

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL [231 PA. CODE CH. 1915]

Order Amending Rules 1915.1 and 1915.2, the Notes to 1915.3, 1915.5, 1915.6 and 1915.12 and the Explanatory Comment to 1915.15; Civil Procedural Rules; No. 503; Doc. No. 5

Order

Per Curiam:

And Now, this 19th day of November, 2008, Rules 1915.1 and 1915.2, the Notes to Rules 1915.3, 1915.5, 1915.6 and 1915.12 and the Explanatory Comment to Rule 1915.15 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.1 Scope. Definitions.

(a)(1) These rules govern the practice and procedure in all actions for custody, partial custody and visitation of minor children, including habeas corpus proceedings [**therefor**] and claims for custody, partial custody or visitation asserted in an action of divorce or support.

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(b) As used in this chapter, unless the context of a rule indicates otherwise,

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Official Note: The definitions of the terms legal custody, physical custody and shared custody are taken from 23 Pa.C.S.A. § 5302.

For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5343] 5402.

Explanatory Comment—1994

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Explanatory Comment—2008

The Uniform Child Custody Jurisdiction Act, formerly at subchapter B of Chapter 53 of the Domestic Relations Code, was repealed by Act 2004-39 and replaced by the Uniform Child Custody Jurisdiction and Enforcement Act at Chapter 54 of the Domestic Relations Code. Amendments throughout the rules governing procedures in child custody matters were necessary to make the rules consis-

tent with the Uniform Child Custody Jurisdiction and Enforcement Act and to update the citations to the statutory provisions.

Rule 1915.2. Venue.

(a) An action may be brought in any county

(1) (i) which is the home county of the child at the time of commencement of the proceeding, or

(ii) which had been the child's home county within six months before commencement of the proceeding and the child is absent from the county [**because of the child's removal or retention by a person claiming the child's custody or for other reasons and**] but a parent or person acting as parent continues to live in the county; or

(2) [**in which it is in the best interest of the child that the court decide the matter because**] when the court of another county does not have venue under subdivision (1), and the child and the child's parents, or the child and at least one [**party**] parent or a person acting as a parent, have a significant connection with the county **other than mere physical presence** and there is available within the county substantial evidence concerning the child's [**present or future care**], protection, training and personal relationships; or

(3) [**in which the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse and is otherwise neglected or dependent**] when all counties in which venue is proper pursuant to subdivisions (1) and (2) have found that the court before which the action is pending is the more appropriate forum to determine the custody of the child; or

(4) [**in which**] when it appears that venue would not be proper in any other county under prerequisites substantially in accordance with paragraph (1), (2) or (3) [**, or another court has declined to decide the matter on the ground that the court before which the action is pending is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that the court decide the matter.**]; or

(5) when the child is present in the county and has been abandoned or it is necessary in an emergency to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

[(b) Except under paragraphs (3) and (4) of subdivision (a), physical presence of the child within a county, or of the child and one of the parties, is not alone sufficient to establish venue.]

[(c)](b) Physical presence of the child or a party, while desirable, is not [**a prerequisite to venue**] necessary or sufficient to make a child custody determination except as provided in subdivision (a)(5) above.

[(d)](c) [**For the convenience of parties and witnesses,**] [**the**] The court [**upon petition of any**

party] at any time may transfer an action to the appropriate court of any other county where the action could originally have been brought or could be brought [at the time of filing the petition to transfer] if it determines that it is an inconvenient forum under the circumstances and the court of another county is the more appropriate forum. It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred certified copies of the docket entries, process, pleadings and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

Official Note: Under the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5341] 5401 et seq., the court may decline to exercise its jurisdiction in a particular action despite the action having been brought in a county of proper venue. Section [5347] 5426 of the [Domestic Relations Code] act, relating to simultaneous proceedings in other courts, provides for the mandatory refusal by the court to exercise its jurisdiction in an action. Section [5348] 5427 of the [Code] act, relating to inconvenient forum, and [Sections 5349] § 5428 [and 5364(f)] of the [Code] act, relating to jurisdiction declined by reason of conduct, provide for the discretionary refusal by the court to exercise its jurisdiction. [See 23 Pa.C.S. §§ 5347, 5348, 5349 and 5364(f).]

