

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to the Confidentiality of Disciplinary Proceedings

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to The Supreme Court of Pennsylvania that it amend the Pennsylvania Rules of Disciplinary Enforcement with respect to the confidentiality of disciplinary proceedings.

On October 26, 2005, the Supreme Court of Pennsylvania adopted amendments to the Rules of Disciplinary Enforcement providing for public access to certain disciplinary proceedings. Under the new system of public access, formal disciplinary proceedings become open to the public before a decision is made on what type of discipline, if any, is to be imposed. The Board is considering proposing that in the case of a formal proceeding in which it is decided to impose private discipline or in which all of the charges against the respondent-attorney are dismissed, the record of the proceeding be closed.

Although the Board is proposing that a formal proceeding that becomes open to the public will subsequently be closed if it results in the imposition of private discipline or dismissal of all the charges, the closing of the proceeding cannot change the fact that the proceeding was open to the public for a period of time. Thus, the Board is also proposing to make clear that the respondent-attorney may request that the record of the proceeding remain open to demonstrate that the charges were dismissed or only private discipline was imposed.

The Board is also considering proposing the repeal of Pa.R.D.E. 402(c)(4) which provides that a proceeding may be opened to the public when the allegations on which it is based become generally known to the public. Making a decision that allegations are generally known to the public involves difficult judgments that the Board is not well-equipped to make. And in light of the increased public access to disciplinary proceedings, the Board does not believe that Pa.R.D.E. 402(c)(4) serves an important public function.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before March 9, 2007.

*By The Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter D. MISCELLANEOUS PROVISIONS

Rule 402. Access to Disciplinary Information and Confidentiality.

(a) Except as provided in subdivisions (b) [**and**], (d) **and** (k), all proceedings under these rules shall be open to the public after:

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(c) Until the proceedings are open under subdivision (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

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(3) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to inactive status pursuant to Enforcement Rule 301 (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated); **or**

(4) [**the proceeding is based upon allegations that have become generally known to the public; or**

(5)] there is a need to notify another person or organization, including the Lawyers' Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

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(k) If a formal proceeding results in the imposition of private discipline or dismissal of all the charges, the proceeding shall cease to be open to the public when the decision to impose private discipline or dismiss the charges becomes final, unless the respondent-attorney requests that the record of the proceeding remain open to the public.

Official Note: Paragraph (d)(2) is based on 18 Pa.C.S. § 5108 (relating to compounding). Otherwise Disciplinary Counsel may be in the anomalous position of violating Rule 8.4 of the Pennsylvania Rules of Professional Conduct.

Although subdivision (k) provides that a formal proceeding that becomes open to the public under subdivision (a) will subsequently be closed if it results in the imposition of private discipline or dismissal of all the charges, the closing of the proceeding cannot change the fact that the proceeding was open to the public for a period of time. Thus, subdivision (k) makes clear that the respondent-attorney may request that the record of

the proceeding remain open to demonstrate that the charges were dismissed or only private discipline was imposed.

[Pa.B. Doc. No. 07-153. Filed for public inspection February 2, 2007, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CHS. 1, 3 AND 9]

Order Amending Pa.R.A.P. 108, 301 and 903; No. 177 Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 18th day of January, 2007, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rules of Appellate Procedure 108, 301 and 903 are amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 108. Date of Entry of Orders.

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(d) Criminal orders.

(1) In determining the date of entry of criminal orders, subdivision (a)(1) shall apply except as provided in subparagraph (d)(2).

(2) In a criminal case in which no post-sentence motion has been filed, the date of imposition of sentence in open court shall be deemed to be the date of entry of the judgment of sentence.

Official Note:

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See Pa.R.A.P. 301(a)(1) and (2), Pa.R.A.P. 903(c)(3), and Pa.R.Crim. P. 462, 720, and 721 governing criminal appeals.

Explanatory Comment—1979

Where a determination is implied by the passage of time without action by a government unit, an aggrieved party is given the option either to appeal at once at the expiration of the period or to rely on the government unit or other affected person to give notice that an implied determination has been made.

Explanatory Comment—2007

New subdivision (d) governs criminal appeals. Under new subdivision (d), when no post-sentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. See Pa.R.Crim.P. 462(G)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), and the conforming amendments to Pa.R.A.P. 301(a)(2) and 903(c)(3), and 2006 Explanatory Comment thereto. See also *Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (en banc), allocatur denied, 584 Pa. 692, 882 A.2d 477 (2005). When post-sentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. See Pa.R.Crim.P. 720(B)(3)(c).

CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN IN GENERAL

Rule 301. Requisites for an Appealable Order.

