

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 5]

Amendment of Rule of Judicial Administration No. 509 Governing Access to Financial Records; No. 390 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 8th day of November, 2012, pursuant to this Court's authority under Article V, Section 10 of the Pennsylvania Constitution, Pennsylvania Rule of Judicial Administration No. 509 is amended to read as follows. The amendments to Pa.R.J.A. No. 509 are promulgated in order to further facilitate public access to financial records of the Unified Judicial System. Access to financial records and publication of financial record information of the Unified Judicial System shall be provided in accordance with Pa.R.J.A. No. 509.

Whereas prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. No. 103(a)(3).

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective on December 17, 2012.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 5. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Rule 509. Access to Financial Records.

* * * * *

(e) *Publication of [Contract] Financial Record Information.*

(1) The Administrative Office shall make contract information available on the Unified Judicial System's [web site] website.

(2) For the appellate courts and Administrative Office, the Unified Judicial System's website shall also contain:

(i) appropriation names, descriptions and annual funding amounts;

(ii) expenditure data, including name and address of entity receiving payment, payment amount, applicable appropriation and fiscal year;

(iii) employee complement information, including position title and current annual salary, posted on a monthly basis; and

(iv) a listing of position titles and total annual compensation paid as of the end of the prior calendar year for each employee, posted on a yearly basis.

Official Note: The Pennsylvania Judiciary's long-standing practice of providing open, public access to its

records, both administrative and case-related, has been formalized in this rule and other policies adopted by the Supreme Court. The underlying premise for public access policies and practices in the Unified Judicial System is always the presumption of open records.

Initially promulgated by the Supreme Court on May 14, 2007, this rule furthers the Judiciary's commitment to establishing systematic processes for requesting and accessing state court system records. The rule took effect July 1, 2007.

The enactment of revisions to the Right-to-Know Law (Act 3 of 2008) occurred on February 14, 2008. Act 3 includes the judiciary only as it pertains to access of financial records, as defined by the Act, and regarding the Internet publication of judiciary contracts by the Commonwealth's Treasury Department. Section 304 of Act 3 of 2008 provides that a "judicial agency shall provide financial records in accordance with this act or any rule or order of court providing equal or greater access to the records." [Emphasis added.]

This rule, as amended, is promulgated pursuant to the Pennsylvania Supreme Court's constitutional authority regarding the administration of the courts under Article V, Section 10 and Section 304 of Act 3 of 2008. The expansion of the scope of this rule is in accordance with the continuing effort to promote the Unified Judicial System's policy of the public's right of access to records that deal with the use of public funds.

Pursuant to the Supreme Court's Order of June 23, 2008, access to financial records and publication of contract information of the Unified Judicial System shall be provided in accordance with this rule.

[(2) Prior to granting a request for access in accordance with this rule, the Administrative Office may require a requester to prepay an estimate of the fees associated with the request, if the fees are expected to exceed \$100.]

Effective on December 17, 2012, the Supreme Court directed the Administrative Office to augment the Unified Judicial System's website to include annual appropriation, expenditure, personnel complement and annual compensation information for the appellate courts and Administrative Office of Pennsylvania Courts, pursuant to its Order of November 8, 2012. The term "entity" shall not include employees of the Unified Judicial System.

[Pa.B. Doc. No. 12-2298. Filed for public inspection November 30, 2012, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Proposed Amendments to Pa.R.A.P. 2112

The Appellate Court Procedural Rules Committee proposes to amend Pa.R.A.P. 2112. The amendments are

being submitted for public comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is in bold faced type and deleted material is bracketed and in bold faced type.

All communications in reference to the proposed amendment should be sent no later than January 14, 2013 to:

Dean R. Phillips, Counsel
D. Alicia Hickok, Deputy Counsel
Scot R. Withers, Deputy Counsel
Appellate Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave., Suite 6200
P. O. Box 62635
Harrisburg, Pennsylvania 17106-2635
or Fax to
(717) 231-9551
or E-Mail to
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENTS OF BRIEF

Rule 2112. Brief of the Appellee.

The brief of the appellee, except as otherwise prescribed by these rules, need contain only a summary of argument and the complete argument for appellee **and may also include counter-statements of any of the matters required in the appellant's brief as stated in Pa.R.A.P. 2111(a).** [**However, the appellee may add a counter-statement of the questions involved and a counter-statement of the case.**] Unless the appellee does so, or the brief of the appellee otherwise challenges the questions involved or the statement of the case as stated by appellant, it will be assumed the appellee is satisfied with them, or with such parts of them as remain unchallenged.

Official Note: [Based on former Supreme Court Rule 48, former Superior Court Rule 40 and former Commonwealth Court Rule 91. See also *Cubitt v. New York Cent. R. Co.*, 278 Pa. 366, 370, 123 Atl. 308, 309 (1924).] See Rules 2111 and 2114—2119.

Explanatory Comment

Chapter 21 of the Rules of Appellate Procedure establishes the content and form of briefs and reproduced records, the requirements of filing and serving these documents, and the penalties for noncompliance. Rule 2112, when read in conjunction with Rule 2111 (brief of the appellant) and Rule 2174 (tables of contents and citations) establishes the mandatory elements of an ap-

pellee's brief as including the Summary of Argument, addressed in Rule 2118, and the Argument, addressed in Rule 2119. Rule 2112 also provides that an appellee's brief may contain a counter-statement of the questions involved, addressed in Rule 2116, and a counter-statement of the case, addressed in Rule 2117.