Explanatory Comment—[1994] 2008

Subdivision (a) of Rule 1915.2 incorporates the [four] categories of jurisdiction for initial custody determinations and temporary emergency proceedings in the Uniform Child Custody Jurisdiction and Enforcement Act [of] at 23 Pa.C.S.A. §§ [5344(a)(1) to (4)] 5421 and 5424 as the venue provisions for these rules, restating them in rule form without change in substance. Subdivision (a) follows the policy of [Section 5364(a)] § 5471 of the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, which provides that[, except as otherwise provided by that section,] the provisions of the [UCCJA] act “allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among courts of common pleas of this Commonwealth.”

[Subdivisions] Subdivision (b) [and (c)], relating to the effect of the physical presence of the child or a party within a county, [follow Section 5344(b) and (c) of the Domestic Relations Code] § 5421(c) without substantial change.

Subdivision (c) follows the inconvenient forum provisions or 23 Pa.C.S.A. § 5427.

[Subdivision (d) incorporates the forum non conveniens provision of Assumpsit Rule 1006(d), with one change. Under Rule 1006(d), an action may be transferred only to a county where the action could originally have been brought at the time of filing the petition to transfer. This permits the court to evaluate the situation of the parties at the time they are before the court on the petition to transfer.]

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by Rule 1915.15(a).

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by rule 1915.15(b).

Official Note: See [Section 5352(c)] § 5430(d) of the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5352(c)] 5430(d), relating to costs and expenses for appearance of parties and child, and [Section 5364(a),] 23 Pa.C.S.A. § [5364(a)] 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

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Rule 1915.5. Question of Jurisdiction or Venue. No Responsive Pleading by Defendant Required. Counterclaim. Discovery.

(a) A party must raise any question of jurisdiction of the person or venue by preliminary objection filed within twenty days of service of the pleading to which objection is made or at the time of hearing, whichever first occurs. No other pleading shall be required, but if one is filed it shall not delay the hearing.

Official Note: The court may raise at any time a question of (1) jurisdiction over the subject matter of the action or (2) the exercise of its jurisdiction pursuant to [Section 5347] § 5426 of the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, relating to simultaneous proceedings in other courts, [Section 5348] § 5427, relating to inconvenient forum, and [Sections 5349 and 5364(f)] § 5428, relating to jurisdiction declined by reason of conduct. [See 23 Pa.C.S. §§ 5347, 5348, 5349 and 5364(f).]

The Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5366] 5407, provides that, upon request of a party, an action in which a question of the existence or exercise of jurisdiction is raised shall be given calendar priority and handled expeditiously.

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Rule 1915.6. Joinder of Parties.

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(b) If the court learns from the pleadings or any other source that any other person who claims to have custody or visitation rights with respect to the child is not a party to the action, it shall order that notice be given to that person of the pendency of the action and of the right to intervene therein. The notice shall be substantially in the form prescribed by Rule 1915.16(b).

[Official Note: Subdivision (a) incorporates the provision of the Uniform Child Custody Jurisdiction Act, 23 Pa.C.S. § 5351, requiring a person not a party who has physical custody of the child to be joined as a party and notified of the pendency of the proceeding. Subdivision (a) also extends the requirement of the Uniform Act, 23 Pa.C.S. § 5345, that a parent whose parental rights have not been previously terminated be given notice of the proceeding and an opportunity to be heard by requir-

ing the joinder of such parent. Subdivision (b), in providing for intervention by persons claiming custody or visitation rights, is inconsistent with and therefore suspends the Uniform Act, 23 Pa.C.S. § 5351, insofar as the Act requires the joinder of such persons.]

Explanatory Comment—1994

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Rule 1915.12. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.

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(e) After hearing, an order committing a respondent to jail for contempt of a custody, partial custody or visitation order shall specify the condition which must be fulfilled to obtain release of the respondent.

