

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 400, 1000, 1700 AND 2200]

Amendment of Rule 425 Governing Service, Rules 1017 and 1031 Governing Pleading, Rule 1706.1 Governing Class Actions and Rules 2252, 2253, 2255, and 2256 Governing Joinder of Additional Defendants; Rescission of Rule 2274 Governing Joinder of Additional Defendants; and Promulgation of New Rule 1031.1 Governing Cross-Claims; No. 473 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 23rd day of March, 2007, the Pennsylvania Rules of Civil Procedure are amended as follows

1. Rules 425, 1017, 1031, 1706.1, 2252, 2253, 2255 and 2256 are amended to read as follows,

2. Rule 2274 is rescinded as follows, and

3. New Rule 1031.1 is promulgated to read as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective June 1, 2007.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 400. SERVICE OF ORIGINAL PROCESS

SERVICE UPON PARTICULAR PARTIES

Rule 425. Additional Defendants.

(a) Original process shall be served upon an additional defendant who is not already a party to the action in the same manner as if he **or she** were an original defendant. **[Copies of all pleadings filed in the action shall be served with the complaint against the additional defendant.]** The joining party, upon request, shall furnish copies of all or specified pleadings filed in the action.

Official Note: [Prior pleadings must be served with the complaint whether the complaint is original process served upon the additional defendant or a pleading served under Rule 440.]

See Rule 213(b) for the right of an additional defendant to move for a severance and Rule 1006(d) for the right to move for a change of venue.

(b) The defendant or additional defendant shall serve a copy of his **or her** complaint upon every prior party **[but need not attach copies of any pleadings previously filed in the action]**.

CHAPTER 1000. ACTIONS Subchapter A. CIVIL ACTION PLEADINGS

Rule 1017. Pleadings Allowed.

(a) Except as provided by Rule 1041.1, the pleadings in an action are limited to

(1) a complaint [,] and an answer thereto,

Official Note: The term “complaint” includes a complaint to join an additional defendant.

(2) a reply if the answer contains new matter [or], a counterclaim **or a cross-claim**,

(3) a counter-reply if the reply to a counterclaim **or cross-claim** contains new matter,

(4) a preliminary objection and **[an answer] a response** thereto.

Official Note: Pleading in asbestos litigation is governed by Rule 1041.1.

An answer **[need] needs to** be filed to a preliminary objection only when the preliminary objection alleges facts not of record. See Rule 1028(c)(2), note.

(b) Rescinded.

Official Note: The grounds for preliminary objections are set forth in Rule 1028(a).

(c) No formal joinder of issues is required.

Rule 1031. Counterclaim.

(a) The defendant may set forth in the answer under the heading “Counterclaim” any cause of action cognizable in a civil action which the defendant has against the plaintiff at the time of filing the answer.

Official Note: See Rule 2256 governing counterclaims in an action involving an additional defendant.

See Rule 213(a) and (b) governing consolidation and severance of causes of action.

(b) A counterclaim need not diminish or defeat the relief **[dand] demanded** by the plaintiff. It may **[dand] demand** relief exceeding in amount or different in kind from that demanded by the plaintiff.

Rule 1031.1. Cross-claim.

Any party may set forth in the answer or reply under the heading “Cross-claim” a cause of action against any other party to the action that the other party may be

(1) solely liable on the underlying cause of action or

Official Note: The term “underlying cause of action” refers to the cause of action set forth in the plaintiff’s complaint or the defendant’s counterclaim.

(2) liable to or with the cross-claimant on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action is based.

Official Note: Subparagraph (2) permits a cross-claimant to raise a claim that another party is liable over to the cross-claimant or jointly and severally liable with the cross-claimant.

The right to assert a cross-claim in a class action is limited by Rule 1706.1 to the grounds set forth in that rule.

CHAPTER 1700. CLASS ACTIONS

Rule 1706.1. Joinder of Additional Defendants. Cross-Claims.

Any defendant or additional defendant may only join as an additional defendant any person [, whether or] not a party to the action, or may assert a cross-claim against another party to the action, who may be

- (1) solely liable on the plaintiff's cause of action [;], or
- (2) liable over to the joining party on the plaintiff's cause of action [;], or
- (3) jointly or severally liable with the joining party on the plaintiff's cause of action.