To further aid the appellate courts in the task of appellate review, the Appellate Court Procedural Rules Committee recommends that the Supreme Court amend Rule 2112 to provide that an appellee's brief may also include counter-statements of any of the matters required in the appellant's brief as stated in Pa.R.A.P. 2111(a).

[Pa.B. Doc. No. 12-2299. Filed for public inspection November 30, 2012, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Proposed Amendments to Pa.R.A.P. 2140

The Appellate Court Procedural Rules Committee proposes to amend Pa.R.A.P. 2140. The Committee submits the proposed amendment for public comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is in bold faced type and deleted material is bracketed and in bold faced type.

All communications in reference to the proposed amendment should be sent no later than January 14, 2013 to:

Dean R. Phillips, Counsel
D. Alicia Hickok, Deputy Counsel
Scot Withers, Deputy Counsel
Appellate Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave., Suite 6200
P. O. Box 62635
Harrisburg, Pennsylvania 17106-2635
or Fax to
(717) 231-9551
or E-Mail to
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2140. Brief on Remand or Following Grant of Reargument or Reconsideration.

(a) [**General Rule.**—Following a remand from the Supreme Court to the Superior Court or the Com-

monwealth Court, or an Order allowing reargument or reconsideration by any appellate court, unless otherwise directed by the Court having jurisdiction of the case, each party shall, within the time period specified below, either refile the brief previously filed together with a supplemental brief if desired, or prepare and file a substituted brief in accordance with this Rule.] Following remand or if reargument, reconsideration or rehearing is granted, the court shall establish a schedule for further proceedings. If the court does not require further briefing, it shall notify the parties. If further briefing is required, the court shall issue a briefing schedule that includes the order in which briefs shall be submitted, the type of brief to be submitted, whether a reproduced record is needed and the number of copies to be filed.

[(b) Cover on brief.—The brief (whether new or refiled) shall be appropriately titled to reflect the current status of the case (e.g. brief on remand, supplemental brief on remand, brief on reargument, supplemental brief on reargument).

(c) Order and time for filing.—On reargument or reconsideration, the party which petitioned for reargument or reconsideration shall file its brief, including any supplemental brief, within 21 days of the order allowing reargument or reconsideration. The respondent shall file its brief within 21 days after service of the petitioner's brief. The petitioner may file a reply brief within 10 days after service of the respondent's brief.

On remand the original appellant or original petitioner shall file its brief, including any supplemental brief, within 21 days of the remand order. The original appellee or respondent shall file its brief within 21 days after service of the appellant's or petitioner's brief. The original appellant or original petitioner may file a reply brief within 10 days after service of the appellee's or respondent's brief.

(d) Page limits.—A substituted brief shall not exceed 70 pages when produced on a word processor/computer or typewriter. A supplemental brief shall not exceed 40 pages when produced on a word processor/computer or typewriter. A reply brief shall not exceed 25 pages when produced on a word processor/computer or typewriter.]

Official Note: [The number of copies of original, substituted and supplemental briefs to be filed on reargument or reconsideration is to be set by the Prothonotary of the Appellate Court with jurisdiction over the appeal and may be changed from time to time without notice to bar.] The 2012 revision of this rule clarified that following remand or the grant of reconsideration or reargument, the court will order such briefing as it deems necessary.

Explanatory Comment

The Appellate Court Procedural Rules Committee proposes to amend Pa.R.A.P. 2140 so that when a case is remanded to an intermediate appellate court or an appellate court grants reargument or reconsideration, the court shall inform the parties of any additional briefing requirements.

Rule 2140, in its current form, provides that on remand, reconsideration or reargument, it is up to the parties whether they wish to re-file their original brief or file a supplemental brief. The Appellate Procedural Rules Committee believes that such an automatic provision, uninformed by direction from the appellate court, is inappropriate. Instead, the appellate court, which will be adjudicating the remand, reargument or reconsideration, should give the parties specific direction of what additional briefing, if any, it wishes. For example the issues on remand, reconsideration or reargument may be limited to a discrete, specific issue and the appellate court will desire briefing addressed to that issue only. There may be instances where a case is remanded to consider the impact of a recently decided case and the appellate court only needs briefing addressed to the case's impact.

Further, the current section (c) of Rule 2140 provides that the party that petitioned for reargument or reconsideration automatically files the first brief and the other party files a responsive brief. In many instances, the party that petitioned for reargument or reconsideration may not be the appellant with the burden on the underlying appeal. It is illogical that the petitioning party automatically should file the first brief on reargument or reconsideration.

The above-noted issues with respect to the current rule are resolved by the proposed amendment. The amendment provides the appellate court on remand, reconsideration or reargument first shall set a schedule for further proceedings. The appellate court then will determine what additional briefing is required and the schedule therefore. This amendment allows the appellate court to determine the briefing required based upon the specific issues before it. The parties will no longer need to guess what additional briefing the appellate court desires.

Accordingly, under the proposed amendment, the current version of Rule 2140 would be replaced by the following language:

Following remand or if reargument, reconsideration or rehearing is granted, the court shall establish a schedule for further proceedings. If the court does not require further briefing, it shall notify the parties. If further briefing is required, the court shall issue a briefing schedule that includes the order in which briefs shall be submitted, the type of brief to be submitted, whether a reproduced record is needed and the number of copies to be filed.

