

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 63]

Amendment of Internal Operating Procedures of the Supreme Court; No. 365 Judicial Administra- tion Doc.

Order

Per Curiam

And Now, this 18th day of May, 2011, *It Is Ordered* that the Internal Operating Procedures of the Supreme Court are amended as set forth in the following form.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 63. INTERNAL OPERATING PROCEDURES OF THE SUPREME COURT

§ 63.4. Opinions.

A. Circulation Schedule.

1. *Preparation of Opinions.* Preparation of opinions and responses to circulating opinions shall be given the highest priority. The justice to whom the drafting of an opinion has been assigned shall, absent extraordinary circumstances, circulate a proposed opinion to all members of the Court, with contemporaneous notice to the prothonotary's office, within ninety (90) days of the assignment **or within forty-five (45) days of the assignment of a Children's Fast Track appeal.**

2. *Concurrences and Dissents.* Concurrences and dissents shall be circulated to all members of the Court within forty (40) days of the date on which votes on the proposed majority opinions are due. **For Children's Fast Track appeals, concurrences and dissents shall be circulated to all members of the Court within twenty (20) days of the date on which votes on the proposed majority opinions are due.** Such concurrences and dissents shall be placed on the next available voting list following their circulation to the Court. The prothonotary's office shall receive contemporaneous notice of concurrences or dissents.

3. *Voting.* Consideration of proposed opinions shall occur at a regularly scheduled opinion conference, either by written vote, or via telephone conference call. Lists of circulating opinions shall be supplied to the members of the Court and the prothonotary by the office of the Chief Justice on a regularly scheduled list date. The list date shall be set for the first Monday of every month, or, if that date is a holiday, on the Tuesday following the Monday holiday. The cases listed shall include all opinions submitted for the Court's consideration as of ten (10) days prior to the list date.

a. *Written Votes.* Written votes on listed cases shall be returned to the Chief Justice's office on the fifth business day following publication of the list. Within two (2) business days following submission of written votes, the office of the Chief Justice will circulate to all justices a compilation of all votes received. Within two (2) days after receipt of the compilation, the office of the Chief Justice

must be advised of any correction to the voting list results. On the next business day, the fifth day following the voting conference, the office of the Chief Justice shall issue a confidential list to the prothonotary of all cases which are ready to be filed together with the votes of the justices. No case will appear on the confidential list unless all votes are recorded. Notice of the forthcoming filings shall be posted, by case name and number only, in the office(s) of the prothonotary, and the prothonotary will docket opinions consistent with the information received.

(*Court Note:* For the purpose of this section, the office of the prothonotary shall include all three district offices.)

b. *Telephone Conferences.* Any justice may request that any case be held for telephone conference by making such request in writing to the office of the Chief Justice with notice to all other justices and the prothonotary after receipt of the monthly voting list. The list will also indicate a date certain on which a telephone conference will be held for any cases so designated. Cases may be held for discussion to take place at the next scheduled court conference following oral argument by a vote of three justices.

c. *Hold.* Cases may be placed on Hold for twenty (20) day periods, **or ten (10) day periods for Children's Fast Track appeals**, following circulation of a letter to the members of the Court and to the prothonotary explaining the reasons for the hold, e.g., a forthcoming opinion in a pending case, or preparation of dissent or concurrence. In instances where the hold relates to preparation of a dissent or concurrence, the hold period shall commence on the original due date for the dissent or concurrence, that is, the fortieth day after votes are due on vote listed cases **or the twentieth day for Children's Fast Track appeals.** In no event shall circulation of a dissent or concurrence occur beyond sixty (60) days from the date votes are due on vote listed cases **or thirty (30) days for Children's Fast Track appeals.** If, within **thirty (30) days for Children's Fast Track appeals or sixty (60) days for all other cases** of the date votes are due on majority opinions no dissent or concurrence has been placed in circulation, the case will be put down, and the dissenting or concurring justice will be noted as not having participated in the decision of the case.