Official Note: [The three bases of joinder provided by this rule are identical to the bases of joinder provided by Rule 2252(a)(1) through (3) governing the joinder of additional defendants generally.] The right of joinder under Rule 1706.1 of an additional defendant based upon liability "on the plaintiff's cause of action" is not as broad as the right under Rule 2252(a) governing the joinder of additional defendants generally.

Similarly, the right of cross-claim under this rule is not as broad as the right under Rule 1031.1 governing cross-claims generally.

CHAPTER 2250. JOINDER OF ADDITIONAL DEFENDANTS

Rule 2252. Right to Join Additional Defendants.

(a) Except as provided by Rule 1706.1, any [defendant or additional defendant] party may join as an additional defendant any person [, whether or] not a party to the action who may be

- (1) solely liable on the [plaintiff's] underlying cause of action against the joining party, or

Official Note: The term "underlying cause of action" refers to the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim.

- (2) [liable over to the joining party on the plaintiff's cause of action, or] Rescinded.

- (3) [jointly or severally liable with the joining party on the plaintiff's cause of action, or] Rescinded.

- (4) liable to or with the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the [plaintiff's] underlying cause of action against the joining party is based.

Official Note: Paragraph (4) permits a joining party to join an additional defendant who may be liable over on the underlying cause of action against the joining party or jointly and severally liable with the joining party.

The joinder of an additional defendant in a class action is limited by Rule 1706.1 to the grounds set forth in [subparagraphs (1) to (3)] that rule.

- (b) [If the person sought to be joined is not a party to the action the] The joining party may file as of course a praecipe for a writ or a complaint.

(1) If the joinder is by writ, the joining party shall file a complaint within twenty days from the filing of the praecipe for the writ. If the joining party fails to file the complaint within the required time, [the plaintiff or the additional defendant joined] any other party may seek a rule to file the complaint and an eventual judgment of non pros in the manner provided by Rule 1037(a) for failure to file a complaint.

(2) The complaint, in the manner and form required of the initial pleading of the plaintiff in the action, shall set forth the facts relied upon to establish the liability of the joined party and the relief demanded.

Official Note: For the form of notice to defend in a complaint to join an additional defendant, see Rule 1018.1.

(c) The writ to join an additional defendant shall be directed to the additional defendant and shall be substantially in the following form:

Commonwealth of Pennsylvania
County of _____

(Caption)

To _____ : (Name of Additional Defendant)
[NAME OF ADDITIONAL DEFENDANT]

You are notified that _____
(Name(s) of Defendant(s))

[NAME(S) OF DEFENDANT(S)] has (have) joined you as an additional defendant in this action, which you are required to defend.

Date _____

Seal of Court

[NAME OF PROTHONOTARY (CLERK)]
(Name of Prothonotary (Clerk))

By _____
[DEPUTY]
(Deputy)

- (d) [If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint, assert in the answer as new matter that such party is alone liable to the plaintiff or liable over to the joining party or jointly or severally liable to the plaintiff or liable to the joining party directly setting forth the ground therefor. The case shall proceed thereafter as if such party had been joined by a writ or a complaint.] Rescinded.

Official Note: See Rule 1031.1 governing cross-claims for the procedure to assert a claim against a person already a party to an action.

Rule 2253. Time for Filing Praecipe or Complaint.

(a) Except as provided by Rule 1041.1(e), neither a praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by complaint, shall be filed [by the original defendant or an additional defendant] later than

(1) sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof, or

(2) the time for filing the joining party's answer as established by Rule 1026, Rule 1028 or order of court,

whichever is later, unless such filing is allowed by order of the court or by the written consent of all parties approved by and filed with the court. The praecipe for a writ to join an additional defendant or the complaint joining the additional defendant shall be filed within twenty days after notice of the court order or the court approval of the written consent or within such other time as the court shall fix.

Official Note: Rule 1041.1(e) provides that in asbestos litigation leave of court is not required to join an additional defendant out of time but the joined party may request by preliminary objection that the joinder be stricken.

