa.C.S. § 3502 (relating to burglary) involving a structure adapted for overnight accommodation.

(xi) Terroristic threats, 18 Pa.C.S. § 2706 (relating to terroristic threats).

(xii) Stalking, 18 Pa.C.S. § 2709(b)(1)(2)) (relating to harassment and stalking).

(xiii) Causing or risking catastrophe, 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).

(xiv) Riot, 18 Pa.C.S. § 5501 (relating to riot).

(xv) Felonious violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

(xvi) Felonious intimidation of witnesses or victims, 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).

(xvii) Felonious retaliation against witness or victim, 18 Pa.C.S. § 4953 (relating to retaliation against witness or victim).

(2) The child is alleged to be a delinquent child on the basis of an offense which involved the use or possession of a firearm or explosives, or an offense—other than mere possession—which involved the use or possession of a deadly weapon—other than a firearm or explosives—as defined in 18 Pa.C.S. § 2301 (relating to definitions).

(3) The child is alleged to be a delinquent child on the basis of an offense which is classified as a felony and one of the following exists:

(i) The child is currently on probation, being supervised under a consent decree, or otherwise under the supervision of the court following an adjudication of delinquency.

(ii) The child has been found to be a delinquent child within the preceding 18 months.

(4) The child is alleged to be a delinquent child and is in violation of conditions of house arrest, in-home detention, electronic monitoring, shelter care or other non-secure placement, ordered or authorized as an alternative to secure detention.

(5) The child is on probation or is otherwise under the supervision of a court following an adjudication of delinquency, based on a felony, and is alleged to have committed a delinquent act or to have twice violated technical conditions of probation or other postadjudication supervision.

(6) The child or child's attorney has voluntarily and in writing requested placement in secure detention for the protection of the child, in which case immediate release shall occur upon the request of the child or attorney.

**§ 200.4. Detention required because the child may abscond or be removed from the jurisdiction of the court.**

A child may not be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release of delivery to court; and release from detention or commencement of proceedings) because the child may abscond or be removed from the jurisdiction of the court unless one of the following occurs:

(1) The child is an absconder from an institution or other placement to which the child was committed as a result of a previous adjudication of delinquency.

(2) The child has willfully failed to appear at the hearing on the petition or other hearing after having been served with a court order or summons to appear.

(3) The child has a recent demonstrable record of willful failure to appear at previous juvenile proceedings.

(4) The child has been verified to be a fugitive from another jurisdiction, an official from which has requested that the child be detained.

(5) The child absconded from secure detention, shelter care, in-home detention, house arrest, or other nonsecure placement, or while subject to electronic monitoring, ordered or authorized pending a court hearing or placement.

(6) The child presents extraordinary circumstances requiring secure detention to prevent the child from absconding. The circumstances may include, but are not limited to, the child's age, character, mental condition, ties to the community, the nature of the child's family relationships, drug or alcohol addiction or substance abuse.

**§ 200.5. Detention required because the child has no parent, guardian or custodian.**

No child may be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release of delivery to court; and release from detention or of commencement proceedings) solely because the child has no parent, guardian, custodian or other person able to provide supervision and care and capable of returning the child to the court when required.

**§ 200.6. Postadjudication detention pending disposition.**

A child whom the court has found to have committed the act by reason of which the child was alleged to be delinquent or whom the court has found to be a delinquent child may not be held in secure detention pending disposition unless one of the following exists:

(1) The adjudication or finding was based on an offense for which detention was or could have been authorized or ordered under § 200.3 (relating to detention required to protect the person or property of others or of the child).

(2) The child was initially detained, was eligible for detention, or, based on more recent information, would now be eligible for detention under § 200.4 (relating to detention required because the child may abscond or be removed from the jurisdiction of the court) and the court determines detention to be required.