d. *Reassignment.* When a concurrence or dissent garners a majority of votes, the case shall be reassigned to the author of the concurrence or dissent, whose majority opinion shall then be forthcoming within thirty (30) days of the reassignment, **or, for Children's Fast Track appeals, within fifteen (15) days.**

4. *Monitoring.* The prothonotary shall provide the Court with a monthly table, **or for Children's Fast Track appeals a semimonthly table**, showing the name, docket number, journal number, assignment, assignment date and circulation date of all argued and submitted cases. All argued and submitted cases which are open for more than one hundred fifty (150) days, **or for Children's Fast Track appeals which are open for more than seventy-five (75) days**, and all petitions for reargument which are open for a period of more than forty-five (45) days **or, for Children's Fast Track appeals that are open for a period of more than twenty-one (21) days**, shall be separately listed.

5. **Notwithstanding any contrary procedures set forth above, justices shall give priority in both**

circulation of and voting on proposed decisions in Children’s Fast Track appeals.

B. Labeling.

1. *Majority.* An opinion will be labeled “Opinion” when a majority of the Court joins the opinion.

Proposed majority opinions that involve multiple, complex issues which the Justice believes may garner disparate votes should be divided into sections. See, e.g., *Phillips v. Cricket Lighters*, 841 A.2d 1000 (Pa. 2003). If there is a split on an opinion that has been divided into sections, the author of the lead opinion will be responsible for preparing a short introductory explanatory statement regarding the breakdown of votes.

2. *Concurrences and Dissents.* An opinion is a “concurring opinion” when it agrees with the result of the lead opinion. A Justice who agrees with the result of the lead opinion, but does not agree with the rationale supporting the lead opinion, in whole or in part, may write a separate “concurring opinion.” An opinion is a “dissenting opinion” when it disagrees with the result of the lead opinion. An opinion is “concurring and dissenting opinion” only when there is more than one result and the Justice agrees with one or more of the results, but not the other(s). Alternatively, a Justice may choose to “concur in result” or “dissent” without writing a separate opinion.

C. Reargument Petitions.

1. *Assignment.* Upon receipt of a petition for reargument of an order of the Court disposing of an appeal, the prothonotary shall direct the petition to the author of the majority opinion. If the appeal was resolved without opinion, the petition will be directed to the office of the Chief Justice to be assigned to the most senior member of the majority. In the event that the appeal was resolved by an equally divided Court, the petition shall be assigned to the author of the opinion in support of affirmance.

2. *Circulation.* The justice to whom the reargument petition was assigned shall circulate to all members of the Court a recommended disposition of the petition within fourteen (14) days of the assignment or within seven (7) days of the date of assignment for Children’s Fast Track appeals. A justice who disagrees with the recommended disposition shall circulate a counter recommendation within fourteen (14) days of the original recommendation or seven (7) days for Children’s Fast Track appeals. A vote of the majority is required to grant reargument.

§ 63.5. Allocatur.

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B. Assignment.

1. Petitions for allowance of appeal shall be assigned to individual justices by the prothonotary’s office on a rotating basis for preparation of an allocatur report. Allocatur reports are to be circulated within sixty (60) days of the receipt of such an assignment with notice to the prothonotary’s office that the report is in circulation. The proposed disposition date shall not be greater than [thirty (30)] sixty (60) days from the date of circulation.

2. Holds may be placed on petitions for allowance of appeal only upon written notice to the members of the Court and the prothonotary as to the reasons for the hold, e.g., the existence of another petition from another district presenting the same question. No hold may be

placed on a petition without the existence of a terminus, e.g., the issuance of an opinion on a petition presenting the same question. A hold for the purpose of preparing a counter report shall not exceed thirty (30) days; only by vote of the majority can a hold be extended beyond thirty (30) days, but in no event shall a hold exceed ninety (90) days.

3. Petitions from the same district presenting the same question shall be consolidated; petitions from different districts presenting the same question may be consolidated at the discretion of the Court. Where a hold results from the existence of another petition presenting the same issue, the parties shall be notified of the hold and the case which will determine the issue.