[Pa.B. Doc. No. 12-2300. Filed for public inspection November 30, 2012, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 3—6 AND 8]

Proposed Amendments to Rules 161, 195, 302, 407, 409, 512 and 800 and Proposed Rule 614

The Juvenile Court Procedural Rules Committee is eliciting public comment on proposed modifications to Rules 161, 195, 302, 407, 409, 512, and 800 and new proposed Rule 614. These proposed modifications address the adoption of the new Pennsylvania "SORNA" and "Act 21" legislation.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this pro-

posal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq.
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than Friday, February 1, 2013.

By the Juvenile Court
Procedural Rules Committee

HONORABLE TODD A. HOOVER,
Chair

Annex A
TITLE 237. JUVENILE RULES
PART I. RULES
Subpart A. DELINQUENCY MATTERS
CHAPTER 1. GENERAL PROVISIONS
PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 161. Inspecting, Copying, and Disseminating Juvenile Probation Files.

A. *Inspecting and copying.* Except as provided in paragraph (C), juvenile probation files shall be open to inspection and/or copying, unless the court has determined that the information sought is otherwise protected by law, only by:

- 1) the juvenile’s attorney;
- 2) the attorney for the Commonwealth;
- 3) the State Sexual Offenders Assessment Board;
- 4) the Juvenile Court Judges’ Commission; or
- 5) any other person, agency, or department by order of court.

* * * * *
Comment
* * * * *

Nothing in this rule is intended to preclude the juvenile probation office from sharing information in its file with the juvenile.

Pursuant to paragraph (A)(5), the court is to order the specific information that may be subject to inspection and/or copying and by whom the file may be viewed.

See Commonwealth v. Carter, 821 A.2d 601 (Pa. Super. Ct. 2003) for clarification of protected information.

* * * * *

PART D(2). JUVENILE PROBATION OFFICERS

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:

* * * * *

13) provide information for “juvenile offenders” and assist the chief juvenile probation officer:

- a) by identifying adjudicated juveniles who are designated as “juvenile offenders”;
- b) by informing these identified juveniles of the duty to register as a sexual offender;
- c) by requiring the juvenile to sign a form acknowledging such duty;
- d) in collecting information to forward to the Pennsylvania State Police for inclusion in the Registry;
- e) by ensuring the juvenile’s information is current prior to the release of the juvenile from a placement facility;

f) in filling out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to a placement facility, or refuses to provide information pursuant to paragraph (A)(13)(d); and

g) by notifying the chief juvenile probation officer when a juvenile refuses to provide the information as required;

14) provide information for juveniles adjudicated delinquent for acts of sexual violence and assist the chief juvenile probation officer:

a) in notifying and aiding the State Sexual Offenders Assessment Board (SOAB), concerning any juvenile who is in a placement facility, as a result of having been adjudicated delinquent for an act(s) of sexual violence, ninety days prior to the juvenile’s twentieth birthday:

- i) of the status of the juvenile;
- ii) by specifying where the juvenile is presently committed; and
- iii) in obtaining information required by SOAB pursuant to 42 Pa.C.S. §§ 6358(B) and 9799.24(C) & (H);

b) by informing any adjudicated juvenile who are designated as “sexually violent delinquent child” of the duty to register as a sexual offender;

c) by requiring the juvenile to sign a form acknowledging such duty;

d) in collecting information to forward to the Pennsylvania State Police for inclusion in the Registry;

e) by ensuring the juvenile’s information is current prior to the release of a “sexually violent delinquent child” from involuntary treatment facility if the juvenile is under the juvenile court’s supervision;

f) in filling out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to an inpatient facility, or

refuses to provide information pursuant to paragraph (A)(14)(d) if the juvenile is under the juvenile court's supervision; and

g) by notifying the chief juvenile probation officer when a juvenile refuses to provide the information as required; and

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

* * * * *
Comment
* * * * *

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.

Paragraphs (A)(13)(a)—(g) & (A)(14)(a)—(g) were added in 201- after the adoption of the Act of December 11, 2011 (P.L. 446, No. 111), as amended by the Act of July 5, 2012 (P.L. 880, No. 91), bringing Pennsylvania into compliance with the Federal Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248, 120 Stat. 597), particularly the Sexual Offender Registration and Notification Act. There are several requirements placed upon the chief juvenile probation officer by these statutory amendments. This rule requires juvenile probation officers to notify and assist the chief juvenile probation officer in carrying out his or her obligations.

Juvenile probation officers are to notify all juveniles who are classified as "juvenile offenders" and/or "sexually violent delinquent children", as defined by 42 Pa.C.S. §§ 6402 & 9799.12, about the duty to register and provide information as a sexual offender. "Juvenile offenders" are designated by the court pursuant to Rule 512(D)(8). The juvenile probation officer is to ensure the juvenile signs a form acknowledging this duty. See paragraphs (A)(13)(b) & (c) & (A)(14)(b) & (c).

Pursuant to 42 Pa.C.S. § 9799.16(B) & (C), the juvenile is to provide specific information to the Pennsylvania State Police to be included in the Registry. It is the duty of the chief juvenile probation officer to: 1) inform the juvenile of the juvenile's duty to register; 2) require the juvenile to read and sign a form stating that the duty to register has been explained and the juvenile understands the registration requirements; and 3) collect the information required under 42 Pa.C.S. § 9799.16(B) & (C) and forward the information to the Pennsylvania State Police for inclusion in the Registry. See 42 Pa.C.S. § 9799.20. Paragraphs (A)(13)(d) & (A)(14)(d) ensures the juvenile probation officer assists the chief juvenile probation officer in forwarding this information to the Pennsylvania State Police.