(3) The court has determined that placement of the child at disposition is probable and continued detention is required prior to disposition based upon consideration of the following factors:

- (i) The nature of the substantiated offense.
- (ii) The child's employment and student status.
- (iii) The nature of the child's family relationships.
- (iv) The child's past and present residences.
- (v) The child's age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse.
- (vi) If the child has previously been released pending a court proceeding, whether the child appeared as required.
- (vii) Other facts relevant to whether the child has strong ties with the community or is likely to flee the jurisdiction.

**§ 200.7. Postdisposition detention awaiting placement.**

A delinquent child whom the court has committed to an institution or other placement, who was otherwise ordered removed from his home at disposition may not be held in secure detention pending transfer to the placement unless one of the following exists:

(1) The child was found to be a delinquent child on the basis of an offense for which detention would be permitted under § 200.3 (relating to detention required to protect the person or property of others or of the child).

(2) The child was initially detained, was eligible for detention or based on more recent information would now be eligible for detention under § 200.4 (relating to detention required because the child may abscond or be removed from the jurisdiction of the court).

(3) The child is awaiting placement in a Youth Development Center Secure Unit or other secure residential treatment program.

(4) The child is awaiting placement and the court has determined that secure detention is required pending transfer to the placement based upon consideration of the factors delineated in § 200.6(a)(3) (relating to post-adjudication detention pending disposition).

**§ 200.8. Detention pending or subsequent to a dispositional review proceeding.**

A child may not be detained in secure detention pending or subsequent to a dispositional review proceeding unless one of the following occurs:

(1) The child is in placement or is awaiting transfer to a Youth Development Center secure unit or other secure residential treatment program.

(2) The child was returned from placement for failure to adjust.

(3) Secure detention is otherwise required based upon consideration of the factors delineated in § 200.6(a)(3) (relating to post-adjudication detention pending disposition).

**§ 200.9. Authorization for detention in cases of extraordinary and exceptional circumstances.**

(a) A child may be detained in secure detention even if this subchapter does not otherwise authorize detention if the following are met:

(1) The facts present extraordinary and exceptional circumstances which require the use of secure detention.

(2) A statement of reasons accompanying the detention includes an explanation of why an exception was warranted and why nonsecure options were rejected.

(b) Detention under this section may not be authorized routinely or because nonsecure alternatives do not exist in adequate numbers, but only in the exceptional and extraordinary case.

(c) Secure detention is not to be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the child.

**Subchapter B. STANDARDS GOVERNING HEARINGS AND ADMINISTRATIVE REVIEWS FOR CHILDREN HELD IN SECURE DETENTION**

- Sec.  
200.101. Preadjudication detention.  
200.102. Postadjudication/predisposition detention.  
200.103. Postdisposition/preplacement detention.

- 200.104. Detention pending a disposition review proceeding for failure to adjust in placement.
- 200.105. Detention pending a disposition review proceeding for violation of probation.
- 200.106. Detention subsequent to an order resulting from a disposition review proceeding, where a specific placement or disposition has been ordered.
- 200.107. Responsibility of probation officer.

**§ 200.101. Preadjudication detention.**

(a) Within 72 hours of the admission of a child to secure detention, the informal detention hearing shall be held.

(b) The adjudication hearing shall be held pursuant to the provisions of 42 Pa.C.S. § 6335 (relating to conduct of hearings).

**§ 200.102. Postadjudication/predisposition detention.**

(a) Within 20 days of the date of the adjudication, a disposition hearing or a hearing to determine the need for continued secure detention shall be held.

(b) Within 20 days of this hearing, if the disposition hearing has not been held or a court order entered, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Until a disposition or a specific placement is ordered by the Court, the Court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

**§ 200.103. Postdisposition/preplacement detention.**

(a) At the 10th and 20th days from the most recent court proceeding, the Court or designee shall administratively review the status of the case and determine the need for continued secure detention.

(b) Within 30 days of the most recent court proceeding, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Subsequent administrative reviews and hearings shall continue to be held pursuant to these time frames until the child is admitted to a dispositional placement or is otherwise released from secure detention.