(a) *Entry upon docket below.*—[No]

(1) Except as provided in paragraph (2) of this subdivision, no order of a court shall be appealable until it has been entered upon the appropriate docket in the lower court. Where under the applicable practice below an order is entered in two or more dockets, the order has been entered for the purposes of appeal when it has been entered in the first appropriate docket.

(2) In a criminal case in which no post-sentence motion has been filed, a judgment of sentence is appealable upon the imposition of sentence in open court.

(b) *Separate document required.*—Every order shall be set forth on a separate document.

(c) *Nonappealable orders.*—[A] Except as provided in subdivision (a)(2), a direction by the lower court that a specified judgment, sentence or other order shall be entered, unaccompanied by actual entry of the specified order in the docket, does not constitute an appealable order. Any such order shall be docketed before an appeal is taken.

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Official Note:

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See Pa.R.A.P. 108 and Explanatory Comment—2007 thereto, Pa.R.A.P. 903(c)(3), and Pa.R.Crim. P. 462, 720, and 721 governing criminal appeals.

Explanatory Comment—1976

Language clarified to conform to *Stotsenburg v. Frost*, 465 Pa. 187, 348 A.2d 418 (1975).

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 903. Time for Appeal.

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(c) *Special provisions.* Notwithstanding any other provision of this rule:

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(3) In a criminal case in which no post-sentence motion has been filed, the notice of appeal shall be filed within 30 days of the imposition of the judgment of sentence in open court.

Official Note:

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See Pa.R.A.P. 108 and Explanatory Comment—2007 thereto, Pa.R.A.P. 301(a)(1) and (2), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals.

Explanatory Comment—2001

The 2001 amendment to Subdivision (c) clarifies that the appeal period for appealing from orders in civil cases sustaining venue or personal or in rem jurisdiction runs from the date of the election under Pa.R.A.P. 311(b)(1), not the date of the original order. The 2000 amendment extends the appeal period following such an election from ten days to thirty days to conform the appeal period for civil orders changing venue pursuant to Pa.R.A.P. 311(c).

The portion of the Note suggesting the necessity of taking an appeal within the 20 day pleading period is misleading and is deleted. For this reason, the bracketed material of the Note is deleted.

Explanatory Comment—2002

See Comment following Pa.R.A.P., Rule 511.

[Pa.B. Doc. No. 07-154. Filed for public inspection February 2, 2007, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL**[231 PA. CODE CH. 1910]****Order Amending Rule 1910.1; No. 469 Civil Procedural Rules; Doc. No. 5****Order**

Per Curiam:

And Now, this 22nd day of January, 2007, Rule 1910.1 of the Pennsylvania Rules of Civil Procedure is amended as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A**TITLE 231. RULES OF CIVIL PROCEDURE****PART I. GENERAL****CHAPTER 1910. ACTIONS FOR SUPPORT****Rule 1910.1. Scope. Definitions.**

(a) Except as provided by subdivision (b), the rules of this chapter govern all civil actions or proceedings brought in the court of common pleas to enforce a duty of support, or an obligation to pay alimony pendente lite.

Official Note: A duty of support is imposed by the following statutes: 23 Pa.C.S.A. § 4321 and Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973 (repealed) now Act 43-2005, July 7, 2005, P. L. 196. The procedure under the rules of this chapter implements Chapter 43[, subchapter C of] of Part V of the Domestic Relations Code, Title 23 of the Consolidated Statutes, 23 Pa.C.S.A. § [4341] 4301 et seq., relating to support proceedings. The procedure un-

der these rules provides an alternative to the [inter-county] intrastate and interstate [procedure under the Revised Uniform Reciprocal Enforcement of Support Act (1968)] procedures under Parts VIII and VIII-A of the Domestic Relations Code, 23 Pa.C.S.A. §§ [4501] 7101 et seq. and 8101 et seq. For alimony and alimony pendente lite, see Sections 3701 and 3702 of the Divorce Code, 23 Pa.C.S.A. §§ 3701, 3702.

Official Note: Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S.A. § 4342(c).

(b) The rules of this chapter shall not govern

(1) an action or proceeding for support based upon a contract or agreement which provides that it may not be enforced by an action in accordance with these rules, [and]

(2) an application for a temporary order of support and other relief pursuant to the Protection from Abuse Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S.A. § 6101 et seq. or

(3) an action for support of an indigent brought pursuant to Chapter 46 of the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq.

Official Note: Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.

(c) As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

“Conference officer,” the person who conducts an office conference pursuant to Rule 1910.11.

“Hearing officer,” the person who conducts a hearing on the record and makes recommendations to the court pursuant to Rule 1910.12.

“Overdue support,” the amount of delinquent support equal to or greater than one month’s support obligation which accrues after entry or modification of a support order as the result of obligor’s nonpayment of that order.

