

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 223.1; Governing Conduct of the Trial; Proposed Recommendation No. 247

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 223.1 governing conduct of the trial be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than December 31, 2010 to:

Karla M. Shultz
Counsel
Civil Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
P. O. Box 62635
Harrisburg PA 17106-2635
fax 717-231-9526
civilrules@pacourts.us

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 223.1. Conduct of the Trial. Trial by Jury.

* * * * *

(c) The court may

* * * * *

(2) charge the jury at any time during the trial, [and]

* * * * *

(3) make exhibits available to the jury during its deliberations[.], and

(4) make a written copy of the charge or instructions, or a portion thereof, available to the jury following the oral charge or instructions at the conclusion of evidence for use during its deliberations.

Explanatory Comment

Current Rule 223.1 governing the conduct of a jury trial does not contain a provision for the trial court to give the jury a written copy of the oral charge or instructions. With the Court's recent adoption of amendments to Pa.R.Crim.P. 646, which permits a trial judge to allow the

jury to have written copies of the judge's charge during deliberations, the Civil Procedural Rules Committee is proposing a similar amendment to Rule 223.1. The amendment to subdivision (c)(4) will permit the trial court to provide the jury with a written copy of the oral charge or instructions at the conclusion of evidence.

By the Civil Procedural Rules Committee

ROBERT C. DANIELS,
Chair

[Pa.B. Doc. No. 10-2037. Filed for public inspection October 29, 2010, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Reauthorization of a Juvenile Adjudication Alternative Program, Known as the Underage Drinking Prevention Program (UAD), in the 36th Judicial District; Administrative Doc. No. 70 Misc. 2010

Administrative Order

And Now, this 13th day of October, 2010, it is hereby Ordered and Directed that, pursuant to the provisions of 42 Pa.C.S.A. § 1520, there is hereby reauthorized and re-established an adjudication alternative program, hereinafter to be known as the "Underage Drinking Prevention Program (UAD)", which shall be operated and function according to the provisions of this Order.

The Magisterial District Judges of this 36th Judicial District are hereby authorized to admit persons charged with summary offenses (except offenses under Title 75 (relating to vehicles)) to this alternative program as permitted by Section 1520.

Admission to, attendance in and completion of the Underage Drinking Prevention Program (UAD) shall be governed by the Program Guidelines which are available at all times for review upon request made to the Chief Probation Officer of the Juvenile Services Division of the Court of Common Pleas of Beaver County.

It is further Ordered and Directed that the District Court Administrator of Beaver County shall file one (1) certified copy of this Order with the Administrative Office of Pennsylvania Courts; furnish two (2) certified copies and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one (1) certified copy in the Beaver County Law Library, together with the written Procedures and Guidelines, for public inspection.

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

By the Court

HONORABLE JOHN D. MCBRIDE,
President Judge

[Pa.B. Doc. No. 10-2038. Filed for public inspection October 29, 2010, 9:00 a.m.]

BEAVER COUNTY**Reauthorization of a Juvenile Restitution Fund, Known as the Redeem Fund, in the 36th Judicial District; Administrative Doc. No. 71 Misc. 2010****Administrative Order**

And Now, this 13th day of October, 2010, it is hereby Ordered and Directed that, pursuant to the provisions of 42 Pa.C.S.A. § 6352(a)(5), there is hereby reauthorized and re-established a juvenile restitution fund, hereinafter to be known as the "Redeem Fund", which shall be operated and function according to the provisions of this Order.

Every juvenile adjudicated delinquent, whether placed on intensive probation, formal probation, consent decree or non-fine informal adjustment consent, shall be required to pay a fee of \$50.00 to the Redeem Fund for each Petition filed with the Court.

Deposits to, administration of and disbursements from the "Redeem Fund" shall be in accordance with written procedures and guidelines, as approved by the President Judge of Beaver County, initially on March 27, 2007, and as amended from time to time by the President Judge in compliance with the provisions of Section 6352(a)(5) of the Juvenile Act. The primary purposes of the Redeem Fund are to reimburse crime victims for financial losses resulting from delinquent acts and to establish eligibility requirements for juveniles who are found to have committed delinquent acts to participate in community service to pay for required restitution, costs and fees resulting from the delinquency Order of Court.

The Procedures and Guidelines for the Redeem Fund may be amended from time to time by action of the President Judge and are available at all times for review upon request made to the Chief Probation Officer of the Juvenile Services Division of the Court of Common Pleas of Beaver County.

It is further Ordered and Directed that the District Court Administrator of Beaver County shall file one (1) certified copy of this Order with the Administrative Office of Pennsylvania Courts; furnish two (2) certified copies and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one (1) certified copy in the Beaver County Law Library, together with the written Procedures and Guidelines, for public inspection.

