

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11, 13 AND 18]

Proposed Modifications of Rules 1120, 1123, 1124, 1364 and 1800 and Addition of Rule 1140

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modifications of Rules 1120, 1123, 1124, 1364, and 1800 and the new rule 1140 be adopted and prescribed. The proposed modified Rule 1120 provides for the definition of a child, minor, and an adult. The proposed modified Rule 1123 provides that a copy of a subpoena is to be served upon the guardian of a minor witness and that a judge may issue a bench warrant pursuant to new Rule 1140. The proposed modified Rule 1124 provides that a judge is to issue a bench warrant pursuant to the new Rule 1140. Rule 1140 sets forth the procedures of a bench warrant when a person fails to appear before the court. The proposed modified Rule 1364 sets forth the procedures that a judge may issue a bench warrant pursuant to new Rule 1140. Rule 1800 adds Rule 1140 to paragraph one, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is inconsistent with the Rules. 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 Monday, March 17, 2008.

By the Juvenile Court
Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

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

* * * * *

CHILD is a person who is under the age of eighteen who is the subject of the dependency petition, or

who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall remain in a course of instruction or treatment past the age of twenty-one years.

* * * * *

MINOR is any person under the age of eighteen.

* * * * *

Rule 1123. Subpoenas

* * * * *

D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

E. Parental notification.

1) **Generally.** If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.

2) **Exception.** Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained ex parte.

Comment

* * * * *

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. See Rule 1140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa. Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carros*, 240 Pa. Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa. Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Rule 1124. Summons

* * * * *

D) *Bench Warrant.* If any summoned person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

Comment

In paragraph (D), this rule provides that a summoned person is to fail to appear and the court is to find that sufficient notice was given before a bench warrant may be issued. The Juvenile Act, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended to the extent that it conflicts with this rule. See Rule 1800 for suspensions.

See Rules 1360(A), 1500(A), and 1600(A) for service of the parties for a proceeding.

See Rule 1140 for procedures on bench warrants.

* * * * *

Rule 1140. Bench Warrants For Failure to Appear.

A. Issuance of warrant.

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

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

B. Party.

1) Where to take the party.

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

b) If the party is not brought before a judge, the party shall be released unless the warrant specifically orders detention of the party.

c) If the warrant specifically orders detention of a party, the party shall be detained pending a hearing.

1) Minor. If the party is a minor, the party shall be detained in a shelter-care facility or other appropriate care.

2) Adult. If the party is an adult, the witness shall be detained at the county jail.

2) Prompt hearing.

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

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

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

4) Out-of-county custody.

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

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

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

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

5) Time requirements. The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

C. Witnesses.

1) Where to take the witness.

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

b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

1) Minor. If a detained witness is a minor, the witness shall be detained in a shelter-care or detention facility.

2) Adult. If a detained witness is an adult, the witness shall be detained at the county jail.

2) Prompt hearing.

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

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

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

4) Out-of-county custody.

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

b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.

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

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) Minor. If the witness is a minor, the witness may be detained in an out-of-county shelter-care or detention facility.

ii) Adult. If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

D. Return & execution of the warrant for parties and witnesses.

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

Comment

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

Under Rule 1800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a child is detained. See Chapter Two, Part D.

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

Under paragraphs (B)(2) and (B)(4), a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. See Rule 1240 (C).

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

Pursuant to paragraph (B)(5), the time requirements of all other rules are to apply to children who are detained. See, e.g., Rules 1242, 1404, 1510, and 1607.

Pursuant to paragraph (C)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (C)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (C)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (C)(2) is to be held by the next business day or the witness is to be released. See paragraph (C)(2)(b).

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

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

Pursuant to paragraph (D)(4), the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. "Vacated" is to mean that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

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

Throughout these rules, the "child" is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a "minor." When "minor" is used, it may include a child. This distinction is made to differentiate between children who are alleged dependants and other minors who are witnesses. See also Rule 1120 for the definitions of "child" and "minor."

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 1364. Failure to Appear on the Summons.