Official Note: See 23 Pa.C.S.A. § 4346 relating to contempt for noncompliance with visitation or partial custody order.

See [Section 5356 of] the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. §§ [5356] 5443 and 5445, relating to [filing] registration and enforcement of custody decrees of another state, and [Section 5364(a),] 23 Pa.C.S.A. § [5364(a)] 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

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Explanatory Comment—[1994] 2008

In an effort to promote uniformity of practice throughout the Commonwealth, several forms are included in the rules. Two aspects of these forms are worthy of mention. First, much of the information which must be set forth in the complaint is required by the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5350] 5429. Second, the complaint is verified by use of a statement that it is subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

By the Domestic Relations Procedural Rules Committee

STEWART L. KUTZ, Chair

[Pa.B. Doc. No. 08-2191. Filed for public inspection December 5, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 2, 3, 4 and 5]

Adopted Modifications of Rules 120, 160, 166, 220, 232, 330, 362, 408, 409 and 515

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsyl-

vania that the modification of Rules 120, 160, 166, 220, 232, 330, 362, 408, 409 and 515 be adopted and prescribed. The proposed modifications define the official court record and require notations for fingerprinting and photographing of the juvenile. 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, January 12, 2009.

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 A. BUSINESS OF COURTS

Rule 120. Definitions.

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

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

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all filed original records, papers, orders, court notices, docket entries, other legal documents, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

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Comment

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

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

The "official court record" is to contain all filed legal documents, original records, papers, orders, court notices, and docket entries in each case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation's reports and files unless they are made a part of the official record by being filed with the clerk of courts.

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Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. [1145] 1142 (March 8, 2008).

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] The official court record is only open to inspection [only] by:

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Comment

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

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

This rule is meant to include the contents of the 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.]

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PART C(2). MAINTAINING RECORDS

Rule 166. Maintaining Records in the Clerk of Courts.

A. Generally. The juvenile court file is the official court record and shall contain all filed original records, papers, [and] orders, [filed, copies of all] court notices, [and] docket entries, and other court designated documents. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

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CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION
PART B. ARREST PROCEDURES IN DELINQUENCY CASES

(b) Arrests Without Warrant

Rule 220. Procedure in Cases Commenced by Arrest Without Warrant.

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Comment

The juvenile probation officer can accept juveniles for the court as described in paragraph (A)(2)(b).

The release of the juvenile does not eliminate the requirement of submission of a written allegation. For the general procedures governing written allegations, see Chapter Two, Part (C).

See 42 Pa.C.S. § 6326.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs by law enforcement officers. The arresting officer is to ensure that the fingerprints and photographs are forwarded to the central repository as required by the Pennsylvania State Police. 42 Pa.C.S. § 6309(c).

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PART C. WRITTEN ALLEGATION PROCEDURES

Rule 232. Contents of Written Allegation.

Every written allegation shall contain:

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9) a notation on whether the juvenile has or has not been fingerprinted and photographed;

10) a notation if criminal laboratory services are requested in the case;

[10] (11) a verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statement made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and

[11] (12) the signature of the person making the allegation and the date of execution of the written allegation.

Comment

This rule sets forth the required contents of all written allegations whether the person making the allegation is a law enforcement officer, a police officer, or a private citizen. See http://www.courts.state.pa.us for a copy of the written allegation form that is to be submitted.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (9).

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CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

Rule 330. Petition: Filing, Contents, Function.

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

9) a notation on whether the juvenile has or has not been fingerprinted and photographed;

10) a notation if criminal laboratory services are requested in the case;

[10] (11) 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] (12) the signature of the petitioner and the date of the execution of the petition;

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

[13] (14) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; and

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

Comment

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

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (C)(9).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(12), (13), and (14).

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Committee Explanatory Reports:

Final Report explaining the provisions of Rule 330 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 37 Pa.B. [4868] 4866 (September 8, 2007).

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 362. Requirements of the Summons.