**§ 200.104. Detention pending a disposition review proceeding for failure to adjust in placement.**

(a) Within 72 hours of the admission of a child to secure detention, an informal detention hearing shall be held; unless the child was in a secure placement facility immediately prior to admission to secure detention.

(b) Within 20 days of the most recent court proceeding, or from the date of admission to secure detention if no informal detention hearing was required, the disposition review hearing or a hearing to determine the need for continued secure detention shall be held.

(c) Until a specific disposition order is entered, the Court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

**§ 200.105. Detention pending a disposition review proceeding for violation of probation.**

(a) Within 72 hours of the admission of a child to secure detention for a violation of probation, an informal detention hearing shall be held.

(b) Within 20 days of the most recent court proceeding, the disposition review hearing or a hearing to determine the need for continued secure detention shall be held.

(c) Until a specific disposition order is entered, the Court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

**§ 200.106. Detention subsequent to an order resulting from a disposition review proceeding, where a specific placement or disposition has been ordered.**

(a) At the 10th and 20th days from the most recent court proceeding, the Court or designee shall administratively review the status of the case and determine the need for continued secure detention.

(b) Within 30 days of the most recent court proceeding, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Subsequent hearings and reviews shall be held pursuant to these time frames until the child is admitted to a dispositional placement, or is otherwise released from secure detention.

**§ 200.107. Responsibility of probation officer.**

(a) The Chief Juvenile Probation Officer shall provide to the Court such information as necessary to ensure that all children placed in secure detention have the continued appropriateness of their detention determined by the Court or designee in accordance with this subchapter.

(b) Note: An administrative review of a case should entail consideration of the information relevant to an understanding of why the child is being held in secure detention, whether secure detention services or an alternative thereto continue to be required, and what must occur to enable the child to be released or transferred to another facility. It is not intended that the child be present during these reviews.

(c) Administrative reviews should serve to minimize delays in the release or transfer of a child by helping to ensure that individuals are carrying out their respective responsibilities related to the child's case. At the conclusion of each review, the child's anticipated date of release or transfer should be noted, together with the date of the next administrative review or hearing and any actions which are to occur prior thereto. All administrative reviews are to be documented in the child's case file or record.

**Subchapter C. STANDARDS GOVERNING THE QUALIFICATIONS AND TRAINING OF COURT-APPOINTED SPECIAL ADVOCATES**

**GENERAL**

- Sec. 200.201. Appointment.
- 200.202. Program.

**QUALIFICATIONS**

- 200.211. Qualifications.

**TRAINING**

- 200.221. Training.

**GENERAL**

**§ 200.201. Appointment.**

Under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates), court-appointed special advocates (CASAs) may be appointed to participate as advocates for children who are dependent or alleged to be dependent. CASAs shall be appointed only by the court and shall be sworn in by the court in recognition of both the importance and confidential nature of their duties.

**§ 200.202. Program.**

Court-appointed special advocates (CASAs) shall, at all times, be under the supervision of a CASA program which has the legal authority to operate, and which is recognized and supported by the court. Unless the CASA program is administered by the court, the program shall likewise have a written agreement with the court defining the working relationship between the CASA program and the court. CASAs may not be assigned to a case until it is determined that all preservice training and qualification requirements have been met.

**QUALIFICATIONS****§ 200.211. Qualifications.**

(a) A court-appointed special advocate (CASA) shall be 21 years of age or older.

(b) Prior to appointment, a CASA shall:

(1) Successfully pass all screening requirements, including criminal history and child abuse background checks.

(2) Complete a written application containing information about educational background and training, employment history and experience working with children.

(3) Submit the names of three or more references of persons unrelated to the prospective CASA.

(4) Authorize the CASA program and other appropriate agencies to conduct a criminal record check, a child protective services background check as permitted by the laws of the Commonwealth and, if the duties of the CASA could include the transportation of children, a driving record check.

(5) Attend and participate in personal interviews with CASA program personnel.

(6) Be able to make a 12-month minimum commitment to a case, in addition to the time required for preservice training.

(c) A CASA shall respect a child's inherent right to grow up with dignity, in a stable, safe, loving and nurturing environment.