4. Notwithstanding any contrary procedures set forth above, allocatur reports in Children’s Fast Track appeals are to be circulated within thirty (30) days of the receipt of the assignment with notice to the prothonotary’s office that the report is in circulation, and the proposed disposition date shall not be greater than thirty (30) days from the date of circulation. A hold for purposes of preparing a counter report in a Children’s Fast Track appeal shall not exceed fifteen (15) days; only by vote of the majority can a hold be extended beyond fifteen (15) days, but in no event shall a hold exceed forty-five (45) days.

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§ 63.6. Motions, Miscellaneous Petitions and Applications for Relief.

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B. Disposition. The Chief Justice will prepare memoranda setting forth the positions of the parties, and a recommended disposition. Vote proposals shall be circulated within thirty (30) days from the date of assignment, and shall contain a proposed disposition date no greater than thirty (30) days from the date of circulation, except for Children’s Fast Track cases, in which vote proposals must be circulated within fifteen (15) days from the date the answer is filed or due to be filed, whichever occurs first, and the proposed disposition shall be no greater than fifteen (15) days from the date of circulation.* A vote of the majority of those participating is required to implement the proposed disposition.

* For purposes of this section, a “Children’s Fast Track case” is any case involving an order regarding dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. § 6301 et seq.; 23 Pa.C.S. § 2511 et seq.; 23 Pa.C.S. § 2101 et seq.; 23 Pa.C.S. § 5301 et seq.; 23 Pa.C.S. § 5102 et seq.

Every motion shall be decided within sixty (60) days, or thirty (30) days for Children’s Fast Track cases. Orders disposing of motions shall include the names of any justices who did not participate in the consideration or decision of the matter. Procedural motions, e.g., requests for extension of time, requests to exceed page limits, and to proceed in forma pauperis, are to be disposed of by the prothonotary’s office after screening by the deputy prothonotary.

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[Pa.B. Doc. No. 11-931. Filed for public inspection June 3, 2011, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 11, 12 AND 18]

Order Amending Rules 120, 1120, 1202, and 1800 and Adoption of New Rule 195 of the Rules of Juvenile Court Procedure; No. 532 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 20th day of May, 2011, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 41 Pa.B. 8 (January 1, 2011), in the *Atlantic Reporter* (Third Series Advance Sheets, Vol. 8, No. 3, January 14, 2011), and on the Supreme Court's web-page, and an Explanatory Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to Rules 120, 1120, 1202, and 1800 and adoption of New Rule 195 of the Rules of Juvenile Court Procedure are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2011.

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.

* * * * *

JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

* * * * *

Comment

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"Health care" includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the juvenile.

A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. See also 23 Pa.C.S. § 6315.

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Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. **Amended May 20, 2011, effective July 1, 2011.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

(Editor's Note: The following rule is new and printed in regular type to enhance readability.)

PART (D)(2). JUVENILE PROBATION OFFICERS

Rule

195. Powers, Duties, and Training of a Juvenile Probation Officer.

Rule 195. Powers, Duties, and Training of a Juvenile Probation Officer.

A. Powers and Duties of a Juvenile Probation Officer. Subject to any limitation imposed by the court, a juvenile probation officer shall:

- 1) take children, juveniles, and minors into custody pursuant to:
 - a) the Juvenile Act, 42 Pa.C.S. §§ 6304 and 6324;
 - b) the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6301 *et seq.*;
 - c) a bench warrant as set forth in Rules 140, 141, and 1140; or
 - d) Rule 1202;
- 2) authorize detention or shelter care for a juvenile, and the shelter care of a child, pursuant to 42 Pa.C.S. §§ 6304, 6325, or 6331;
- 3) receive and examine written allegations unless the District Attorney has elected to receive and approve all written allegations pursuant to Rule 231(B);
- 4) make appropriate referrals for informal adjustment, consent decree, or other diversionary programs;
- 5) file petitions if diversionary programs are not appropriate unless the District Attorney has elected to file all petitions pursuant to Rule 330(A);
- 6) make investigations, reports, including social studies pursuant to Rule 513, and recommendations to the court;

7) make appropriate referrals to private and public agencies, psychological or psychiatric providers, drug and alcohol facilities or programs, or any other necessary treatments or programs;

8) communicate to the court and parties, and facilitate any special needs, including health and education, of the juvenile;

9) supervise and assist a juvenile placed on probation or a child under the court's protective supervision or care;

10) search the person and property of juveniles pursuant to 42 Pa.C.S. § 6304(a.1);

11) regularly oversee and visit juveniles in placement facilities;

12) report suspected child abuse pursuant to 23 Pa.C.S. § 6311; and

13) perform any other functions as designated by the court.