“Past due support,” the amount of support which accrues prior to entry or modification of a support order as the result of retroactivity of that order. When nonpayment of the order causes overdue support to accrue, any and all amounts of past due support owing under the order shall convert immediately to overdue support and remain as such until paid in full.

“Suspend,” eliminate the effect of a support order for a period of time.

“Terminate,” end not only the support order, but the support obligation as well.

“Trier of fact,” the judge, hearing officer, or conference officer who makes factual determinations.

“Vacate,” declare a particular support order null and void, as if it were never entered.

Explanatory Comment—1994

Nothing in this rule should be interpreted to eliminate the distinctions between spousal support and alimony pendente lite which are established by case law.

Alimony pendente lite must be distinguished from permanent alimony for purposes of this rule. The rule applies only to alimony pendente lite. The procedure for obtaining permanent alimony is governed by Section 3702 of the Divorce Code, 23 Pa.C.S.A. § 3702, and Rules of Civil Procedure 1920.1 et seq. Agreements for alimony approved by the court in connection with actions for divorce under Section 3701 of the Divorce Code are deemed to be court orders enforceable under Section 3703 of the Code.

Section 3105(a) of the Divorce Code provides that all agreements relating to matters under the code, whether or not merged or incorporated into the decree, are to be treated as orders for purposes of enforcement unless the agreement provides otherwise. Subdivision (b)(1) is amended to conform to the statute.

There is considerable diversity in the terminology used throughout the rules, and in the various counties, to describe the individuals who conduct conferences and hearings pursuant to the support rules. The addition of subdivision (c) to the rules standardizes terminology and eliminates the confusion which results from individual counties using inconsistent terms to refer to persons performing the same function. All references in the rules to conference or hearing officers have been amended to conform to the terminology set forth in subdivision (c).

In an effort to further standardize the terminology used in support matters, the additional terms are defined.

Explanatory Comment—2000

Act 1998-127 technically amended Act 1997-58 to define and differentiate between past due and overdue support to clarify that only overdue support constitutes a lien by operation of law against the obligor's real or personal property. 23 Pa.C.S.A. § 4302 now defines overdue support as "support which is delinquent under a payment schedule established by the court." Past due support is defined as "support included in an order of support which has not been paid."

The definitions of past due and overdue support in this rule do not substantively change the legislative definitions. They merely elaborate on them in terms which are more familiar and helpful to the bench and bar. Specifically, past due support consists of the purely retroactive arrearages which accumulate between the date of the filing of the complaint or petition for modification and the date of the hearing and entry of the initial or modified support order. Overdue support refers to the delinquent arrearages which accrue after entry of the order due to the obligor's failure to pay support pursuant to the order.

These definitions are important for determining the remedies available for collecting support arrearages. Pursuant to 23 Pa.C.S.A. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against the obligor's property. Conversely, past due support (retroactive arrears) does not operate as a lien against this property as long as the obligor remains current on the support order.

Rule 1910.20 extends this legislative distinction between overdue and past due support to the following remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S.A. § 4303; (2) suspension of licenses under 23 Pa.C.S.A. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S.A. § 4305(b)(10). Accordingly, these remedies are available only to collect overdue support. They are not available to collect past due support as long as the obligor remains current on the order. If, however, the obligor subsequently

defaults on the support order, Rule 1910.20(c) provides that any past due support still owing under the order immediately becomes overdue support subject to the full range of collection remedies. It remains overdue support until collected in full.

Pursuant to Rule 1910.20(c), all overdue support, including past due support which has converted to overdue support, remains subject to Act 58 remedies until paid in full. Any repayment plan subsequently agreed to by the parties, or ordered by the court pursuant to a contempt proceeding (including any arrearage component), does not preclude the use of these remedies for collecting overdue support more quickly, whenever feasible.

In cases involving past due support only, the obligee is not entirely without remedy in the event that additional income or assets of the obligor are discovered after the hearing which would enable collection of past due support more quickly. In these cases, identification of those income sources or assets provides a basis for modification pursuant to Rule 1910.19. Modification includes increasing the rate of repayment on past due support and, if appropriate, ordering that the past due support be paid in full. In these cases, the obligee may also petition the court for special relief pursuant to Rule 1910.26 to have the income or assets frozen and seized pending the petition for modification in order to secure payment of past due support.

Explanatory Comment—2007

Act 43-2005, July 7, 2005, P.L. 196, repealed the Act of June 24, 1937 (P.L. 2045, No. 397), known as The Support Law and added Chapter 46 to the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq. Section 4 of Act 43-2005 states that the addition of Chapter 46 is a continuation of the Act of June 24, 1937 (P.L. 2045, No. 397). Chapter 46 addresses the responsibility of certain family members to maintain indigent relatives, whether or not the indigent person is a public charge. New subdivision (b)(3) clarifies that the support rules and guidelines do not apply to actions brought under Chapter 46 of the Domestic Relations Code.