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

By the Court

HONORABLE JOHN D. MCBRIDE,
President Judge

[Pa.B. Doc. No. 10-2039. Filed for public inspection October 29, 2010, 9:00 a.m.]

CARBON COUNTY**Temporary Assignment of Cases Between Magisterial District Court 56-3-01 and Magisterial District Court 56-3-02; No. CP-13-AD-0000007-2008****Administrative Order No. 20-2010**

And Now, this 18th day of October, 2010, pursuant to the Borough of Parryville's Ordinance No. 2010-02

adopted July 27, 2010 after thirty (30) days written notice to the Borough of Weissport, it is hereby

Ordered and Decreed that, effective thirty days after publication in the *Pennsylvania Bulletin*, the Carbon County Court of Common Pleas hereby *Vacates* Administrative Order No. 19-2008 and *Rescinds* the transfer of Traffic and Criminal cases arising in the Borough of Parryville to Magisterial District Court 56-3-01.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies, one (1) computer diskette and a copy of the written notifications received from the Criminal Procedural Rules Committee with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Administrative Order on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Courts' Office.

By the Court

ROGER N. NANOVIC,
President Judge

[Pa.B. Doc. No. 10-2040. Filed for public inspection October 29, 2010, 9:00 a.m.]

ERIE COUNTY**Rules of Family/Orphans' Court****Adopting Order**

And Now, to wit, this 29th day of July 2010 it is hereby *Ordered* that Erie County Rule of Family/Orphans' Court 304, (b) and (c) Family Law/Orphans' Division Motion Court, and Rule 1915.19, Request for Court Hearing (B) Objections to Recommended Custody Order, are hereby adopted as a Rule of this Court, effective thirty (30) days after the date of its publication in the *Pennsylvania Bulletin*.

ERNEST J. DISANTIS, Jr.,
President Judge

Rule 304. Family Law/Orphans' Division Motion Court.

(b) All other Petitions and Motions seeking a Rule to Show Cause, Argument, or hearing date shall be presented only by counsel or pro se litigant, in duplicate, to the Family/Orphans' Court Administrator between the hours of 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday.

(c) A Motion Court Cover Sheet in the form which follows this rule shall be completed and attached to all Motions or Petitions presented in Family/Orphans' Motion Court.

VENANGO COUNTY**Public Access Policy—Official Case Records of the Magisterial District Courts of Venango County—Fees; CIV No. 1136-2010****Administrative Order**

And Now, October 1, 2010, the Order of this Court dated August 11, 2010 is hereby vacated and it is hereby Ordered that pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* adopted by the Pennsylvania Supreme Court effective July 1, 2010, the following fee schedule is hereby adopted effective immediately:

Fees:

(1) Any member of the public requesting access to the public records of the magisterial district courts of Venango County shall be charged the following fees:

- (a) Copying—\$0.25 per page
- (b) Facsimile or other electronic memos—\$0.25 per page
- (c) Conversion to paper from electronic storage—\$0.15 per page
- (d) Postage—actual cost
- (e) \$5.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of requested records involving complex or voluminous requests. Exactly what is complex or voluminous may vary from court to court depending on factors such as court resources and caseload.

(2) Pre-payment of estimated costs for services may be required at the discretion of the Magisterial District Judge.

(3) Fees paid for services are non-refundable.

(4) Fees may be waived if the magisterial district judge determines that the requestor is indigent.

(5) All fees received pursuant to this Rule shall be identified as revenue to the magisterial district court, but shall be remitted annually to the general fund of the County of Venango.

By the Court

OLIVER J. LOBAUGH,
President Judge

[Pa.B. Doc. No. 10-2043. Filed for public inspection October 29, 2010, 9:00 a.m.]

YORK COUNTY**Local Rules of Juvenile Court Procedure—Dependency; No. CP-67-AD-000033-2010****Administrative Order Adopting Local Rules of Juvenile Court Procedure—Dependency**

And Now, this 14th day of October, 2010, it is hereby Ordered and Decreed that the following York County Local Rules of Juvenile Procedure—Dependency are hereby adopted to govern juvenile dependency practice of the Court of Common Pleas of York County, Pennsylvania.

The adoption of York County Rules of Juvenile Procedure shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, or on the UJS Portal, whichever is later. Any prior local rules, and any prior administrative order or any part of a prior administrative order which is in conflict with any portion of these Rules is vacated and repealed.