(b) Any party may object to a motion to join an additional defendant after the [sixty-day] period prescribed by subdivision (a) on the ground that the party will be prejudiced by the late joinder. The plaintiff may also object to the late joinder on the ground that the joining party has not shown a reasonable justification for its delay in commencing joinder proceedings.

(c) A person not previously a party who is joined as an additional defendant may object to the joinder by filing preliminary objections asserting prejudice or any other ground set forth in Rule 1028.

Official Note: The person joined may object to the joinder whether the joinder was effected by order or consent.

Rule 2255. Procedure.

(a) The procedure, including pleadings, between the party joining an additional defendant and the additional defendant shall be the same as though the party joining the additional defendant were a plaintiff and the additional defendant were a defendant.

(b) [No pleadings shall be filed between the additional defendant and any party other than the one joining the additional defendant except that the additional defendant may file a counterclaim against the plaintiff.] Rescinded.

(c) No judgment on the pleadings may be entered in favor of any party against an additional defendant for failure to answer the complaint of the party joining the additional defendant, but all allegations of fact in such complaint to which an answer is required and which are not sufficiently answered shall be conclusive upon the additional defendant.

(d) The plaintiff shall recover from an additional defendant found liable to the plaintiff alone or jointly with the defendant as though such additional defendant had been joined as a defendant and duly served and the initial pleading of the plaintiff had averred such liability.

Rule 2256. Counterclaims.

(a) An original defendant who asserts against the plaintiff a counterclaim not founded upon the transaction, occurrence or series of transactions or occurrences out of which the original cause of action arose may not join an additional defendant.

(b) An additional defendant may not assert a counterclaim which is not founded upon the transaction, occurrence or series of transactions or occurrences out of which the original cause of action arose.

(c) [A party against whom a counterclaim is asserted shall have the same right to join any one as an additional party that is given to a defendant in Rule 2252.] Rescinded.

Official Note: A party against whom a counterclaim is asserted may join an additional defendant under Rule 2252(a).

Rule 2274. Effective Date. Pending Actions.

[These rules shall become effective upon adoption and shall apply to actions pending at that time.] (Rescinded).

Official Note: See Rule 52 governing effective date of rules and amendments to rules and the application of new rules and amendments to pending actions.

Explanatory Comment

The Supreme Court of Pennsylvania has promulgated a new rule of civil procedure governing cross-claims and amended the rules governing joinder of additional defendants. The revisions are as follows:

I. Cross-claim

Rule 2252 governing joinder of an additional defendant was amended in 1969 by adding subdivision (d) providing that "If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint," assert the claim in the answer as new matter. This amendment was described in the commentary to the 1969 amendments to Rule 2252 as "the equivalent of the cross-claim between two defendants under the federal rules." However, the term "cross-claim" did not appear in the rules.

Under new Rule 1031.1, the assertion of a claim by one party against another party is a matter of pleading rather than joinder of parties. The claim is to be pleaded as a cross-claim under the new rule. The claims which may be asserted in a cross-claim are identical to those which serve as bases for joining an additional defendant under revised Rule 2252(a) discussed below.

II. Joinder of Additional Defendants

1. Rule 2252(a) has been amended to limit the rules governing joinder of additional defendants to the joinder of persons not already parties to an action:

... any party may join as an additional defendant any person not a party to the action ...

2. The joinder may be effected by "any party," not simply the defendant or additional defendant as under the present rule. This revision acknowledges that a plaintiff may join an additional defendant in his or her capacity as defendant on a counterclaim. In light of this revision, subparagraphs (a)(1) and (4) describing the bases for joining an additional defendant refer to the "underlying cause of action against the joining party" rather than the "plaintiff's cause of action." A new note explains that the term "underlying cause of action" refers to "the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim."

3. Subdivision (a)(2) and (3) setting forth liability over and joint or several liability as bases for joining an additional defendant are deleted as they are subsumed in subdivision (a)(4) which provides for joinder of a person who is

(4) liable to or with the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action against the joining party is based.

4. Current Rule 2255(b) prohibiting the filing of pleadings between an additional defendant and "any party other than the one joining the additional defendant" has been rescinded.