[Pa.B. Doc. No. 07-155. Filed for public inspection February 2, 2007, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 4 AND 7]

Order Adopting Amendments to Rules 462 and 721, and Approving the Revision of the Comment to Rule 720; No. 353 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 18th day of January, 2007, upon the recommendation of the Criminal Procedural Rules Committee; this proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) Rules of Criminal Procedure 462 and 721 are amended, and

(2) the revision of the Comment to Rule of Criminal Procedure 720 is approved, all 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 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 4. PROCEDURES IN SUMMARY CASES**

**PART F. Procedures in Summary Cases for
Appealing to Court of Common Pleas for Trial De
Novo**

Rule 462. Trial De Novo.

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(G) At the time of sentencing, the trial judge shall:

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(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence will be stayed and the trial judge may set bail;

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Comment

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The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer's unavailability were added in response to *Commonwealth v. Hightower*, 438 Pa. Super. 400, 652 A.2d 873 [Pa. Super.] 1995).

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

Pursuant to paragraph (G), if the defendant is convicted, the trial judge must impose sentence, and advise the defendant of the payment schedule, if any, and the defendant's appeal rights. See Rule 704(A)(3) and Rule 720(D). No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Once sentence is imposed, paragraph (H) makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any costs, and the case may not be returned to the [district justice] magisterial district judge. The execution of sentence includes the collection of any fines and restitution.

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995;

amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007.

Committee Explanatory Reports:

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NEW RULE 462:

Final Report explaining the reorganization and renumbering of the rules and the provisions of Rule 462 published at 30 Pa.B. [1477] 1478 (March 18, 2000).

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Final Report explaining the January 18, 2007 amendment to paragraph (G)(2) published with the Court's Order at 37 Pa.B. 526 (February 3, 2007).

**CHAPTER 7. POST-TRIAL PROCEDURES IN
COURT CASES**

PART B. Post-Sentence Procedures

Rule 720. Post-Sentencing Procedures; Appeal.

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Comment

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TIMING

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When a defendant files a timely post-sentence motion, the 30-day period for the defendant's direct appeal on all matters in that case—including all issues related to any informations and any charges consolidated against the defendant for trial—is triggered by the trial judge's decision on the post-sentence motion, the denial of the motion by operation of law, or the withdrawal of the post-sentence motion. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. [Ct.] 1998), concerning the time for appeal following the withdrawal of a post-sentence motion. No direct appeal may be taken by a defendant while his or her post-sentence motion is pending. See paragraph (A)(2).

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CONTENTS OF ORDER

Paragraph (B)(4) protects the defendant's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a defendant's withdrawal of a post-sentence motion, contain written notice of the defendant's appeal rights. This requirement ensures adequate notice to the defendant, which is important given the potential time lapse between the notice provided at sentencing and the resolution of the post-sentence motion. See Rule 704(C)(3). See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. [Ct.] 1998), concerning the contents of the order memorializing the withdrawal of a post-sentence motion.

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MISCELLANEOUS

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Unlike ineffective counsel claims, which are the subject of *Commonwealth v. Grant*, 572 Pa. 48, 813 A.2d 726 (2002), paragraph (C) requires that any claim of after-discovered evidence must be raised promptly after its discovery. Accordingly, after-discovered evidence discovered during the post-sentence stage must be raised promptly with the trial judge at the post-sentence stage; after-discovered evidence discovered during the direct appeal process must be raised promptly during the direct appeal process, and should include a request for a remand to the trial judge; and after-discovered evidence discovered after completion of the direct appeal process should be raised in the context of the PCRA. See 42 Pa.C.S. § 9545(b)(1)(ii) and (b)(2) (PCRA petition raising after-discovered evidence must be filed within 60 days of date claim could have been presented). *Commonwealth v. Kohan*, 825 A.2d 702 (Pa. Super. [Ct.] 2003), is superseded by the 2005 amendments to paragraphs (A) and (C) of the rule.