(d) A CASA shall have the ability to relate effectively to the children and families to whose cases the CASA may be assigned.

(e) A CASA shall keep information confidential and work within the scope of established program guidelines and orders of the court, maintain objectivity and relate to a variety of people.

(f) A CASA may not accept reimbursement for time, or for routine travel or other expenses ordinarily incurred in the discharge of assigned duties, and shall comply with the requirements established by the CASA program under whose supervision the CASA is providing services.

(g) An individual may not be appointed as a CASA who is found to have been convicted of, or to have charges pending for, a felony or a misdemeanor involving a sex offense, child abuse or neglect, or related acts that would pose risks to children or the credibility of the CASA program. If a prospective CASA is found to have committed a misdemeanor or felony that is unrelated to or would not pose a risk to children and would not negatively impact the credibility of the CASA program, the program may consider the extent of the prospective volunteer's rehabilitation and other factors that may be relevant in determining whether to accept the applicant as a CASA volunteer.

(h) Grounds for dismissal of a CASA include the following:

(1) Taking action without CASA program or court approval that endangers a child or is outside the role or powers of the CASA program.

(2) Engaging in ex parte communication with the court.

(3) Violation of a program policy, court rule or law.

(4) Failure to complete required in-service training.

(5) Failure to demonstrate an ability to effectively carry out assigned duties.

(6) Falsification of an application, or a misrepresentation of facts during the preappointment screening process.

(7) Allegations that the CASA is the subject of child abuse or neglect allegations.

(8) Existence of a conflict of interest that cannot be resolved.

**TRAINING****§ 200.221. Training.**

(a) The Court-appointed special advocate (CASA) shall have the benefit of a training and skill development program that is offered by a CASA program and which is reviewed annually and revised based on the program's assessment of its training needs.

(b) Training provided to CASAs shall conform to the curriculum "Comprehensive Training for the CASA/GAL," available from the National Court Appointed Special Advocate Association, or its equivalent.

(c) The training that is offered to CASAs shall utilize a variety of instructors, including CASA program staff, attorneys, judges, agency representatives and volunteers.

(d) CASAs shall successfully complete at least 30 hours of preservice training before being assigned to a case. This preservice training shall, at a minimum, include the following:

(1) The roles and responsibilities of a CASA volunteer.

(2) Court process, including dependency proceedings under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) and involuntary termination of parental rights proceedings under 23 Pa.C.S. §§ 2101—2910 (relating to the Adoption Act).

(3) The dynamics of human behavior associated with child abuse and neglect.

(4) Relevant State and Federal laws.

(5) Confidentiality and recordkeeping practices.

(6) Child development.

(7) Child abuse and neglect.

(8) Permanency planning and resources.

(9) Community agencies and resources.

(10) Communication and information gathering, to include interviewing and report writing skill development.

(11) Advocacy.

(12) Special needs of the children served, including differences in cultural and socioeconomic norms, values and heritage.

(13) The identification of personal and institutional bias or discrimination as it relates to the children and families being served.

(14) The opportunity to visit and observe court proceedings conducted by judges and masters involving hearings

under 42 Pa.C.S. Chapter 63, as well as proceedings involving the involuntary termination of parental rights under 23 Pa.C.S. §§ 2101—2910.

(15) Ethics relating to the role of the CASA.

(16) Expectations regarding appearance and demeanor.

(e) CASA volunteers shall be provided with at least 12 hours of in-service training annually.

#### **Subchapter D. STANDARDS GOVERNING HEARING PROCEDURES**

##### **INITIATION OF HEARINGS**

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- 200.301. Initiation of hearing process.
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- 200.345. Finding of delinquency.
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##### **INITIATION OF HEARINGS**

#### **§ 200.301. Initiation of hearing process.**

The hearing process shall be formally initiated by the filing of a petition, as provided in 42 Pa.C.S. Chapter 63 (relating to Juvenile Act), which shall be entitled "in the interest of . . . , a minor," and shall be captioned and docketed as provided by general rule.