5. The time for joinder of an additional defendant without leave of court under Rule 2253(a) prior to the present amendment was "sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof." Frequently a defendant who has filed preliminary objections is not in a position to join an additional defendant within the sixty-day time period. In addition, an additional defendant may be served outside the sixty-day period and have no opportunity to timely join another additional defendant without leave of court.

Rule 2253(a) has been amended to allow a joining party to join an additional defendant without leave of court if the joinder is accomplished within one of two time frames, whichever is longer. The first time frame is the sixty-day period "after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof." The second time frame is new and is the time for filing the joining party's answer, whether that time is set forth under Rule 1026, Rule 1028 or an order or court.

III. Conforming Amendments

Rule 425 governing service upon additional defendants has been revised to delete the burdensome requirement that the joining party serve with the complaint copies of all pleadings in the action. Rather, "[t]he joining party, upon request, shall furnish copies of all or specified pleadings filed in the action."

Rule 1017 governing pleadings allowed has been revised stylistically to provide a numerical list of pleadings which may be filed. The revised rule in subdivision (a)(2) and (3) includes a reference to the cross-claim under new Rule 1031.1.

The note to Rule 1031(a) governing counterclaims has been revised by adding a paragraph cross-referring to Rule 2256 relating to counterclaims in an action involving an additional defendant.

Rule 1706.1 governing joinder of an additional defendant in a class action has been revised to permit a party to assert a cross-claim against another party to the action on the grounds limited by that rule.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 07-591. Filed for public inspection April 6, 2007, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 2 AND 8]

Order Amending Rules 120, 200, 210, and 800 of the Rules of Juvenile Court Procedure; No. 411 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 23rd day of March, 2007, upon the recommendation of the Juvenile Court Procedural Rules Committee and an Explanatory Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to the Rules of Juvenile Court Procedure Rules 120, 200, 210, and 800 are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2007.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

* * * * *

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.

* * * * *

Comment

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.**

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.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

PART A. COMMENCING PROCEEDINGS

Rule 200. Commencing Proceedings.

Juvenile delinquency proceedings within a judicial district shall be commenced by:

- 1) submitting a written allegation pursuant to Rule 231;
- 2) an arrest without a warrant:
 - a) when the offense is a felony or misdemeanor committed in the presence of the police officer making the arrest; or
 - b) upon probable cause when the offense is a felony; or
 - c) upon probable cause when the offense is a misdemeanor not committed in the presence of the police officer making the arrest, when such arrest without a warrant is specifically authorized by statute;
- 3) **a certification to the court that a juvenile has failed to comply with a lawful sentence imposed for a summary offense;**
- 4) transfer of a case from a criminal proceeding pursuant to 42 Pa.C.S. § 6322;
- [4] 5) the court accepting jurisdiction of a resident juvenile from another state; or
- [5] 6) the court accepting supervision of juvenile pursuant to another state's order.

Comment

Paragraph (1) allows for commencing delinquency proceedings by submitting a written allegation. This procedure departs from the Juvenile Act, which provides that the filing of a petition commences a proceeding. Rule 800 suspends 42 Pa.C.S. § 6321 only to the extent that it is inconsistent with the procedures of this rule. Petitions filed by any person circumvent the juvenile probation's office ability to divert the case through informal adjustment as provided in 42 Pa.C.S. § 6323. Probation officers may "receive and examine complaints and charges of delinquency . . . of a child for the purpose of considering the commencement of proceedings." 42 Pa.C.S. § 6304 (a)(2).

See Rule 231 for procedures on submitting a written allegation.

For the definition of a "written allegation," *see* Rule 120.

The Juvenile Act provides that "a child may be taken into custody . . . pursuant to the laws of arrest." 42 Pa.C.S. § 6324. Paragraph (2) states the laws of arrest without a warrant in Pennsylvania. *See* Pa.R.Crim.P. 502.

Paragraph [(4)] (5) encompasses a juvenile who lives in Pennsylvania and commits a crime in another state and that state wants Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

Paragraph [(5)] (6) encompasses a juvenile who lives outside of Pennsylvania, committed a crime outside of Pennsylvania, is moving to Pennsylvania, and the other jurisdiction would like Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

For procedures for when the juvenile is alleged to have violated probation, *see* Rule 612.