Although there are no post-sentence motions in summary appeals following the trial de novo pursuant to paragraph (D), nothing in this rule is intended to preclude the trial judge from acting on a defendant's petition for reconsideration. See the Judicial Code, 42 Pa.C.S. § 5505. See also *Commonwealth v. Dougherty*, 451 Pa. Super. 248, 679 A.2d 779, 784 (1996). **The time for appeal in summary cases following a trial de novo runs from the imposition of sentence.**

Official Note: Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993 and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996. Comment revised September 26, 1996, effective January 1, 1997; amended August 22, 1997, effective January 1, 1998; Comment revised October 15, 1997, effective January 1, 1998; amended July 9, 1999, effective January 1, 2000; renumbered Rule 720 and amended March 1, 2000, effective April 1, 2001; amended August 21, 2003, effective January 1, 2004; amended March 3, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004; amended June 8, 2005, effective August 1, 2005; **Comment revised January 18, 2007, effective August 1, 2007.**

Committee Explanatory Reports:

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Final Report explaining the January 18, 2007 revision of the last paragraph of the Comment clarifying the time for appeal following a trial de novo published with the Court's Order at 37 Pa.B. 526 (February 3, 2007).

Rule 721. Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals.

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(B) Timing

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(2) Appeal of Sentence.

(a) Appeal Directly from Order Imposing Sentence.

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(ii) If the defendant has not filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the [**entry of the order imposing**] **imposition of sentence.**

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Comment

Rule 721 clarifies the procedures for Commonwealth challenges to sentences in light of the post-sentence procedures adopted in 1993. See [**Pa.R.Crim.P.**] **Rule 720.** This rule does not address any other type of Commonwealth challenge or Commonwealth appeals generally.

Historically, the Commonwealth has been required to raise a discretionary sentencing issue at the sentencing hearing or in a post-trial motion to modify sentence in order to preserve the issue for appellate review. See *Commonwealth v. Eyster*, **401 Pa. Super. 477**, 585 A.2d 1027 ([**Pa. Super.**] 1991) (en banc), appeal denied **529 Pa. 646**, 602 A.2d 857 ([**Pa.**] 1992). Challenges to the legality of a sentence, however, are not waived if the Commonwealth fails to timely file a motion for modification. See *Commonwealth v. Smith*, **529 Pa. 380**, 598 A.2d 268 ([**Pa.**] 1991).

Under Rule 721, the Commonwealth's motion for modification of sentence is optional, as long as any discretionary sentencing issue is properly preserved at the time sentence was imposed. Before forgoing trial court review and proceeding with a direct appeal, the attorney for the Commonwealth must therefore be sure that the record created at the sentencing proceeding is adequate for appellate review of the issue, or the issue may be waived. See *Commonwealth v. Jarvis*, **444 Pa. Super. 295**, 663 A.2d 790 ([**Pa. Super.**] 1995), at n. 1.

As a general rule, a motion for modification of sentence gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, **520 Pa. 385**, 554 A.2d 50 ([**Pa.**] 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, **437 Pa. 288**, 263 A.2d 339 ([**Pa.**] 1970) (inherent power of the court to correct obvious and patent mistakes).

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No Commonwealth Motion to Modify Sentence Filed

Paragraph (B)(2)(a) covers the time for filing a notice of appeal when the Commonwealth has elected not to file a motion to modify sentence with the trial judge. The time for filing the Commonwealth's notice of appeal under this paragraph depends on whether the defendant has filed a post-sentence motion. When the defendant files a post-

sentence motion, paragraph (B)(2)(a)(i) provides that the entry of the order disposing of the defendant's post-sentence motion triggers the 30-day period during which the Commonwealth's notice of appeal must be filed. If no post-sentence motion is filed, it is the [entry of the order imposing] imposition of sentence that triggers the Commonwealth's 30-day appeal period. See Rule 721(B)(2)(a)(ii).

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Official Note: Rule 1411 adopted August 22, 1997, effective January 1, 1998; renumbered Rule 721 and amended March 1, 2000, effective April 1, 2001; Comment revised March 3, 2004, effective July 1, 2004; **amended January 18, 2007, effective August 1, 2007.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

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Final Report explaining the January 18, 2007 amendments clarifying the time for appeal in paragraph (B)(2)(a)(ii) published with the Court's Order at 37 Pa.B. 526 (February 3, 2007).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 462 and 721, and revision of the Comment to Pa.R.Crim. P. 720

Time for Appeal When No Post-Sentence Motion Filed

On January 18, 2007, effective August 1, 2007, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules of Criminal Procedure 462 (Trial De Novo) and 721 (Procedures For Commonwealth Challenges To Sentence; Sentencing Appeals), and approved the revision of the Comment to Rule 720 (Post-Sentence Procedures; Appeals). The changes further emphasize and clarify that the time for appeal when no post-sentence motion is filed in a criminal proceeding is within 30 days of the date of the imposition of sentence.

INTRODUCTION

The Committee has continued to monitor Rule 720 (Post-Sentence Procedures; Appeals) since its adoption in 1993. As part of our review, the Committee discussed at some length the Superior Court's decision in *Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (en banc), allocatur denied, 584 Pa. 692, 882 A.2d 477, as well as several post-*Green* communications we received that questioned the imposition of sentence provision in Rule 720(A).