It Is Further Ordered that in accordance with Pa.R.J.C.P. 1121(F), the District Court Administrator shall:

- (a) Cause the rules to be published on the UJS Portal;
- (b) File one certified copy of the rules with the Administrative Office of Pennsylvania Courts;
- (c) Distribute two certified copies of the rules, and a diskette of the rules to the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*;
- (d) Send a copy of the Juvenile Court Procedural Rules Committee approval notice to the Legislative Reference Bureau
- (e) Distribute one (1) certified copy of the rules to the Clerk of Courts of York County, to be kept continuously available for public inspection and for copying. Upon request and payment of reasonable fees for reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.
- (f) Cause the rules to be posted conspicuously on the web site of the County of York and cause copies to be made in paper and digital format, for distribution, upon payment of reasonable costs of reproduction.
- (g) Supervise the distribution of the rules to all Judges and all members of the Bar of this Court.

By the Court

RICHARD K. RENN,
President Judge

YORK COUNTY LOCAL RULES OF JUVENILE COURT PROCEDURE—DEPENDENCY**CONSTRUCTION AND APPLICATION OF RULES****YCDep. 1100: Effective Date. Application to Pending Actions:**

A. These Rules, and any amendments to these Rules, shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* as provided in Pennsylvania Rule of Juvenile Court Procedure 1121.

B. These Rules, and any amendments to these Rules, shall apply to all juvenile dependency actions of any kind pending on the effective date, and to those filed thereafter.

YCDep. 1101: Liberal Construction and Application of Rules:

A. These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action.

B. The court at every stage of any action may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

C. The court may suspend the application of these Rules in individual cases by written order. When the court issues any order in a specific case which is not consistent with these rules, such order shall constitute a suspension of these rules for such case only and only to the extent that the order is inconsistent.

YCDep. 1102: Title and Citation of Rules:

These Rules shall be known as the York County Rules of Juvenile Court Procedure—Dependency, and may be cited as “YCDep. _____”.

BUSINESS OF COURTS**YCDep. 1120: Definitions:**

Unless otherwise expressly stated, as used in these Rules,

“Action” means any juvenile dependency action or proceeding of any nature pending before the Court of Common Pleas of York County;

“Agency” means York County Children and Youth Services;

“Application” means, unless otherwise noted, any motion, petition, request, or other document requesting or requiring the signature of a judge or action by the court, including applications for emergency custody as provided for in Pa.R.J.C.P. 1200.

“Clerk of Courts” means the Clerk of the Court of Common Pleas of York County, the Office of the Clerk of Courts, and deputies and employees thereof.

“Counsel” means an attorney at law, in good standing, admitted to practice to the bar of this Commonwealth, and shall include a solicitor for York County Children and Youth Services, and may further refer to any party to an action pending before the Court who is unrepresented. Unless otherwise stated, the term shall not refer to a guardian *ad litem* appointed by the Court for a child pursuant to Pa.R.J.C.P. 1151.

“County” means York County;

“Court” means the Court of Common Pleas of York County or a judge thereof;

“Court Administrator” means the District Court Administrator for the Court of Common Pleas of York County, the Office of the District Court Administrator, and deputies and employees thereof.

“Motion” means any application to the court for an order filed pursuant to Pa.R.J.C.P. 1344 et seq., other than a “petition” as that term is defined in Pa.R.J.C.P. 1120.

“Party”, whether used in the singular or plural, and whether used in these Rules or in any court order, means the party or parties appearing in the action pro se, or the attorney or attorneys of record for such party or parties, where appropriate, unless otherwise indicated;

“Prothonotary” means the Prothonotary of the Court of Common Pleas of York County and the Office of the Prothonotary and deputies and employees thereof.

YCDep. 1124: Service of Summons:

A summons and any application, including an application for emergency custody, filed on behalf of the Agency may be served by counsel for the Agency, in any manner provided in Pa.R.J.C.P. 1124B and in Pa.R.J.C.P. 1331B. An affidavit of service shall be filed with the Clerk prior to the proceeding.

YCDep. 1135: Captions, Form and Filing of Applications, Papers and Affidavits:

A. All pleadings, applications, documents and affidavits which are not expressly regulated as to form by Act of Assembly or are forms or documents routinely used or prepared by the courts or court-related agencies, shall

conform to the Pennsylvania Rules of Juvenile Court—Dependency, and to these Rules.

(1) An application for emergency custody shall have attached to it a cover sheet containing such information and shall be in such form as the first page of the form Dependency Petition recommended by the Administrative Office of Pennsylvania Courts.