B. Limitations on powers and duties. The President Judge of each judicial district may limit the power and duties of its juvenile probation officers by local rule.

C. Training. No later than January 1, 2012 or within 180 days after being appointed or employed, a juvenile probation officer shall be trained on:

- 1) the Juvenile Act;
- 2) the Pennsylvania Rules of Juvenile Court Procedure;
- 3) the Child Protective Services Law (CPSL); and
- 4) any local procedures.

Comment

Pursuant to paragraph (A)(1), a juvenile probation officer has the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, the CPSL, a bench warrant, or Rule 1202. 23 Pa.C.S. § 6301 *et seq.* and 42 Pa.C.S. § 6301 *et seq.*

When a juvenile is under the court's supervision, the juvenile probation officer may take a juvenile into custody pursuant to the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1) through (5), and bench warrants as set forth in Rules 140, 141, and 1140.

When a child, juvenile, or minor is not under the court's supervision, the juvenile probation officer, as a duly authorized officer, may take a child, juvenile, or minor into custody pursuant to the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6315 and the Juvenile Act, 42 Pa.C.S. §§ 6304 (a)(3) and (5) and 6324(1), (3), and (4).

A properly commissioned juvenile probation officer is vested with all the powers and duties as set forth in 42 Pa.C.S. § 6304 and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to paragraph (B).

The President Judge may adopt a local rule, pursuant to the procedures of Rule 121, limiting the authority granted by the commission to juvenile probation officers. In determining whether to limit the authority of juvenile probation officers, the President Judge should consider the training and experience necessary to perform the various duties as provided in this rule. For example, the President Judge may choose to prohibit juvenile probation officers from taking a child into protective custody who is believed to be in imminent danger from his or her

surroundings, but who is not under the court's supervision as a delinquent or dependent child. *See* 42 Pa.C.S. § 6324.

In situations when a juvenile probation officer takes a child into protective custody who is in imminent danger from his or her surroundings pursuant to 42 Pa.C.S. § 6325, 23 Pa.C.S. § 6315, and Rule 1202, the juvenile probation officer should take the appropriate steps to ensure the child's safety, immediately contact the county agency, and document for the county agency the circumstances which necessitated protective custody. *See* Rule 1202 and its Comment.

The juvenile probation officer may also supervise or assist a child placed in his or her protective supervision or care by the court. *See* 42 Pa.C.S. § 6304.

Pursuant to paragraph (A)(3), the juvenile probation officer is to receive written allegations from local law enforcement agencies to determine if a case may proceed to juvenile court. However, pursuant to Rule 231(B), the District Attorney of any county may require initial receipt and approval of written allegations before a delinquency proceeding may be commenced. *See* Rule 231(B).

Pursuant to paragraph (A)(6) and (7), the juvenile probation officer is to prepare reports compiling the juvenile's information for the court and make the necessary referrals to programs supported by a need revealed during the investigation.

Pursuant to paragraph (A)(8), the juvenile probation officer is to communicate the information to all parties before approaching the court. *See* Rule 136 for *ex parte* communication.

Pursuant to paragraph (A)(11), the juvenile probation officer is to oversee all juveniles ordered to placement facilities. Juvenile probation officers should visit all juveniles in placement facilities on a regular basis to determine if: 1) the juvenile is receiving the appropriate treatment; and 2) the facility is meeting the needs of the child. The Juvenile Court Judges' Commission Standards Governing Aftercare Services recommend that all juveniles be visited on a monthly basis. The juvenile probation officer is to report any irregularities or controversies to the court and all parties as soon as they are made known to the juvenile probation officer.