In *Green*, the Superior Court addresses the timeliness of filing post-sentence motions and appeals. The majority upheld, inter alia, the Rule 720(A) requirements that the time for filing post-sentence motions and the time for filing an appeal when no post-sentence motions are filed runs from the imposition of sentence, i.e. the date the sentence is pronounced in open court, not the date the sentence is entered on the docket. Judge Joyce, writing for the majority, points out that this construction of Rule 720(A) has been indirectly acknowledged in prior cases:

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

Although the specific issue of whether the date of imposition of sentence and not the date of docketing of the sentence should be utilized in computing the ten-day period for filing a post-sentence motion has not been addressed by our Courts, in computing this ten-day period, our Courts have often utilized the date of imposition of sentence as the reference point. These instances constitute implicit recognition that the date of imposition of the sentence should be used in the computation.² Id. at 616.

In a concurring and dissenting opinion, Judge Ford Elliott disagrees. She opines the Rule 720(A) provision that imposition of sentence is the trigger date for filing is inconsistent with the provisions of Rule of Appellate Procedure 903(A).³ She also observes that Rule 721(B)(2)(a)(ii) uses the date the sentence is entered on the docket for the trigger thereby providing more time to the Commonwealth for filing an appeal when no post-sentence motion is filed than is afforded a defendant under Rule 720(A)(3), which she finds incongruous "given the parallel provisions of 720 and 721." Id. at 624.

The members discussed *Commonwealth v. Green* in general and Judge Ford Elliott's concurring and dissenting opinion in particular, and reviewed the Committee's Rule 720 history. The members agreed that Criminal Rule 720 and Appellate Rule 903 could be read as being in conflict.⁴ However, they noted the intent of Rule 720 as adopted was that setting the time for appeal to run from the date of the imposition of sentence in the Rule 720 context ensures that the defendant and defendant's attorney, both of whom are present at the time sentence is imposed, receive notice of the time for filing post sentence motions and when that time begins to run. See paragraph (C)(3) of Rule 704 (Procedure at Time of Sentencing). In addition, the members pointed out that when the sentence is imposed, the sentence is recorded by the stenographer and is entered on the transcript of the case maintained in the court room.⁵

Given the salutary benefits of such a procedure in criminal cases, the Committee concluded that no changes to Rule 720 in this regard are necessary. However, in view of other inquiries the Committee received concerning the time for appeal in summary cases, we concluded some additional clarification that the time for appeals in summary cases runs from the imposition of sentence should be added to the Rule 720 Comment and to paragraph (G)(2) and the Comment to Rule 462 (Trial De Novo) would aid the bench and bar.

Finally, the Committee agreed with Judge Ford Elliott that there is no reason for Rule 720(A)(3) and Rule 721(B)(2)(a)(ii) to provide different triggering times for the filing of appeals when no post-sentence motion is filed, and agreed the imposition of sentence trigger should be applicable in both instances.

² Judge Joyce specifically discusses *Commonwealth v. Felmlee*, 828 A.2d 1105, 1106-1107 (Pa. Super. 2003) (en banc), *Commonwealth v. Dreves*, 839 A.2d 1122 (Pa. Super. 2003), and *Commonwealth v. Hockenberry*, 455 Pa. Super. 626, 689 A.2d 283, 288 (1997) to support his point.

³ Joining Judge Ford Elliott are Judges Klien, Bender, and Bowes.

⁴ In view of Judge Ford Elliott's concerns with regard to the possible conflict between Criminal Rule 720 and Appellate Rule 903, and to avoid any pitfalls for unwary defendants or counsel, the Committee asked the Appellate Court Rules Committee to consider an amendment to Appellate Rule 903(a) that would recognize in criminal cases when no post-sentence motion is filed that the 30-day appeal period runs from the imposition of sentence. On January 18, 2007, the Court adopted correlative changes to Rules of Appellate Procedure 108, 301, and 903, effective August 1, 2007.

⁵ In addition, with the completion of the automation of the common pleas courts, it is the Committee's understanding that judicial districts will have the capability at the time the sentence is imposed to enter the sentence on the Common Pleas Case Management System (CPCMS) in the courtroom, and the entry of the sentence on the CPCMS triggers the entry of the sentence on the docket.