Under 42 Pa.C.S. § 9799.33(A)(2), the chief juvenile probation officer is to notify the Pennsylvania State Police each time a sexual offender is arrested or recommitted to a placement facility if the juvenile is under the court's supervision. The juvenile probation officer is to assist the chief juvenile probation officer in fulfilling this duty. See paragraphs (A)(13)(f) & (A)(14)(f).

Pursuant to paragraphs (A)(14)(e) & (f), the juvenile probation officer is to ensure the juvenile's

information is current prior to release of a "sexually violent delinquent child" from involuntary treatment facility and fill out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to an inpatient facility, or refuses to provide information pursuant to paragraph (A)(14)(d) if the juvenile is still under the juvenile court's supervision. In most instances, juvenile court supervision will be terminated prior to these occurrences.

Paragraphs (A)(13)(g) & (A)(14)(g) require the juvenile probation officer to notify the chief juvenile probation officer if the juvenile refuses to provide this information. Pursuant to 42 Pa.C.S. 9799.22(D), the chief juvenile probation officer is to notify the Pennsylvania State Police of such violation. The juvenile will then be charged with a violation of 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration of sexual offenders requirements).

Ninety days prior to the twentieth birthday of a juvenile who was adjudicated delinquent for an act(s) of sexual violence and who remains in a placement facility upon attaining twenty years of age, as specified in 42 Pa.C.S. § 6358(A), a probation officer is to notify SOAB about the status of the juvenile, where the juvenile is presently placed, and is to assist SOAB in obtaining access to any information, including the juvenile's official court record and juvenile probation file, required by SOAB to perform an assessment. See 42 Pa.C.S. §§ 6358(B) & 9799.24(H). The juvenile probation office is to cooperate with SOAB when an assessment is ordered. See 42 Pa.C.S. § 9799.24(C). See paragraph (A)(14)(a).

See, e.g. *Com. v. Knoble*, 42 A.3d 976 (Pa. 2012) for participation in sexual history therapeutic polygraph examination for sexual offender treatment if a condition of probation.

* * * * *

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES
PART A. VENUE

Rule 302. Inter-County Transfer.

* * * * *

D. "Juvenile offenders." Upon an adjudication of delinquency, the court shall:

1) classify the out-of-county juvenile as a "juvenile offender" pursuant to Rule 409(D); and

2) order the "juvenile offender" to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B) if:

3) the following two conditions have been met:

a) the adjudication of delinquency occurs in any county other than the juvenile's county of residence; and

b) the court intends to transfer the juvenile's case for disposition to the juvenile's county of residence under this rule and 42 Pa.C.S. § 6321(C).

Comment

* * * * *

When the case is being transferred under paragraph (A), the transferring court should enter a finding of the amount of restitution owed and to whom it should be

paid, if ordered. A restitution order should be included in the dispositional order, if applicable, under paragraph (B).

See Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).

* * * * *

CHAPTER 4. ADJUDICATORY HEARING

Rule 407. Admissions.

* * * * *

C. Written admission colloquy. If a juvenile is making an admission, the colloquy shall be:

- 1) in writing;
2) reviewed and completed with the juvenile by an attorney;
3) submitted to and reviewed by the court; [and]
4) substantially in the following form:

* * * * *

5) and; if the juvenile is admitting to a sexual offense for which the juvenile shall register as a "juvenile offender" or "sexually violent delinquent child," an addendum to the admissions form shall be in substantially the following form:

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

ADDENDUM TO ADMISSIONS FORM
SEXUAL OFFENDER REGISTRATION AND/OR ACT
21 COLLOQUY

In re : Docket # _____

(Juvenile) :
: Delinquent Act(s): _____
: _____
: _____
: _____

INTRODUCTION

This supplemental colloquy* should be used in conjunction and submitted with the written admission colloquy form as mandated by Pa.R.J.C.P. 407.

*It is recommended that this colloquy be placed on the record in open court.

If Part A of this colloquy is applicable, both Parts A and B must be completed.

If Part A does not apply, complete Part B only.

PART A

Sexual Offender Registration—14 yrs. or older*

*Age at time of commission of delinquent act

SORNA CASES

I committed at least one of the following delinquent act(s) on or after my fourteenth birthday; AND

If I am adjudicated delinquent by the court for any of these acts,

I understand that I must register as a "juvenile offender" for the rest of my life.

See 42 Pa.C.S. §§ 9799.12 and 9799.17.

Check all that apply:

Table with 4 columns: Rape, 18 Pa.C.S. § 3121; Involuntary Deviate Sexual Intercourse, 18 Pa.C.S. § 3123; Aggravated Indecent Assault, 18 Pa.C.S. § 3125; Attempt; Solicitation; Conspiracy.

General Information:

- 1) My birthday is _____. (MM/DD/YYYY)
2) The delinquent act(s) was committed on _____. (MM/DD/YYYY).
3) I was at least fourteen (14) years old at the time of the commission of the delinquent act(s) designated as an offense of a "juvenile offender" enumerated above.
Yes No

See 42 Pa.C.S. § 9799.12 (Definition of "juvenile offender")

4) My home state is _____.

If I am not a resident of Pennsylvania, I understand the provisions of this colloquy are applicable at the time of the adjudication of delinquency and my home state may have additional requirements not presented in this colloquy. _____ initials

Understanding of Registration Requirements

5) I understand that I must give the juvenile probation office specific information and have my photograph taken before I am released from a placement facility or when I am placed on probation. _____ initials

See 42 Pa.C.S. §§ 6352(A)(2)—(3), 9799.15 (Period of registration), 9799.16 (Registry), and 9799.19 (Initial Registration).