Pursuant to paragraph (A)(13), a juvenile probation officer may perform any other function designated by the court to carry out the purposes of the Juvenile Act.

Pursuant to paragraph (C), the juvenile probation officer is to be trained in the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the CPSL, and any local procedures. The training is to occur within 180 days of the juvenile probation officer's appointment or employment. It is best practice for juvenile probation officers to receive training within the first ninety days of employment. It is also best practice that juvenile probation officers receive specialized training and educational updates on a continuing basis.

Specialized training for juvenile probation officers should include delinquency and dependency procedures and areas that address their duties as officers of the court.

Official Note: Rule 195 adopted May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 195 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

**Subpart B. DEPENDENCY MATTERS
CHAPTER 11. GENERAL PROVISIONS
PART A. BUSINESS OF COURTS**

Rule 1120. Definitions.

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JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

* * * * *

Comment

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"Health care" includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the child.

A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. *See also* 23 Pa.C.S. § 6315.

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Official Note: Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT

PART A. COMMENCING PROCEEDINGS

Rule 1202. Procedures for Protective Custody by a Police Officer, Juvenile Probation Officer, and County Agency.

A. *Protective custody.*

1) *No court order.*

a) A police officer or a juvenile probation officer may take a child into protective custody pursuant to Rule 1200 if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from the surroundings and removal is necessary.

b) Without unnecessary delay, but no more than twenty-four hours after a child is taken into custody, an application for a protective custody order shall be made to provide temporary emergency supervision of a child pending a hearing pursuant to Rule 1242. The president judge of each judicial district shall ensure that a judge is available twenty-four hours a day, every day of the year to accept and decide actions brought by the county agency within the twenty-four hour period.

2) *Court order.*

a) A police officer, juvenile probation officer, or county agency may obtain a protective custody order removing a child from the home pursuant to Rule 1210 if the court finds that remaining in the home is contrary to the welfare and the best interests of the child.

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Comment

A properly commissioned juvenile probation officer has the authority to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. *See also* 23 Pa.C.S. § 6315.

Under paragraph (A)(1)(a) & (A)(2)(a), the police officer's or juvenile probation officer's duty is to protect the child and remove the child safely. A police officer or juvenile probation officer may bring the child to the county agency for supervision of the child pending a court order that should be given immediately. The police officer's [duty is enforcement and removal] or juvenile probation officer's duty is to take a child into protective custody if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his or her surroundings, and that protective custody is necessary, whereas the county agency's duty is to supervise the child and find an appropriate placement for the child when necessary. Only a police officer or juvenile probation officer may take custody of the child without a court order. *See* Rule 1800 for suspension of 42 Pa.C.S. § 6324, which provides that law enforcement officers may take a child into custody. [*See Rule 1120 for definition of police officer, which may include a probation officer exercising their power of arrest when authorized by law.*]

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Official Note: Rule 1202 adopted August 21, 2006, effective February 1, 2007. Amended May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1202 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

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:

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6) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers **and juvenile probation officers** taking a child into custody.

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Official Note: Rule 1800 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009; amended September 16, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. **Amended May 20, 2011, effective July 1, 2011.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1800 published with the Court’s Order at 41 Pa.B. 2839 (June 4, 2011).

EXPLANATORY REPORT

May 2011

Introduction

The Supreme Court of Pennsylvania has adopted the modifications to Rules 120, 1120, 1202, and 1800 and New Rule 195 with this Recommendation. These changes are effective July 1, 2011.

Background

These rule modifications address the scope of the juvenile probation officer’s authority, as well as, their duties and training.

It has been brought to the Committee’s attention that in some judicial districts, juvenile probation officers are “duly authorized officers” as used in the Juvenile Act, 42 Pa.C.S. § 6324 while in other judicial districts, juvenile probation officers are not viewed as “duly authorized officers.”