II. DISCUSSION

A. Rules 720 and 462.

Pursuant to Rule 720(D) (Summary Case Appeals), there are no post-sentence motions in summary case appeals following a trial de novo in the court of common pleas, and the imposition of sentence immediately following the determination of guilty at the conclusion of the trial de novo constitutes a final order for purposes of appeal. Rule 462 provides the procedures for the trial de novo, and requires the trial judge to announce the verdict and sentence in open court immediately upon the conclusion of the trial, paragraph (F), and at the time of sentence, to advise the defendant of the right to appeal "within 30 days," paragraph (G)(2). So there is no confusion about the triggering event for the time for appeal in summary cases, Rule 462(G)(2) has been amended by the addition of "of the imposition of sentence" after "within 30 days". In addition, a cross-reference to Rule 720 has been added at the end of the first sentence of the sixth paragraph of the Rule 462 Comment. A correlative revision to the last paragraph of the Rule 720 Comment also has been made by adding "the time for appeal in summary cases following a trial de novo runs from the imposition of sentence."⁶

Rule 721

After reviewing the Committee history of Rule 721,⁷ the Committee agreed that the time for appeal when no post-sentence motion is filed should be the same for both the defendant and the Commonwealth. The Committee reaffirmed that the time for appeal for both the defendant and the Commonwealth when no post-sentence motions are filed should run from the date of the imposition of sentence. Accordingly, Rule 721(B)(2)(b)(ii) has been amended by replacing "entry of the order imposing sentence" with "imposition of sentence."

[Pa.B. Doc. No. 07-156. Filed for public inspection February 2, 2007, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 3 AND 5]

Proposed Amendments to Rules 160, 330 and 515

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modifications to Rules 160, 330, and 515 be adopted and prescribed. The proposed modified Rule 160 provides that the court shall create a public document for cases designated eligible for public inspection. The proposed modified Rule 330 sets forth a new aver-

⁶ During the time the Committee was considering the implications of *Green*, we received several inquiries concerning the interplay between the Rule 720 provision that the time for appeal runs from the imposition of sentence and Criminal Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries). Rule 114 requires that all orders and court notices promptly be transmitted to the clerk of courts' office for filing, paragraph (A), and docket entries promptly be made, paragraph (C). Some individuals incorrectly have interpreted the Rule 114 requirements as modifying the Rule 720 time for appeal provisions so that the time for appeal will start to run from the date the sentencing order is entered in the docket. Because the Committee believes the purpose of Rule 114, which is to ensure the timely filing and making of docket entries of all court orders and notices, is clear, no changes in this regard were made. See Committee explanatory Final Report, at 34 Pa.B. 1561.

⁷ See Committee explanatory Final Report at 27 Pa.B. 4553. In the summary of changes, the Committee explains "Rule 1411 (now Rule 721) makes it clear that, as to sentencing challenges, the Commonwealth has the same options that the defendant does under present Rule 1410 (now Rule 720), see *Commonwealth v. Jarvis*, 444 Pa. Super. 295, 663 A.2d 790 (1995), and sets forth the Commonwealth's time for appeal relative to whether the defendant files a post-sentence motion."

ment in the petition if the case is eligible for public inspection. The proposed modified Rule 515 provides a designation in the court order if a case is eligible for public inspection. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Friday, March 30, 2007.

By the Juvenile Court
Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of Juvenile File/Records.

A. General Rule. All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are open to inspection only 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 in 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 and its probation officers and other officials or 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) officials of the Department of Corrections or 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 commit-

ted, 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 in the discretion of the court; [and]

8) 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 in the discretion of the court;

9) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;

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, the court shall order the creation of a public document for each case designated eligible for public inspection pursuant to Rule 330 or 515. The public document shall contain only the following information:

- 1) the juvenile's name;
- 2) the juvenile's age;
- 3) the juvenile's address;
- 4) the offenses alleged in the juvenile petition;
- 5) the adjudication on each allegation;
- 6) 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.

This rule is meant to include the contents of the juvenile court file as described in Rule 166 and the contents of the juvenile probation records or reports. Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.

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 juvenile court file 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.

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

Rule 330. Petition: Filing, Contents, Function.

A. *Certification.* The District Attorney of any county may require that an attorney for the Commonwealth shall file all petitions. If the District Attorney elects to require an attorney for the Commonwealth to file the petition, the District Attorney shall file a certification with the court of common pleas. The certification shall:

- 1) state that an attorney for the Commonwealth shall file petitions; and
- 2) specify any limitations on the filing or classes of petitions.

B. *Filings.* In every delinquency proceeding, the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts if it has been determined that informal adjustment or another diversionary program is inappropriate.

C. *Petition contents.* Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
 - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;
- 5) the place where the offense is alleged to have been committed;
- 6) a) i) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and
 - ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; or
- b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense.
- 7) the name and age of any conspirators, if known;
- 8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;
- 9) a notation if criminal laboratory services are requested in the case;
- 10) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner'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;

11) the signature of the petitioner and the date of the execution of the petition;

12) the whereabouts of the juvenile and if taken into custody, the date and time thereof; **[and]**

13) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; **and**

14) an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information.