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4) give a warning stating that the failure to appear for the hearing may result in arrest[.]; [and]

5) include a copy of the juvenile petition; and

6) include an order directing the juvenile to submit to fingerprinting and photographing by a law enforcement agency in all cases in which the juvenile has not previously been fingerprinted or photographed.

Comment

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs.

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CHAPTER 4. ADJUDICATORY HEARING

Rule 408. Ruling on Offenses.

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B. If the court finds the juvenile did not commit all of the alleged delinquent acts, the court shall dismiss the allegations and release the juvenile, if detained, unless there are other grounds for the juvenile's detention. The court shall also order the destruction of any fingerprints or photographs which have been taken and shall expunge the records pursuant to Rule 172.

C. If the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409.

Comment

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Under paragraph (B), if all the allegations are dismissed, the court is to order the destruction of fingerprints and photographs. See 42 Pa.C.S. § 6341(a). The court also is to expunge the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172. In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See Comment to Rule 170 for further definition of a reference number.

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Rule 409. Adjudication of Delinquency.

A. Adjudicating the juvenile delinquent. Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, the court shall enter an order providing that:

a) jurisdiction shall be terminated and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; and

b) any fingerprints and photographs taken shall be destroyed.

2) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512. The court also shall order a law enforcement agency to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and to ensure that these records are forwarded to the Central Repository maintained by the Pennsylvania State Police.

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Comment

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This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. See 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, see Chapter Five.

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CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition for a juvenile who is adjudicated delinquent pursuant to Rule 409, 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:

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4) a directive that the juvenile shall submit to fingerprinting and photographing in all cases in which the juvenile has not previously been fingerprinted or photographed;

5) the date of the order; and

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

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D. Disposition reporting. The court shall forward the case disposition to the Juvenile Court Judges' Commission.

Comment

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See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ 6308, 6309 and 6310.

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Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. [4868] 4866 (September 8, 2007).

EXPLANATORY REPORT

Rule 120—Definitions.

The Committee is proposing a new definition for "official court record." This will alleviate any confusion between the official court record and those records kept by the juvenile probation office. This definition also provides clarification that the clerk of courts is the keeper of the record. These clarifications are important so when an appeal is taken, the official court record is clearly defined.

The "official juvenile court file" in the definition of "clerk of courts" was relabeled "official court record" to correspond with its new definition.

Rule 160—Inspection of Juvenile File/Records.

In paragraph (A), the "official court record" replaced "all files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166" to correspond with the new definition.

The Comment was also modified to reflect that the official court record does not include the confidential files and records maintained by the juvenile probation office.

Rule 166—Maintaining Records in the Clerk of Courts.

This rule was modified to reflect the new definition of "official court record."

Rule 220—Procedures in Cases Commenced by Arrest without Warrant.

The Comment has been modified to include the Juvenile Act references for the taking of fingerprints and photographs and forwarding them to the Central Repository.

Rule 232—Contents of Written Allegation and Rule 330—Petition: Filing, Contents, Function.

The written allegation and the petition were modified to include a reference as to whether fingerprints or photographs have been taken. This requirement will alert the juvenile probation officer or the court if they have been taken.

Rule 362—Requirements of the Summons and Rule 409—Adjudication of Delinquency.

If fingerprints or photographs have not been taken, the court must order them to be taken as required by the Juvenile Act. See 42 Pa.C.S. § 6308.

Rule 408—Ruling on Offenses, Rule 409—Adjudication of Delinquency and Rule 515—Dispositional Order.

If the courts find that the juvenile did not commit ALL of the alleged delinquent acts pursuant to Rule 408(B) or the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A), the court must order the destruction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a) and the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no destruction of the fingerprints, photographs, or records.

If the court finds the juvenile is in need of treatment, supervision, or rehabilitation and fingerprints and photographs have not been taken, the court must order that they are taken and forwarded to the Central Repository pursuant to the statutory requirements.

[Pa.B. Doc. No. 08-2192. Filed for public inspection December 5, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

PIKE COUNTY

Amendment to Criminal Local Rule 571; Civil Division; Doc. No. 2187-2008

Order

And Now, this 17th day of November, 2008, the Court Orders the following:

1. Local Rule of Criminal Procedure 571 is hereby amended 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

HONORABLE JOSEPH F. KAMEEN,
President Judge

Local Rule 571. Arraignment Procedures.