6) I understand "registration" means that I will be required to appear at a location approved by the Pennsylvania State Police (PSP) periodically to give my name and certain information about me which can be seen by other people. _____ initials

7) I understand that I am required to appear at a PSP site to provide and verify specific information and be photographed every three months for the rest of my life unless I am a transient juvenile offender as provided in paragraph (9). _____ initials

See 42 Pa.C.S. §§ 9799.15, 9799.16(B), and 9799.25.

8) I understand that if I change my name, telephone number, email address, move my residence, change employment or student status, have transportation changes, or any other changes in my personal status as required by 42 Pa.C.S. § 9799.15(G), I am required to appear at a PSP site within three business days of the change to provide current information. _____ initials
See 42 Pa.C.S. § 9799.15(G).

9) I understand that I am a transient juvenile offender if I do not have a permanent home but live in a

temporary place in Pennsylvania and that I must appear in person every month at a PSP site to provide or verify specific information and to be photographed until I establish a residence. _____ initials

See 42 Pa.C.S. §§ 9799.15(h) (Relating to transient juvenile offenders) and 9799.16(B) (Registry information).

10) I understand that I will be included on a statewide registry of sexual offenders which means other people will be able to see certain information about me. _____ initials

See 42 Pa.C.S. § 9799.16 (Registry).

11) I understand that after 25 years of compliance, I am eligible to petition the court to have my registration terminated if I have not been convicted of any new crimes. _____ initials

See 42 Pa.C.S. § 9799.17 (Termination of period of registration for juvenile offenders)

12) I understand that the failure of the court to provide notice to me of all the registration requirements does not relieve me from registering. _____ initials

See 42 Pa.C.S. § 9799.25(D).

Failure to Register is a new crime

13) I understand that I may be charged with a new offense which is a felony if I knowingly fail to:

a) register with the PSP as required (felony of the second degree); _____ initials

b) verify my address or be photographed as required (felony of the second degree); or _____ initials

c) provide accurate information when registering (felony of the first degree). _____ initials

See 18 Pa.C.S. § 4915.1, 42 Pa.C.S. §§ 9799.15 (relating to period of registration), 9799.19 (relating to initial registration), or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).

Consequences of Failure to Register

14) I understand that I may be arrested for failure to meet any of the registration requirements. _____ initials

See 18 Pa.C.S. § 4915.1.

15) If prosecuted as an adult, I understand that if I am found to have failed to meet the registration requirements and convicted, the court is required to send me to jail for at least three years if I violate 18 Pa.C.S. § 4915.1(A)(1) & (2) and five years if I violate 18 Pa.C.S. § 4915.1(A)(3). _____ initials

See 42 Pa.C.S. § 9718.4.

I understand that if I am under eighteen years old, petitioned with a felony delinquent act, and prosecuted in juvenile court for failing to meet the registration requirements, I would be subject to the provisions of the Juvenile Act which could include transfer to adult court or placement in a juvenile placement facility. _____ initials

See 42 Pa.C.S. §§ 6352 and 6355.

Part B

Juvenile who may be Subject to Civil Commitment for Involuntary Treatment

CIVIL COMMITMENT CASES

I committed at least one of the following delinquent act(s); AND

If I am adjudicated delinquent by the court; AND

If I am in a placement facility upon attaining the age of twenty,

I understand that I may be civilly committed for involuntary inpatient treatment at a facility as a "sexually violent delinquent child."

See 42 Pa.C.S. § 6401 *et seq.*

Check all that apply:

<input type="checkbox"/> Rape, 18 Pa.C.S. § 3121	<input type="checkbox"/> Sexual Assault, 18 Pa.C.S. § 3124.1
<input type="checkbox"/> Involuntary Deviate Sexual Intercourse, 18 Pa.C.S. § 3123	<input type="checkbox"/> Indecent Assault, 18 Pa.C.S. § 3126
<input type="checkbox"/> Aggravated Indecent Assault, 18 Pa.C.S. § 3125	<input type="checkbox"/> Incest, 18 Pa.C.S. § 4302

1) I understand that if I am in a placement facility upon attaining the age of twenty (20), the State Sexual Offenders Assessment Board (SOAB) will conduct an assessment to determine if I have a mental abnormality or personality disorder which results in serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. _____ initials

See 42 Pa.C.S. § 6358.

2) I understand that if the SOAB concludes that I am in need of involuntary inpatient treatment, the court will conduct a dispositional review hearing. _____ initials

See 42 Pa.C.S. § 6358.

3) I understand that if the court, at the dispositional review hearing, finds there is a *prima facie* case that I am in need of involuntary commitment pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court will direct the county solicitor or a designee to file a petition to commence involuntary commitment proceedings. _____ initials

See 42 Pa.C.S. § 6358.

4) I understand that if a petition has been filed to commence involuntary commitment proceedings, the court will conduct a hearing to determine if I have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. _____ initials

See 42 Pa.C.S. § 6403.

5) I understand that if, at a hearing pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court determines that I have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence, I will be committed to an involuntary inpatient facility. _____ initials

See 42 Pa.C.S. § 6403.

6) I understand that I must give the juvenile probation office specific information and have my photograph taken at the time of commitment to an involuntary inpatient center. _____ initials

See 42 Pa.C.S. §§ 9799.15 (Period of registration), 9799.16 (Registry), and 9799.19 (Initial Registration).