Comment

Under paragraph (A), the District Attorney may file a certification with the court of common pleas stating that only an attorney for the Commonwealth may file a petition. If a certification has not been filed, then an attorney for the Commonwealth or a juvenile probation officer may file a petition.

A private citizen has the right to file a written allegation, not a petition. The written allegation commences the proceedings in the juvenile system. See Rule 200. The case should progress in the same manner as any other case in the juvenile system. If the written allegation is disapproved, the private citizen may file a motion challenging the disapproval with the court of common pleas. See Comment to Rule 233.

Informal adjustment or other diversionary programs should be considered before a petition is filed. Once a petition is filed, informal adjustment is not permitted. See *Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000).

Petitions should be filed without unreasonable delay. See *Commonwealth v. Dallenbach*, 729 A.2d 1218 (Pa. Super. Ct. 1999).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(12) and (13).

Pursuant to paragraph (14), the petitioner is to designate whether the allegations in the juvenile petition make the case eligible for limited public information. See 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

- 1) the terms and conditions of the disposition;
- 2) the name of any agency or institution that is to provide care, treatment, supervision, or rehabilitation of the juvenile;

3) **a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1)(i) for limited public information;**

4) the date of the order; and

[4] 5) the signature and printed name of the judge entering the order.

B. *Restitution.* If restitution is ordered in a case, the dispositional order shall include:

1) a specific amount of restitution to be paid by the juvenile;

2) to whom the restitution is to be paid; and

3) a payment schedule, if so determined by the court.

C. *Guardian participation.* The court shall include any obligation in its dispositional order imposed upon the guardian.

Comment

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307(b)(1)(i). See 42 Pa.C.S. § 6307 (b)(2). When the case is designated, the clerk of courts is to clearly mark the file. For information that is available to the public in those eligible cases, see Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. § 6310.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

Explanatory Report

Rule 160—Inspection of Juvenile File/Records

The Committee is proposing that paragraph (b) be added to this rule. Act 81 of 2006 amended 42 Pa.C.S. § 6307, allowing limited public access to specific information for specified juvenile cases. See the Act of July 7, 2006 (P. L. 378, No. 81, § 3). This amended rule sets forth the procedure on how the court is to create a public document with the specific information if a case is deemed eligible pursuant to Rules 330 and 515. See 42 Pa.C.S. § 6307(b)(2).

Because the juvenile's file contains sensitive and confidential information, the committee believes it is easier to create a new document with limited information rather than redacting the juvenile file. The public document is to contain only the following information: 1) the juvenile's name; 2) the juvenile's age; 3) the juvenile's address; 4) the offenses alleged in the juvenile's petition; 5) the adjudication on each allegation; and the disposition of the case.

Rule 330—Petition

To help the court determine if a case is eligible for public inspection pursuant to Rule 160, the contents of the petition is to include an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1)(ii) for limited public information. See 42 Pa.C.S. 6307(b)(1)(ii) for the enumerated offenses that are eligible.

Rule 515—Dispositional Order

To implement the new proposed procedures of Rule 160, the dispositional order is to include a designation as to whether the case is eligible for limited public information pursuant to 42 Pa.C.S. § 6307(b)(1)(i). See 42 Pa.C.S. 6307(b)(1)(i) for the enumerated offenses that are eligible.

[Pa.B. Doc. No. 07-157. Filed for public inspection February 2, 2007, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CRAWFORD COUNTY

Amendment of Civil Rules of Court, Prothonotary, Miscellaneous; No. A.D. 1992-5

Order

And Now, this 15th day of January, 2007 it is ordered as follows:

1. Existing local Civil Rule 1915.4-1(12) providing for the withdrawal of a request for a de novo custody hearing is deleted.

2. The following rule is hereby adopted as Crawford County Local Civil Rule 1915.4-1(12):

When a party files a timely demand for a de novo hearing and later on desires to withdraw that request

said party must obtain a court order to that effect by filing a motion and proceeding in accordance with the motions procedure set forth in Cra.R.C.P. 208.3(a).

3. The following rule is hereby adopted as Crawford County Local Civil Rule 1910.13-1:

A bench warrant hearing may be held in Common Pleas court by the judge who issued the bench warrant or any other Common Pleas judge.

4. The Court Administrator of Crawford County shall:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. File two (2) certified copies of this order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hardcopy version.

c. File one (1) certified copy of this order with the Pennsylvania Civil Procedural Rules Committee.

d. Keep continuously available for public inspection copies of this order.

5. This order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

GORDON R. MILLER,
President Judge

[Pa.B. Doc. No. 07-158. Filed for public inspection February 2, 2007, 9:00 a.m.]