If any summoned person fails to appear for the adjudicatory hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

Comment

See Rule 1140 for issuance of a bench warrant.

CHAPTER 18. SUSPENSIONS

Rule 1800. Suspensions of Acts of Assembly.

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

1) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with [**Rule**] **Rules 1124 and 1140**, which requires a summoned person to fail to appear and the court to find that sufficient notice was given.

* * * * *

EXPLANATORY REPORT

Rule 1120. Definitions

The Committee is proposing two new definitions and the modification of one definition. The Committee is modifying the definition of a child by adding that the child is the subject of the dependency proceeding. Currently, a child is a person under the age of eighteen or was adjudicated dependent before reaching the age of eighteen years and who, while engaged in the course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event is to remain in the course of instruction or treatment past the age of twenty-one.

The Committee is adding the definition of an "adult." The proposed definition of "adult" includes anyone eighteen years or older, except a child who is engaged in a course of instruction or treatment and requested the court to retain jurisdiction of them as a dependent child after turning eighteen years old.

The Committee is adding the term "minor." A "minor" is a person under the age of eighteen. This definition includes a dependent child, a minor witness, or other minor party. Therefore, a "child" can be a "minor" but a "minor" is not a "child" because a "child" must also be the subject of the dependency proceeding.

Rule 1123. Subpoena

The Committee is proposing that paragraph (D) be modified because a master can not issue a bench warrant.

The Committee is proposing that paragraph (E) be added to Rule 1123. The Committee feels that it is important that the guardian of a minor witness be given a copy of the subpoena to impress upon their child the importance of a subpoena. It also allows the guardian to ensure his or her child is present for a hearing.

Rule 1124. Summons

The Committee is proposing that paragraph (D) be modified because a master can not issue a bench warrant.

The additions in the Comment reference the rules for service of parties for a proceeding and the new Bench Warrant Rule.

Rule 1140. Bench Warrants

This new proposed rule provides for procedures when a bench warrant is issued for failing to appear for a hearing. There are separate procedures when the warrant is issued for a party to the proceedings and a witness to the proceeding.

Pursuant to paragraph (B)(1), if a party is arrested for a bench warrant, the party is to be brought to the judge who issued the warrant unless the judge specifically authorized detention in the warrant. Pursuant to paragraph (B)(2), if detention was authorized in the warrant, the party must have a hearing before the judge by the next business day or the party is to be released.

Pursuant to paragraph (B)(3), if a party is a minor and is arrested for a bench warrant, the guardian of the minor is to be notified immediately of the minor's whereabouts and the reason for the issuance of the bench warrant. This provision ensures that the guardian knows of the detention and the reasons for the detention.

Under paragraph (B)(4), if a party is arrested in another county, the party is to be transported immediately back to the county of issuance. If transportation cannot be arranged immediately, the party is to be taken to a judge of the county where the party is found. The judge is to decide: 1) if the person is the subject of the warrant; 2) if detention of the party is warranted; and 3) what arrangements for transporting the party back to the county of issuance are necessary.

If a witness is arrested for a bench warrant pursuant to paragraph (C)(1), the witness is to be brought to the judge immediately. If the witness is not brought before a judge, the witness is to be released unless a motion to detain the witness has been filed. Pursuant to paragraph (C)(2), if a motion has been filed, the witness is to see a judge no later than the next business day or is to be released.

A motion to detain a witness can be filed by any party. The motion should aver the necessity of the witness's detention. This averment should be supported by facts leading to this necessity.

When the witness is brought before the judge, the judge is to address the motion and the reasons for the necessity of the witness's detention. For example, the witness may be harmed if the witness is not taken into protective custody or the witness may flee the jurisdiction because of threats of bodily injury or fear of implication in a crime or delinquent act.

Pursuant to paragraph (C)(3), if a witness is a minor, the witness's guardian is to be notified immediately of the witness's whereabouts and the reasons for the issuance of the bench warrant. This provision ensures that the guardian is told about the bench warrant and the place of detention.