7) I understand that once committed to an involuntary inpatient facility, my case will be reviewed every year and I will not be released until it is determined that I no longer have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. _____ initials

See 42 Pa.C.S. § 6404.

8) I understand that if I am released from the inpatient facility, I will be transferred for involuntary outpatient treatment and subject to registration requirements listed in Part B, paragraphs (12)—(22). _____ initials

See 42 Pa.C.S. § 6404.1.

9) I understand that my involuntary outpatient treatment will be reviewed by the court each year. _____ initials

See 42 Pa.C.S. § 6404.2.

10) I understand that if I am released from outpatient treatment, I must attend at least monthly counseling sessions and follow other requirements for the rest of my life, including the registration requirements listed in Part B, paragraphs (12)—(22), as conditions of my release. _____ initials

See 42 Pa.C.S. §§ 6404.1 & 6404.2.

11) I understand that if I fail to meet any of the required conditions of my treatment plan, including registration, or the court determines I am having serious difficulty controlling sexually violent behavior, I will be sent back to an involuntary inpatient facility. _____ initials

See 18 Pa.C.S. § 4915.1 & 42 Pa.C.S. § 6404.2.

12) I understand “registration” means that I will be required to appear at a location approved by the Pennsylvania State Police (PSP) periodically to give my name and certain information about me that can be seen by other people. _____ initials

13) I understand that I am required to appear at a PSP site to provide and verify specific information and be photographed every three months for the rest of my life unless I am a transient as provided in paragraph (15). _____ initials

See 42 Pa.C.S. §§ 9799.15, 9799.16(B), and 9799.25.

14) I understand that if I change my name, telephone number, email address, move my residence, change employment or student status, have transportation changes, or any other changes in my personal status that are required by 42 Pa.C.S. § 9799.15(G), I am required to appear at a PSP site within three business days of the change to provide current information. _____ initials

See 42 Pa.C.S. § 9799.15(G).

15) I understand that I am a transient if I do not have a permanent home but live in a temporary place in Pennsylvania and that I must appear in person every month at a PSP site to provide or verify specific information and to be photographed until I establish a residence. _____ initials

See 42 Pa.C.S. §§ 9799.15(H) (Relating to transient juvenile offenders) and 9799.16(B) (Registry information).

16) I understand that information about me will be included on a statewide registry of sexual offenders which means other people will be able to see certain information about me on a public internet web-site maintained by the PSP. _____ initials

See 42 Pa.C.S. § 9799.16 (Registry).

17) I understand that the failure of the court to provide notice to me of all the registration requirements does not relieve me from registering. _____ initials

See 42 Pa.C.S. § 9799.25(D).

Failure to Register or attend outpatient counseling is a new crime

18) I understand that I may be charged with a new offense which is a felony if I knowingly fail to:

a) register with the Pennsylvania State Police as required (felony of the second degree); _____ initials

b) verify my address or be photographed as required (felony of the second degree); or _____ initials

c) provide accurate information when registering (felony of the first degree). _____ initials

See 18 Pa.C.S. § 4915.1, 42 Pa.C.S. §§ 9799.15 (relating to period of registration), 9799.19 (relating to initial registration), or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).

19) I understand that I may be charged with a new offense which is a misdemeanor of the first degree if I fail to attend outpatient counseling. _____ initials

See 18 Pa.C.S. § 4915.1.

Consequences of Failure to Register

20) I understand that I may be arrested for failure to meet any of the registration or counseling requirements. _____ initials

See 18 Pa.C.S. § 4915.1.

21) I understand that if I am found to have failed to meet the registration requirements and convicted, the court is required to send me to jail for at least three years if I violate 18 Pa.C.S. § 4915.1(A)(1) & (2) and five years if I violate 18 Pa.C.S. § 4915.1(A)(3). _____ initials

See 42 Pa.C.S. § 9718.4.

22) I understand that if I am found to have failed to attend counseling sessions, I may also be recommitted to an involuntary inpatient facility or prosecuted for a new offense. _____ initials

See 18 Pa.C.S. § 4915.1 & 42 Pa.C.S. § 9799.36.

Lawyer's Representation and Opportunity to Speak with Guardian

23) Are you okay with what your lawyer did for you and how he or she explained everything? Yes No

24) Did you talk with your parent or guardian about the lifetime implications of being adjudicated for the enumerated delinquent act(s)? Yes No

I have read this form or someone has read this form to me.

Parts A and B have been completed.

Part B only has been completed.

I understand the form and which sections apply to me. The signature below and initials on each page of this form are mine.

JUVENILE

DATE

I, _____, lawyer for the juvenile, have reviewed this form with my client. My client has told me and I believe that he or she understands this form. I have completed the following sections with my client and explained the applicability of these sections to him or her.

- Parts A and B have been completed.
- Part B only has been completed.

LAWYER FOR JUVENILE

DATE

Comment

* * * * *

The admission colloquy and the addendum for sexual offense cases can be downloaded from the Supreme Court’s webpage at <http://www.pacourts.us/T/BoardsCommittees/JuvenileCourtProcedural/>. The [admission form is] forms are also available in Spanish.

The Pennsylvania Juvenile Collateral Consequences checklist is also available on the Supreme Court’s webpage.

* * * * *

Rule 409. Adjudication of Delinquency.

* * * * *

D. Out-of-County “Juvenile Offenders” Classification. The court shall classify an out-of-county juvenile as a “juvenile offender” if:

- 1) the adjudication of delinquency was a result of an offense as defined by 42 Pa.C.S. § 9799.12;
- 2) the court has adjudicated the juvenile delinquent pursuant to paragraph (A)(2)(a) and the case is being transferred pursuant to Rule 302.