1. Procedure for Arraignment

a. All arraignments shall be in accordance with Pennsylvania Rule of Criminal Procedure 571.

b. The District Attorney's Office is designated to handle the scheduling and disposition of all arraignments unless otherwise directed by the Court.

c. Arraignment shall take place no later than ten (10) days after indictment or information has been filed unless otherwise postponed by the Court for cause shown.

d. The defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment not later than five (5) days before the date scheduled for the arraignment. Notice shall be given by first class mail to the last known address of the defendant in accordance with the following:

ARRAIGNMENT
NOTICE TO APPEAR
COMMONWEALTH OF PENNSYLVANIA

v.

No. _____ -20 _____

You are directed to appear under penalty of forfeiture of bail at the Pike County Courthouse, Milford, Pennsylvania on the ____ day of _____, 20 ____ at _____ .M. for arraignment.

INSTRUCTIONS

1. You have been directed to appear for arraignment. At the arraignment, you will be advised of the nature of the charges against you, after which you are asked to state whether you plead "guilty" or "not guilty".

2. If you have an attorney, contact him/her immediately. If you do not have an attorney it would be to your advantage to retain one without further delay. You have a right to be represented by a lawyer. If you believe you cannot afford a lawyer, then you should immediately make application to the Office of the Public Defender.

3. The arraignment procedure may be waived, making it unnecessary for you to appear as scheduled above, BUT ONLY IF YOU ARE REPRESENTED BY COUNSEL AND BOTH YOU AND COUNSEL HAVE SIGNED A FORMAL WAIVER OF ARRAIGNMENT, and have properly filed that waiver with the Court and the District Attorney.

4. You may enter a plea of guilty to these charges. If you desire to plead guilty, notify the District Attorney at the below address, and he will arrange for a guilty plea at the time of arraignment or at a time to be scheduled following arraignment.

DISTRICT ATTORNEY
PIKE COUNTY ADMINISTRATION BUILDING
506 BROAD STREET
MILFORD, PENNSYLVANIA 18337
570-296-3482

e. A defendant who is represented by counsel may waive arraignment. When a defendant represented by counsel waives arraignment prior to the scheduled formal arraignment, the original waiver must be delivered to the District Attorney at least 48 hours prior to the arraignment date. The waiver will be presented to the Court by the District Attorney at the scheduled time for arraignment for Court approval before the waiver is formally entered in the docket. Compliance with these time periods shall excuse Defendant and counsel from appearance at the scheduled arraignment. The time periods for filing the request for a bill of particulars, the discovery motion and the omnibus pretrial motion shall begin and be calculated from the date on which the Court approves the waiver. Waiver of Arraignment shall be in accordance with the following form:

f. If a defendant is incarcerated in the Pike County Correctional Facility, the arraignment shall be conducted by two-way simultaneous audio-visual communication (i.e., video conferencing). If a defendant is incarcerated in a facility other than Pike County Correctional Facility, the arraignment may be conducted by video conferencing at the discretion of the Court.

g. If a defendant is unrepresented when he appears for arraignment, the Court will reschedule the arraignment and defendant will be directed to immediately apply for a Public Defender. The Public Defender will determine whether the defendant is qualified for representation and, if so, will undertake representation of the defendant. If the defendant fails to qualify for Public Defender representation and appears at the rescheduled arraignment unrepresented, the defendant will be formally arraigned at that time by the Court.

[Pa.B. Doc. No. 08-2193. Filed for public inspection December 5, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Neal Sharma having been suspended from the practice of law in the State of New Jersey for a period of 3 months by Order of the Supreme Court of New Jersey dated February 26, 2008; the Supreme Court of Pennsylvania issued an Order dated November 21, 2008, suspending Neal Sharma from the practice of law in this Commonwealth for a period of 3 months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 08-2194. Filed for public inspection December 5, 2008, 9:00 a.m.]