To provide clarity and a uniform procedure, these rule modifications clarify that juvenile probation officers are duly authorized officers of the court as that term is used in the Juvenile Act, 42 Pa.C.S. § 6324. The modifications also allow the President Judge of each judicial district to determine whether to limit a juvenile probation officer’s authority in his or her judicial district. The modifications also mandate minimum training requirements for all juvenile probation officers.

Rules 120 and 1120

A new definition for “juvenile probation officer” is being added to the Rules. The Comment to this rule further clarifies the definition and outlines the juvenile probation officer’s commission.

A President Judge may determine to limit the authority of its juvenile probation officers by local rule. For example, the President Judge may limit the authority of new juvenile probation officers or those who have not otherwise completed the required training.

The current practice in some counties that allows juvenile probation officers to take alleged dependent children into custody may continue to be utilized if the President Judge has not limited the authority of the juvenile probation officer.

Rule 195

This new rule sets forth the powers, duties, and training of juvenile probation officers.

Pursuant to paragraph (A) and its Comment, juvenile probation officers shall have the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, Child Protective Services Law (CPSL), bench warrants, and Rule 1202. It also addresses other powers and duties of juvenile probation officers.

The President Judge may grant the Administrative Judge authority to decide whether to limit juvenile probation officers’ authority. However, only the President Judge of each judicial district may enact a local rule to limit the authority of the probation officer pursuant to paragraph (B). See Rules 121 and 1121 for promulgation of local rules.

Paragraph (C) requires juvenile probation officers, no later than one hundred eighty days after being appointed or employed, to be trained on the Juvenile Act, Rules of Juvenile Court Procedure, the CPSL, and local procedures. This is the minimum requirement. However, the Committee believes that the juvenile probation officer should be trained on a continuing basis in all areas of delinquency and dependency practice and law, including specialized training as funding permits.

It is best practice to have all juvenile probation officers trained within the first ninety days of employment; however, this may not be feasible in some judicial districts. As quality educational and training opportunities become more widely available, all juvenile probation officers should be encouraged to attend.

Rule 1202

The rule now provides authority for juvenile probation officers to take a child into protective custody as duly authorized officer of the court. See 42 Pa.C.S. § 6324.

The Comment clarifies that the juvenile probation officer’s authority is equivalent to a police officer’s duty when removing a child from the home. The juvenile probation officer’s duty is to protect the child and remove the child safely. The juvenile probation officer must transport the child to the county agency. The county agency will then supervise the child and immediately identify an appropriate placement when necessary.

Rule 1800

Because of the modifications to Rule 1202 *supra*, Rule 1800 was revised accordingly.

[Pa.B. Doc. No. 11-932. Filed for public inspection June 3, 2011, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUTLER COUNTY

Divorce Master Fees; Ms D#11-40109

Administrative Order of Court

And Now, this 13th day of May, 2011, it is hereby ordered and decreed that the Administrative Order of Court entered on the 1st day of February, 2007, related to Divorce Master Fees is herewith vacated.

It is further ordered that effective July 1, 2011, that Divorce Masters in Butler County, Pennsylvania shall be paid by the hour at the rate of \$135.00 per hour with a minimum fee of \$600.00 per case.

It is finally ordered that if a party in a divorce action moves for the appointment of a Master the moving party shall deposit with the Prothonotary of Butler County the sum of \$600.00 to accompany the motion requesting appointment. If a Master is appointed by the Court following a judicial conciliation the parties shall deposit with the Prothonotary of Butler County a minimum \$600.00, or such larger sum, in the time frame and pro-rata shares as directed by the Court.

By the Court

THOMAS J. DOERR,
President Judge

[Pa.B. Doc. No. 11-933. Filed for public inspection June 3, 2011, 9:00 a.m.]

FRANKLIN AND FULTON COUNTIES

In the Matter of the Adoption of Local Rules of Criminal Procedure; Misc. Doc. CA-28-AD-15-2011

May 19th, 2011, *It Is Hereby Ordered* that the following Rules of the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin and Fulton County Branches, Criminal Division, are amended, rescinded or adopted as indicated this date, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Local Rule of Criminal Procedure 1000 is amended and is now re-numbered as Local Rule of Criminal Procedure 538.