Pursuant to paragraph (C)(4), if a bench warrant is executed in another county, the county of issuance is to be notified immediately and the witness is to be transported to the county of issuance. If transportation cannot be arranged immediately, the witness is to be released unless a motion to detain the witness has been filed.

If a motion to detain the witness has been filed, the witness is to appear before a judge within twenty-four hours or the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. The out-of-county judge is to determine: 1) if the witness is the subject of the warrant; 2) if detention is warranted; and 3) what arrangements for transporting the witness back to the county of issuance are necessary. In no circumstances is the witness to remain in another county for more than seventy-two hours of the execution of the warrant.

Pursuant to paragraph (D), in all cases, the bench warrant is to be executed without unnecessary delay. When the bench warrant is executed, the bench warrant is to be returned to the issuing judge. Upon the return of the warrant, the judge is to vacate the bench warrant. The bench warrant is to be marked as executed in the system to ensure the subject of the warrant is not arrested again on the same warrant.

Rule 1364. Failure to Appear on The Summons

A reference to the new bench warrant rule has been added.

Rule 1800. Suspensions of Acts of Assembly

The new bench warrant rule has been added to paragraph one, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is inconsistent with the Rules. The Rules require that a summoned person is to fail to appear for the hearing and the court is to find that sufficient notice was given to the summoned person.

[Pa.B. Doc. No. 08-127. Filed for public inspection January 25, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Rules of Court—2002; CP-03-AD-000001-2008; No. 2002-0189-Misc.

Order

And Now, this 7th day of January, 2008, it is hereby Ordered as follows:

1) A new Local Rule of Criminal Procedure numbered 106 is hereby promulgated to read as follows.

Rule 106. Continuances in Court Cases.

(a) A motion seeking the continuance of any proceeding shall be substantially in the form prescribed by Appendix Y of these Rules.

(b) When appropriate, a motion seeking a continuance shall have attached thereto a waiver of Pa.R.CrimP. 600 signed by the defendant.

(c) A proposed order substantially in the form prescribed by Appendix Z of these Rules shall be attached to the motion seeking the continuance.

2) A new Local Rule of Criminal Procedure numbered 114 is hereby promulgated to read as follows:

Rule 114. Orders and Court Notices. Service.

(a) Except as stated in subsection (b), below, the Clerk of Courts shall serve copies of all orders and court notices.

(b) The Court Administrator shall serve copies of all notices for criminal case status conferences, omnibus pretrial motion hearings, ARD court, plea court, trials and sentencings.

3) A new Local Rule of Criminal Procedure numbered 310 is hereby promulgated to read as follows:

Rule 310. Placing Case on ARD Court List.

Upon written request delivered directly to the Court Administrator and signed by the District Attorney, the Court Administrator shall place a case on the ARD Court List.

4) Local Rule of Criminal Procedure 313 is hereby repealed.

5) A new Local Rule of Criminal Procedure numbered 578 is hereby promulgated to read as follows:

Rule 578. Omnibus Pretrial Motions for Relief. Cover Sheet.

Every omnibus pretrial motion for relief requiring an evidentiary hearing or argument shall have attached thereto a cover sheet as a front page. The cover sheet shall be substantially in the following form:

[CAPTION]

COVER SHEET FOR OMNIBUS PRETRIAL MOTION REQUIRING EVIDENTIARY HEARING

-1-

Has any judge heard this matter previously?

Yes No

-2-

If yes, which judge has heard it? _____

-3-

How many witnesses do you believe will testify (combined total)? _____

-4-

How much time will be reasonably necessary to conduct the hearing?

minutes hours days

I hereby certify all of the above statements are true and correct to the best of my knowledge.

Attorney for

6) A new Local Rule of Criminal Procedure numbered 590 is hereby promulgated to read as follows:

Rule 590. Pleas and Plea Agreements.

(a) Upon written request delivered directly to the Court Administrator and signed by both the District Attorney and defense counsel (or by a defendant if there is no defense counsel), the Court Administrator shall place a case on the Plea Court List.