(2) A petition for dependency shall contain at least as much information and shall be in such form as the form Dependency Petition recommended by the Administrative Office of Pennsylvania Courts. (*Note: See www.aopc.org and select “UJS Forms”, then “Dependency Forms”.*)

(3) The original of all pleadings, applications, documents and affidavits, and any responses thereto, except forms preprinted by the Court, to be presented to and filed with the Court, shall be backed by and securely fastened in a document cover using binder clips. No original document shall be fastened with staples.

(4) The use of plastic strips is prohibited.

(5) Exhibit tabs, if any, shall be placed at the bottom of a document.

(6) Filings already of record may be referenced in any subsequent document to be filed, but shall not be attached to the original document to be filed.

(7) Copies of any documents to be provided to the court and opposing parties shall have staples securely covered with no sharp or protruding edges of any kind.

(8) The first page of any document, other than a petition for dependency and the cover page for an application for emergency custody, to be presented to and filed with the Court shall have a three inch margin at the top of the first page, and each subsequent page shall have at least a two inch margin at the top of the page.

B. Any document signed by a party for filing shall contain under the signature line the name, address, and telephone number of the party, and the facsimile number, e-mail address, and Pennsylvania or other state bar identification number, if applicable. When listing the bar identification number, the state’s postal abbreviation shall be used as a prefix (e.g. PA 12345; NY 246810).

C. Any party filing an application or other document which requires the signature of a judge or action by the court shall first file the original document with the Clerk.

(1) The moving party shall cause a copy of the document requiring action to be delivered to the Court Administrator for assignment to a judge.

(2) An original proposed order, with a brief title describing the nature of the proposed order (as examples: “Summons”, “Order Scheduling Hearing,” etc.) shall accompany each document delivered to the Court Administrator for assignment, but shall not be fastened together. No proposed orders shall be filed with the Clerk with the original application.

(3) Sufficient copies of the proposed order for conforming, for return to the applicant and for service on all other parties shall accompany each document delivered to the Court Administrator for assignment to a judge.

(4) Once a document is considered by a judge, the original of any resulting summons, order or notice shall be filed by the judge with the Clerk and the judge shall make copies of the summons, order or notice available for return to the moving party for service on all other parties.

D. Documents shall not be sent by facsimile to a judge or to the Court Administrator without leave of court.

YCDep. 1167B: Filings and Service of Notices:

Notices of hearings or other proceedings may be served by counsel for the Agency, in any manner provided in Pa.R.J.C.P. 1167B(3). An affidavit of service shall be filed with the Clerk prior to the proceeding.

COMMENCEMENT OF PROCEEDINGS

YCDep. 1200: Commencing Proceedings:

A. Proceedings commenced by the filing of an emergency custody application or a dependency petition shall proceed as set forth in YCDep. 1135C above.

B. In the event that a child who is subject to delinquency proceedings should become subject to dependency proceedings, a new dependency case shall be commenced by the Agency who shall file a dependency petition in the form as set forth in YCDep. 1135A, above.

C. The Court Administrator shall designate a rotation list of judges to whom new cases shall be assigned.

D. In the event that an application is filed which requires the attention of a judge assigned to a case, and that judge is unavailable, the Court Administrator shall assign the matter to the PFA duty judge, or other duty judge who may be designated, from time to time, by the Court Administrator.

YCDep. 1331: Service of Petition:

A petition filed on behalf of the Agency may be served by counsel for the Agency in any manner provided in Pa.R.J.C.P. 1331B. An affidavit of service shall be filed with the Clerk prior to the adjudicatory hearing.

POST-DISPOSITIONAL PROCEDURES

YCDep. 1604: Service of Foster Parent Reports:

A report required to be served on parties pursuant to Pa.R.J.C.P. 1604 shall be served upon the Clerk of Courts,

or the Clerk's designee, or such other person that the President Judge may designate from time to time by administrative order.

[Pa.B. Doc. No. 10-2044. Filed for public inspection October 29, 2010, 9:00 a.m.]

SUPREME COURT

Modification of the Magisterial Districts within the 24th Judicial District; No. 269 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 15th day of October, 2010, upon consideration of the Request of the President Judge of Blair County to eliminate Magisterial District 24-1-01 and reconfigure Magisterial Districts 24-1-02 and 24-1-03 of the Twenty-fourth Judicial District (Blair County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Request is granted. This Order is effective immediately.

Said Magisterial Districts shall be as follows:

Magisterial District 24-1-02: City of Altoona, Wards 3, 4,
Magisterial District Judge 5, 6, 9, 12 and 14
Todd F. Kelly

Magisterial District 24-1-03: City of Altoona, Wards 1, 2,
Magisterial District Judge 7, 8, 10, 11 and 13
Jeffrey P. Auker

[Pa.B. Doc. No. 10-2045. Filed for public inspection October 29, 2010, 9:00 a.m.]