Comment

* * * * *

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. See Comment to Rule 170 for further description of a case reference number.

Pursuant to paragraph (D), the court is to classify the out-of-county juvenile as a “juvenile offender” if the juvenile is found delinquent for a “juvenile offender” offense as defined by 42 Pa.C.S. § 9799.12. See 42 Pa.C.S. §§ 9799.19 (H) for out-of-county classification and 9799.23 for court’s notification and classification requirements.

See Rule 302 for procedures for out-of-county juvenile offenders. An out-of-county juvenile is defined in Rule 302(D)(3)(a) & (b).

See also Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).

* * * * *

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 512. Dispositional Hearing.

* * * * *

D. *Court’s findings.* The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 515. On the record in open court, the court shall state:

* * * * *

6) any findings necessary to ensure the stability and appropriateness of the juvenile’s education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 147; [and]

7) any findings necessary to identify, monitor, and address the juvenile’s needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed[.];

8) If juvenile is adjudicated delinquent for any of the following offenses after turning fourteen years of age, the court shall classify the juvenile as a juvenile offender:

- a) rape, 18 Pa.C.S. § 3121;
- b) involuntary deviant sexual intercourse, 18 Pa.C.S. § 3123
- c) aggravated indecent assault, 18 Pa.C.S. § 3125; or
- d) attempt, solicitation, or conspiracy to the enumerated offenses in paragraph (8)(a)—(c).

E. Classification of juvenile offender. Upon classification of a juvenile as a “juvenile offender,” the court shall:

1) explain to the juvenile that the juvenile has the following duties:

- a) the duty to register pursuant to 42 Pa.C.S. § 9799.10 *et seq.*;
- b) the duty to register in accordance with 42 Pa.C.S. § 9979.15 (Relating to Period of Registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police);
- c) the duty to register with authorities in another jurisdiction within three business days pursuant to 42 Pa.C.S. 9799.23;
- d) the duty to submit to fingerprints, palm prints, DNA sample, and photograph at the time of the disposition; and

2) fulfill the following duties of the court:

- a) classify the juvenile as a “juvenile offender” if juvenile is found delinquent for an offense that is a “juvenile offender” offense as defined by 42 Pa.C.S. § 9799.12;
- b) ensure the juvenile offender has signed the form stating that the duty to register has been explained; and
- c) issue any orders to a juvenile offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B).

Comment

* * * * *

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not avail-

able, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

If the juvenile is classified by the court as a “juvenile offender,” as defined by 42 Pa.C.S. § 9799.12, pursuant to 42 Pa.C.S. § 9799.19(H), the judge is to order the juvenile to provide information required pursuant to 42 Pa.C.S. § 9799.16(B) to the chief juvenile probation officer at the time of disposition. See 42 Pa.C.S. § 9799.19(H)(1). Pursuant to 42 Pa.C.S. § 9799.20, the court is to: 1) inform the juvenile of the juvenile’s duty to register; 2) require the juvenile to read and sign a form stating that the duty to register has been explained and the at the juvenile understands the registration requirements; and 3) collect the information required under 42 Pa.C.S. § 9799.16(B) & (C) and forward the information to the Pennsylvania State Police for inclusion in the Registry. See 42 Pa.C.S. § 9799.20.

Additionally, 42 Pa.C.S. § 9799.23(A) requires at the time of disposition, the court to: 1) specifically classify the juvenile as a “juvenile offender”; 2) ensure the sexual offender has signed the form stating that the duty to register has been explained; and 3) issue any orders to a juvenile offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B).

The court, at the time of disposition, also is to inform the “juvenile offender” of the following duties: 1) the duty to register as a sexual offender pursuant to 42 Pa.C.S. § 9799.10 *et seq.*; 2) the duty of the sexual offender to register in accordance with 42 Pa.C.S. §§ 9799.15 (Relating to period of registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police); 3) the duty of the sexual offender to register with authorities in another jurisdiction within three business days of specific occurrences as described in 42 Pa.C.S. 9799.23(A)(3); and 4) the duty of the sexual offender to submit to fingerprints, palm prints, DNA Sample, and photograph at the time of the disposition in accordance with 42 Pa.C.S. § 9799.16(C). See 42 Pa.C.S. § 9799.23.

In inter-county transfer cases for “juvenile offenders,” the procedures differ. The court is to make the classification at the time of adjudication of delinquency. See Rule 302 and 800.

* * * * *

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART B. MODIFICATIONS AND REVIEWS

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

Rule 614. Sexually Violent Delinquent Children.

A. *Chief Juvenile Probation Officer’s Duties.* The Chief Juvenile Probation Officer shall:

1) notify and aid SOAB concerning any juvenile, who is in a placement facility, as a result of having been adjudicated delinquent for an act(s) of sexual violence, ninety days prior to the juvenile’s twentieth birthday:

- a) of the status of the juvenile;
- b) by specifying where the juvenile is presently committed; and

c) in obtaining information required by SOAB pursuant to 42 Pa.C.S. §§ 6358(B) and 9799.24 (C) & (H);