(b) No written request directing that a case be placed on a Plea Court List shall be signed by the District Attorney or defense counsel (or by a defendant, if there is no defense counsel) unless the applicable plea agreement, if any, has first been signed by the District Attorney, the defendant, and defense counsel, if any.

By the Court,

KENNETH G. VALASEK, President Judge

APPENDIX Y

[CAPTION]

MOTION FOR CONTINUANCE

NOW COMES _____, by and through (his) (Name of Movant) (her) (its) attorney, _____, who applies for a (Name of Attorney) continuance based on the following:

1. The above-captioned matter is scheduled for

(Name of proceeding, i.e., argument, hearing, trial, etc.) on _____, the _____ day of _____, 2_____, at _____ .M., before _____ (Name of Judge)

2. The other party is represented by _____.

3. The proceeding was scheduled by _____
(Order or Notice)

dated _____ .
(Date)

4. The proceeding (has) (has not) been previously continued (____ time(s)). (The party filing this application has obtained a continuance ____ time(s)).

5. A continuance is requested because

(State *specific* reason for request. If continuance is requested because of a conflicting court matter, state (1) name of the case; (2) the court; (3) the nature of the scheduled proceeding; (4) the date, time and expected duration of the conflicting proceeding; and (5) the date of the order or notice scheduling the conflicting proceeding. Attach a copy of the order or notice.)

6. Check all that apply:
 (a) The (Commonwealth) (Defendant) has been notified of the presentation of this motion, as follows: _____

(b) The (Commonwealth) (Defendant) has not been notified of the presentation of this Motion. The reasons therefor are the following:

(c) The (Commonwealth) (Defendant) has informed me that (he)(she)(it) has no objection to a continuance.

7. The proceeding, when heard, will not exceed _____ .
No. of hours/days

8. I specifically request a continuance to the next available date.

Respectfully submitted,

APPENDIX Z

[CAPTION]

ORDER

AND NOW, this ____ day of _____, 2 ____ , upon consideration of the foregoing Motion for Continuance:

____ the Motion is denied.

____ the Motion is granted and the matter is scheduled for _____, 2 ____ at ____ .m. before _____
(Date) (Time)

_____ is hereby continued until _____ ,
(Name of Judge)

2 ____ at ____ .M. before _____ ,
(Name of Judge)

2 ____ at ____ .M.

The applicant shall promptly notify all interested parties of this Order.

Thereafter, the Clerk of Courts shall serve notice of the entry of this Order upon all parties.

BY THE COURT,

_____ J.

[Pa.B. Doc. No. 08-128. Filed for public inspection January 25, 2008, 9:00 a.m.]

NORTHAMPTON COUNTY

Administrative Order 2008-1; Private Counsel Notice of Appearance

Administrative Order

And Now, this 9th day of January, 2008, the court adopts the following Rule N120, Private Counsel Notice of Appearance.

By the Court

ROBERT A. FREEDBERG,
President Judge

Rule N120.

In cases in which the public defender has entered an appearance and defendant then retains private counsel for representation at the preliminary hearing, if defendant is bound over, within ten (10) days private counsel shall either enter an appearance with a copy to the public defender or notify the public defender that he or she has not entered an appearance.

[Pa.B. Doc. No. 08-129. Filed for public inspection January 25, 2008, 9:00 a.m.]

PIKE COUNTY

Local Rule 117; No. 42-2008-Civil

Order

And Now, this 31st day of December, 2007, the Court Orders the following:

1. Local Rule of Criminal Procedure 117 is hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Court Administrator of the 60th Judicial District is hereby *Ordered* to do the following:

a. File seven (7) certified copies of this *Order* and the pertinent Rules with the Administrative Office of Pennsylvania Courts;

b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one (1) certified copy of this *Order* and the pertinent Rule with the Civil Procedural Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

By the Court

JOSEPH F. KAMEEN,
President Judge

Local Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments; and Setting and Accepting Bail.