Local Rule of Criminal Procedure 539 is adopted.

It Is Further Ordered that The District Court Administrator shall

1. Distribute two (2) certified paper copies and one (1) computer diskette or CD-ROM copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

2. File one (1) certified copy of the local rule changes with the Administrative Office of Pennsylvania Courts.

3. Provide one (1) certified copy of the local rule changes to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee.

4. Publish a copy of the local rule changes as required on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

5. Provide one (1) certified copy of the Local Rule changes to the Franklin County Law Library and one (1) certified copy to the Fulton County Law Library.

6. Keep such local changes, as well as all local criminal rules, continuously available for public inspection and copying in the Office of the Clerk of Courts of Franklin County and the Office of the Clerk of Courts of Fulton County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

7. Arrange to have the local rule changes published on the Franklin County Bar Association web site at www.franklinbar.org.

By the Court

DOUGLAS W. HERMAN,
President Judge

Local Rule of Criminal Procedure 39th Judicial District Rule of Criminal Procedure 538

Pursuant to Section 1725.5 of the Judicial Code that the Clerk of Courts shall assess in addition to any other fines, penalties or costs imposed by law, \$150.00 Booking Center Fund Fee against any person who is processed at any Booking Center in Franklin County on or after December 1, 2010 if the person is:

1. placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P. L. 233, No. 64), known as The Controlled Substance, Drug, Device or Cosmetic Act; or

2. receives Accelerated Rehabilitative Disposition for, pleads guilty to or nolo contendere to or is convicted of a crime under the following:

a. 18 Pa.C.S. § 106(a) (relating to classes of offenses)

b. 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under the influence)

c. 75 Pa.C.S. § 3802 (relating to driving under the influence of alcohol or controlled substance)

d. A violation of The Controlled Substance, Drug, Device and Cosmetic Act.

The Booking Center Fee shall be paid to Franklin County Clerk of Courts or the Payment Division of the Franklin County Adult Probation Department and deposited into a special booking center fund established by the Franklin County Criminal Justice Advisory Board. Moneys in the fund shall be disbursed, pursuant to procedures promulgated by the Franklin County Criminal Justice Advisory Board and used solely for the implementation of a "County-wide Booking Center Plan" and the start-up, operation or maintenance of the regional booking centers.

Local Rule of Criminal Procedure 39th Judicial District Rule of Criminal Procedure 539

(A) In all cases in which a person has been charged with an offense of a third degree misdemeanor or greater, the person shall be required to appear at the Franklin County Central Booking Center (CBC) located in the Franklin County Jail, 1804 Opportunity Avenue, Chambersburg, PA, to be fingerprinted and photographed prior to the date of his or her preliminary hearing.

(B) Pursuant to 18 Pa.C.S. 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense. The Central Booking

Center shall serve as a designated fingerprinting site for all arresting authorities in Franklin County.

(C)

a. In cases in which a person has been arraigned at the office of a Magisterial District Judge and fails to post bond, the person shall be fingerprinted and photographed at the CBC subsequent to his or her commitment at the Franklin County Jail.

b. In cases in which a person has been arrested during night, weekend or holiday hours, unless the charges proceed by summons, the person shall be taken directly to the CBC for a video arraignment and booking procedure before being committed to the Franklin County Jail or being released on bond.

c. In cases which proceed by summons or for offenses under 18 Pa.C.S.A. § 3929 (relating to retail theft), the person shall receive an order at the time of his or her preliminary hearing from the Magisterial District Judge to report within the date of the order to the CBC to be fingerprinted and photographed. The requirement to appear at the CBC to be fingerprinted and photographed as ordered shall be made a condition of bond.

d. In cases of private felony and misdemeanor prosecutions, the person may only be fingerprinted and photographed after conviction of the alleged offense. An order shall issue from the Court of Common Pleas after such conviction directing the Person to report to the CBC to be fingerprinted and photographed.

[Pa.B. Doc. No. 11-934. Filed for public inspection June 3, 2011, 9:00 a.m.]