#### **§ 200.302. Petition.**

The petition may be brought by any person, shall be verified, and shall set forth plainly:

(1) The facts which bring the child within the jurisdiction of the Court and 42 Pa.C.S. Chapter 63 (relating to Juvenile Act), a statement that it is in the interest of the child and the public that the proceedings be brought and, if delinquency is alleged, that the child is in need of treatment, supervision or rehabilitation.

(2) The name, age and address of the child on whose behalf the petition is brought.

(3) The names and addresses, if known, of the parents, guardian or custodian and of the spouse, if any, of the child.

(4) Whether the child is presently in detention or shelter care, and, if so, the location of the facility where the child is in placement, and the time the child was taken into custody.

#### **§ 200.303. Time for hearing.**

After a petition has been filed alleging a child to be dependent or delinquent, the court shall fix a time for a hearing thereon.

#### **§ 200.304. Child in detention or shelter care.**

When a petition is filed alleging a child to be dependent or delinquent, and the child is in detention or shelter care, the hearing on the petition shall be held within 10 days after the filing of the petition. The child may be detained or kept in shelter care for an additional single period not to exceed 10 days when the Court, at a hearing, makes the determinations and findings required under 42 Pa.C.S. § 6335 (relating to release or holding of hearing).

#### **§ 200.305. Child not detained or sheltered.**

When a petition is filed alleging a child to be dependent or delinquent and the child is not in detention or shelter care, the hearing on the petition shall be held within 90 days after the filing of the petition.

(1) With the approval of the Court, this period may be extended, in a delinquency case, upon the agreement of the Commonwealth and the child. An extension may also be granted by the Court, in a dependency or delinquency case, when reasonable cause is shown for an extension. An extension granted by the Court shall be for a specific period of time.

(2) If a petition is reinstated alleging a child to be delinquent who is failing to fulfill the terms and conditions of a consent decree under 42 Pa.C.S. § 6340 (relating to consent decree), the hearing on the petition shall be held within 90 days of the reinstatement of the petition, subject to the conditions for extension of time set forth for hearings on new petitions.

#### **§ 200.306. Appearance at hearing required.**

(a) The Court shall direct the issuance of a summons to the parents, guardian or other custodian, or guardian ad litem and other persons the Court identifies as necessary parties to the proceeding, requiring them to appear at the hearing.

(b) The summons shall also be directed to the child if he is 14 years of age or older or is alleged to be delinquent and a copy of the petition shall accompany the summons.

#### **§ 200.307. Subpoena as requiring attendance of witnesses.**

Upon application of a child, parent, guardian, custodian, probation officer, district attorney or other party to the proceedings, the Court shall issue, or may on its own motion issue, subpoenas requiring attendance of witnesses and production of papers at any hearing under 42 Pa.C.S. Chapter 63 (relating to Juvenile Act).

#### **§ 200.308. Priority for child in detention or shelter.**

In scheduling hearings under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act), priority shall be given to children in detention or shelter care.

##### **CONDUCT OF HEARINGS**

#### **§ 200.321. Due process.**

(a) The Court shall hear all cases without a jury in an informal but orderly manner which guarantees due process.

(b) The atmosphere of the hearing should encourage the maximum participation of all concerned. It should be evident that it is the intent of the judge to determine the facts of the case and provide a forum that is consistent with the public interest and is intended to arrive at a disposition that provides balanced attention to the protection of the community, imposition of accountability for

offenses committed and development of competencies to enable the child to become a responsible and productive member of the community.

**§ 200.322. District attorney to represent Commonwealth.**

The district attorney shall represent the Commonwealth in delinquency proceedings.

**§ 200.323. Record of proceedings.**

Juvenile court proceedings shall be recorded by an official court reporter.

**§ 200.324. Public excluded from hearings.**

The general public shall be excluded from the juvenile court hearing process.

(1) Only the parties, their counsel, witnesses, the victim, counsel for the victim, other persons accompanying a party or a victim and other persons the Court finds have a proper interest in the proceeding or in the work of the Court may be admitted.