(A) Each Magisterial District Court shall be open for regular business Monday through Friday, excluding holidays, during such hours as established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court.

(B) Magisterial District Judges shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for issuance of warrants, setting and acceptance of bail and the issuance of emergency orders under the Protection from Abuse Act.

This rule shall be satisfied by the Magisterial District Justice remaining on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator.

(C) Each Magisterial District Court during regular business hours, an on-call Magisterial District Justice while on-call, and the Clerk of Courts during business hours, are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

(D) A Magisterial District Justice assigned to on-call duty shall be available for preliminary arraignments in accordance with the following schedule:

(1) For arrests occurring after the close of regular business hours but before 8:00 p.m., and for arrests occurring on weekends or holidays between 8:00 a.m. and 8:00 p.m. the Magisterial District Judge shall respond to the call and conduct a preliminary arraignment prior to detention at the Pike County Correctional Facility.

(2) Arrests occurring after 8:00 p.m. but before 8:00 a.m. shall be subject to the following rules:

a. For all cases requiring District Attorney approval for filing of the Complaint as provided for in Local Criminal Rule 507, the Magisterial District Justice shall respond to the call by conducting a preliminary arraignment prior to detention at the Pike County Correctional Facility;

b. For arrests requiring preliminary arraignment but not set forth in paragraph D(2)(a), the arresting agency, including the state police, municipal police, sheriff or constable is authorized to detain the prisoner at the Pike County Correctional Facility until 8:00 a.m. the following morning. For Defendants so detained, the on duty Magisterial District Justice shall appear in person or by video conferencing at the Pike County Correctional Facility at 8:00 a.m. to preside at the Preliminary Arraignment;

c. Prior to detaining a prisoner at the Pike County Correctional Facility under this Rule, the arresting agency shall contact the facility to ascertain that adequate detention facilities are available for temporary detention in accordance with this Rule. If no detention facilities are available at the facility, then the arresting agency shall notify the Magisterial District Judge of that fact and a preliminary arraignment shall be required prior to detention or commitment to the facility.

d. The arresting agency detaining the Defendant shall provide to the Magisterial District Justice the original and copies of the Criminal Complaint with Probable Cause Affidavit attached, a copy of the Defendant's criminal record, and any recommendation regarding bail for the Defendant, by depositing the same at the Pike County Correctional Facility and faxing copies to the Magisterial District Court Office.

e. The arresting officer or officers need not appear at the Preliminary Arraignment provided the documents identified in paragraph 4(d) are provided. In the alternative, the arresting officer may appear at the Preliminary Arraignment in lieu of prior submission of the criminal record or bail recommendation forms. However, no person shall be detained under this rule without the completion and submission of a completed criminal Complaint and Affidavit of Probable Cause which shall be delivered to the Pike County Correctional Facility for use by the Magisterial District Justice.

f. The provisions of this Rule allowing for temporary detention of prisoners shall not apply to the performance of any other duties on the on-duty Magisterial District Justice during the hours of 8:00 p.m. to 8:00 a.m.

(3) The Pike County Correctional Facility is directed to identify a detention area for prisoners so detained in accordance with the Standard Operating Procedures of the Pike County Correctional Facility for temporary detention of individuals at the Facility.

(4) The Pike County Correctional Facility is directed to make available to the on-duty Magisterial District Justice appropriate space or video conferencing availability between the hours of 8:00 a.m. and 9:00 a.m. to perform the Preliminary Arraignment at the Facility.

(5) Upon completion of the Preliminary Arraignment, the detention authorized by this Rule shall terminate and the person detained shall be processed in accordance with the Orders of the Magisterial District Justice at the Preliminary Arraignment.

(6) If the Preliminary Arraignment is done by video conferencing, upon completion of the Preliminary Arraignment, copies of all commitment orders, bail orders, etc. shall be faxed from the Magisterial District Justice to the Facility, and the originals mailed to the facility on the next regular business day. If the Preliminary Arraignment is done at the Correctional Facility, original documents shall be provided to the Facility at the time of the Preliminary Arraignment.

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