For inter-county transfer of juveniles, *see* Rule 302.

See § 6321(a) of the Juvenile Act for commencement of proceedings under the Juvenile Act. 42 Pa.C.S. § 6321(a).

Official Note: Rule 200 adopted April 1, 2005, effective October 1, 2005; **amended March 23, 2007, effective August 1, 2007.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 200 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 200 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

PART B. ARREST PROCEDURES IN DELINQUENCY CASES

(a) Arrest Warrants

Rule 210. Arrest Warrants.

A. *Application.* An application for an arrest warrant shall be made by [filing] submitting a written allegation supported by a probable cause affidavit with the president judge or any issuing authority designated by the president judge of each judicial district. The president judge shall ensure twenty-four hour availability of a designated issuing authority.

B. *Approval of Commonwealth.* When a certification is filed by the District Attorney pursuant to Rule 231, no application for an arrest warrant shall be submitted to the issuing authority unless an attorney for the Commonwealth has approved the application.

C. *Arrest procedures.* When a juvenile is arrested pursuant to a warrant, the case shall proceed in the same manner as a warrantless arrest in accordance with Rule 220.

D. Transmission of file. If a magisterial district judge issues an arrest warrant for a juvenile pursuant to paragraph (A), the magisterial district judge shall forward the juvenile case file to the clerk of courts immediately or no later than the next business day.

E. Return of arrest warrant. Once the arrest warrant has been executed, it shall be returned to the juvenile probation office. The juvenile probation office shall, immediately and no later than the next business day, notify the magisterial district judge that the warrant has been executed.

F. Case closed by magisterial district judge. Once a magisterial district judge has been notified that the arrest warrant has been executed pursuant to paragraph (E), the magisterial district judge shall mark the arrest warrant as served and close the case.

Comment

For the contents of a written allegation, see Rule 232. For the requirements of the issuance of an arrest warrant, see Rule 211.

Under paragraph (A), the president judge of each judicial district may designate a juvenile court judge, another common pleas judge, or other issuing authorities to receive applications for arrest warrants. The president judge also is to designate an issuing authority to receive applications after normal business hours and on holidays. For the definition of "issuing authority," see Rule 120.

[To implement the procedures of paragraph (A), Rule 800 suspends 42 Pa.C.S. § 6303(b) only to the extent that Magisterial District Judges may detain a juvenile for the limited purposes of this rule if the Magisterial District Judge is so designated by the president judge of the judicial district to receive arrest warrant applications.]

When issuing an arrest warrant, a magisterial district judge is included in the definition of court pursuant to Rule 120, and as such, the magisterial district judge is to maintain the confidentiality of records as required by Rule 160. For access to court records, see Rule 160.

Paragraph (A) provides that a magisterial district judge may order the juvenile to be taken into custody pursuant to the laws of arrest. Pursuant to the Juvenile Act, 42 Pa.C.S. § 6303(b), a district judge of the minor judiciary may not detain a juvenile. This rule allows a magisterial district judge to issue an arrest warrant, which may lead to detention in limited circumstances. See Rule 800 (8).

Paragraph (D) provides that if the president judge of a judicial district has appointed a magisterial district judge to accept applications for arrest warrants and the magisterial district judge issues an arrest warrant for the juvenile, the magisterial district judge is to send the juvenile case file, including the written allegation supported by a probable cause affidavit, a copy of the arrest warrant, and any other information contained in the juvenile file, to the clerk of courts. For definition of clerk of courts, see Rule 120.

Paragraph (E) provides that the return of the arrest warrant is to be made with the juvenile probation office. The juvenile probation office immediately is to notify the magisterial district judge of the execution of the arrest warrant so the arrest warrant may be marked as executed in their computer system. This is extremely important so the juvenile does not get rearrested on the same warrant.