(2) The general public may not be excluded from any hearing pursuant to a petition alleging delinquency as follows:

(i) When the child was 14 years of age or older at the time of the alleged conduct and the conduct would be considered a felony if committed by an adult.

(ii) When the child was 12 years of age or older at the time of the alleged conduct and the conduct would constitute one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and other related offenses).

(E) Involuntary deviate sexual intercourse.

(F) Kidnapping.

(G) Rape.

(H) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(I) Robbery of motor vehicle.

(J) Attempt or conspiracy to commit any of the offenses in this paragraph.

(iii) Notwithstanding anything in this section, the proceedings shall be closed upon, and to the extent of, any agreement between the child and the attorney for the Commonwealth.

(iv) The Court at any disposition proceeding shall have discretion to maintain the confidentiality of mental health, medical or juvenile institutional documents or juvenile probation reports.

**§ 200.325. Counsel.**

(a) If a child appears for hearing without counsel, the Court shall ascertain whether that child knows of the right to be provided counsel by the Court if the child is unable to obtain counsel.

(b) The Court may continue the proceeding to enable a party to obtain counsel.

**§ 200.326. Waiver of right to counsel.**

A child may not waive his right to counsel unless the child has had the opportunity to consult with an interested and informed adult. The adult must be one who is primarily interested in the welfare of the accused child and aware of those fifth and sixth amendment rights guaranteed to the child.

**§ 200.327. Conflict of interest with child.**

When the interests of the parent, guardian or custodian may be in conflict with the interests of the child, or when the interests of two or more parties to a proceeding may conflict, separate counsel shall be provided.

**PHASES OF THE HEARING ON THE PETITION**

**§ 200.341. Three phases of hearing.**

The hearing on the petition shall be divided into three phases:

(1) The determination of jurisdiction.

(2) The adjudication of the issue.

(3) Disposition.

**§ 200.342. Jurisdiction.**

The Court shall in all cases initially determine whether the juvenile court has jurisdiction to hear the matter which has been petitioned for hearing.

**§ 200.343. Evidence on the petition.**

(a) Once it has been determined that the Court has proper jurisdiction over the matter before it and has assured that the child is fully aware of all constitutional rights, the Court shall entertain evidence on the petition.

(b) At any time after the filing of a petition and before the entry of an adjudication order, the Court, on proper motion, may suspend the proceedings and enter a consent decree continuing the child under supervision in the child's own home under terms and conditions negotiated with the probation department and agreed to by all parties affected.

**§ 200.344. Findings.**

(a) After hearing the evidence on the petition, the Court shall make and file its findings as to whether the acts ascribed to the child were committed by him if the petition alleged delinquency; or, if dependency was alleged, whether the child is a dependent child.

(b) If the Court finds that the child is not a dependent child or that the allegations of delinquency have not been established, it shall dismiss the petition and order the child discharged from any detention or restriction which has been previously ordered.

**§ 200.345. Finding of delinquency.**

A finding that the child committed the acts by reason of which the child was alleged to be delinquent shall be made only on proof beyond a reasonable doubt, while a finding that a child is dependent shall be based on clear and convincing evidence.

**§ 200.346. Finding of need for treatment, supervision or rehabilitation.**

(a) When there is a finding that the child committed a delinquent act, the Court shall proceed immediately, or at a postponed hearing, to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation and therefore delinquent, and to make and file its findings thereon.

(b) In the absence of evidence to the contrary, evidence of the commission of acts which constitute a felony shall be sufficient to sustain a finding that a child is in need of treatment, supervision or rehabilitation.

**§ 200.347. Discharge and dismissal.**

If the Court finds that the child is not in need of treatment, supervision or rehabilitation, it shall dismiss the proceeding and discharge the child from any detention or other previously ordered care.

**§ 200.348. Disposition.**

If the Court finds that a child is dependent, the Court shall proceed immediately or at a postponed hearing to make proper disposition of the case.

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