Official Note: Rule 210 adopted April 1, 2005, effective October 1, 2005; amended March 23, 2007, effective August 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 210 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 200 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

CHAPTER 8. SUSPENSIONS

Rule 800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

1) The Act of November 21, 1990, P. L. 588, No. 138, § 1, 42 Pa.C.S. § 8934, which authorizes the sealing [or] of search warrant affidavits, and which is implemented by Pa.R.Crim.P. Rule 211, through Pa.R.J.C.P. Rule 105, is suspended only insofar as the Act is inconsistent with Pa.R.Crim.P. Rules 205, 206, 211.

* * * * *

8) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6303(b), which provides that a district judge or judge of the minor judiciary may not detain a juvenile, is suspended only insofar as the Act is inconsistent with Rule 210, which allows Magisterial District Judges to [detain] issue an arrest warrant, which may lead to detention in limited circumstances.

* * * * *

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See also Rule 102.

Official Note: Rule 800 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately; amended March 23, 2007, effective August 1, 2007.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 800 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

Explanatory Report

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 120, 200, 210, and 800.

Rule 120—Definitions

With the modifications of Rule 210, the Committee felt it was necessary to include Magisterial District Judges (hereinafter MDJs) when issuing an arrest warrant in the definition of court. The definition is very limited and requires the records of MDJs to follow the confidentiality requirements of Rule 160.

Rule 200—Commencing Proceedings

Rule 200 has been modified with an additional provision of allowing cases to be commenced by the filing of a certification that a juvenile has failed to comply with a lawful sentence for a summary offense. Failure to comply with a lawful sentence for a summary offense is defined as a delinquent act pursuant to 42 Pa.C.S. § 6302. A written allegation may be filed in those cases but the revised Rule allows a delinquency case to be commenced by a certification from the MDJ that the juvenile has failed to comply with a lawful sentence for a summary offense, bypassing the need for a written allegation.

MDJs need to be able to close cases in their systems without a need for a police officer, probation officer, or district attorney filing a written allegation, on their behalf, alleging the failure to comply with a lawful sentence for a summary offense. This "certification" of a case from the MDJ to the Court of Common Pleas allows the MDJ's case to be closed once a certification is sent to the Court of Common Pleas. A third party does not need to intervene on behalf of the MDJ. This will additionally help clean up the computer system for the MDJs' offices.

Rule 210—Arrest Warrants

There were several concerns of the usage of the word "detain" in the Comment to Rule 210. The Committee made a poor word choice that generated confusion. The Committee never intended for the MDJ to detain a juvenile or a juvenile to be brought to a MDJ. A MDJ may not "detain" a juvenile; however, the MDJ may issue an arrest warrant, which is the vehicle for the detention of a juvenile. A juvenile is never brought before the MDJ but taken to a detention facility or the court as provided in the Rules. (See Rule 220).

The revised Rule 210 will delete the Comment language using the term "detain" and provide that the MDJ may order the juvenile to be taken into custody pursuant to the laws of arrest. The additional language also clarifies that the MDJ may issue an arrest warrant.

Further administrative modifications were made to Rule 210 to address the need to move the case from the MDJ to the Court of Common Pleas for processing the juvenile case, the need to notify the MDJ of the return of the arrest warrant, and the need to close the juvenile case permanently from the MDJ's computer so the juvenile does not get rearrested on the arrest warrant. Paragraphs (D) through (F) were added to allow the case to move to the proper court and to ensure that the notification of the execution of the warrant gets back to the MDJ court. The modifications are necessary to maintain a proper and smooth transition in the MDJ's automated computer systems.

Rule 800—Suspensions of Acts of Assembly

As with the Rule 210 Comment, there were several concerns of the usage of the word "detain." The Committee has eliminated the word "detain" and replaced it with "issue an arrest warrant authorizing detention in limited circumstances." See note to Rule 210.

[Pa.B. Doc. No. 07-592. Filed for public inspection April 6, 2007, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Cathy Renee Garrett-Davis having been disbarred from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated September 26, 2006, the Supreme Court of Pennsylvania issued an Order on March 22, 2007, disbaring Cathy Renee Garrett-Davis from the Bar of this Commonwealth, effective April 21, 2007. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 07-593. Filed for public inspection April 6, 2007, 9:00 a.m.]