2) when applicable for a juvenile, who is adjudicated delinquent for an act(s) of sexual violence, explain to the juvenile that if the juvenile remains in placement upon turning twenty years of age:

a) the SOAB will perform an assessment to determine if the juvenile has a mental abnormality or personality disorder which results in serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;

b) if the SOAB concludes that the juvenile is in need of involuntary inpatient treatment, the court will conduct a dispositional review hearing;

c) if the court, at the dispositional review hearing, finds there is a *prima facie* case that the juvenile is in need of involuntary commitment pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court will direct the county solicitor or a designee to file a petition to commence involuntary commitment proceedings;

d) if a petition has been filed to commence involuntary commitment proceedings, the court will conduct a hearing to determine if the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;

e) if, at a hearing pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court determines that the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence, the juvenile will be:

- i) committed to an involuntary inpatient facility; and
- ii) classified as a “sexually violent delinquent child;”

f) if the juvenile is classified as a “sexually violent delinquent child,” the juvenile must give the juvenile probation office specific information and have his or her photograph taken at the time of commitment to an involuntary inpatient center;

g) if the juvenile is committed to an involuntary inpatient facility, the juvenile’s case will be reviewed every year and the juvenile will not be released until it is determined that the juvenile no longer has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;

h) if the juvenile is released from the inpatient facility, the juvenile will be transferred for involuntary outpatient treatment and subject to registration requirements, including:

i) the duty to register pursuant to 42 Pa.C.S. § 9799.10 *et seq.*;

ii) the duty to register in accordance with 42 Pa.C.S. § 9799.15 (Relating to period of registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police);

iii) the duty to register with authorities in another jurisdiction within three business days pursuant to 42 Pa.C.S. 9799.23;

iv) the duty to submit to fingerprints, palm prints, DNA sample, and photograph at the time of the disposition; and

B. *Court’s duties.* The court shall:

a) conduct a dispositional review hearing to determine if the juvenile is a “sexually violent delinquent child,” if

after an assessment, SOAB has determined the juvenile is in need of involuntary inpatient treatment;

b) order the solicitor or designee to file a petition to commence involuntary commitment proceedings if the court finds there is a *prima facie* case that the juvenile is in need of involuntary commitment pursuant to 42 Pa.C.S. § 6301 *et seq.*;

c) conduct a hearing pursuant to 42 Pa.C.S. § 6301 *et seq.* and determine whether the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act(s) of sexual violence;

d) classify the juvenile as a “sexually violent delinquent child” if the court determines the juvenile has serious difficulty controlling the juvenile’s sexually violent behavior that makes the juvenile likely to engage in an act(s) of sexual violence, as defined by 42 Pa.C.S. § 9799.12;

i) ensure the sexual offender has signed the form stating that the duty to register has been explained if the juvenile is classified as a “sexually violent delinquent child;” and

ii) issue any orders to a sexual offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B) if the juvenile is classified as a “sexually violent delinquent child;” and

e) send a copy of any order to SOAB within ten days of the hearing

Comment

See 42 Pa.C.S. §§ 6358 and 9799.24 for assessments of delinquent children by the SOAB. See also 42 Pa.C.S. § 9799.23 for court notification.

CHAPTER 8. SUSPENSIONS

Rule 800. Suspensions of Acts of Assembly.

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

* * * * *

13) The Act of December 20, 2011, P. L. 446, No. 111, § 18, 42 Pa.C.S. § 9799.23(A), which provides for classification of the “juvenile offender” at the time of disposition, is suspended only insofar as the Act is inconsistent with Rules 302 and 409, which require the classification of a “juvenile offender” for out-of-county cases at the time of the adjudication of delinquency.

14) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6323(a)(2), which provides that a delinquent child may be referred for an informal adjustment by a juvenile probation officer, is suspended only insofar as the Act is inconsistent with Rule 312, which provides that only an *alleged* delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.

[14] 15) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P. L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time

frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.

[15] 16) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6340(c), which provides consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, is suspended only insofar as the Act is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.

[16] 17) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile’s detention unless the exceptions of (a)(1) & (2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

[17] 18) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6355(g), which provides the burden of establishing by a preponderance of evidence that the public interest is served by the transfer of the case to criminal court *and* that a child is not amenable to treatment, supervision, or rehabilitation as a juvenile shall rest with the Commonwealth unless the exceptions of paragraphs (g)(1) and (2) apply, is suspended only insofar as the Act is inconsistent with Rule 394, which provides *only* the burden of establishing by a preponderance of the evidence that the public interest is served by the transfer of the case to criminal court shall rest with the Commonwealth unless the exceptions of paragraph (g)(1) and (2) apply.

[18] 19) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months when a juvenile is removed from the home, is suspended only insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months.

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See also Rule 102.

The partial suspension of 42 Pa.C.S. § 9799.23(A) is due to the requirement of 42 Pa.C.S. § 9799.19(H), which requires the out-of-county juvenile to register at the time of the adjudication of delinquency. For the juvenile to register, it is first required that the juvenile be classified as a juvenile offender.

* * * * *

Request for Public Comment

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on amendments to Rules 161, 195, 302, 407, 409, 512, and 800 and new proposed Rule 614.

With the adoption of Act 111 of 2011 (P. L. 446, No. 111, Cl. 18) and Act 91 of 2012 (P. L. 880, No. 91, Cl. 18), the legislature has placed several requirements upon the Chief Juvenile Probation Officer and the court to follow when a juvenile is adjudicated delinquent on an enumerated sexual offense. These proposed rule additions reflect these statutory changes.

Rule 161

Rule 161 has been specifically questioned because requirements in this new legislation affect the inspection

and copying of juvenile probation files by the State Sexual Offenders Assessment Board (SOAB).

When Rule 161 was adopted by the Court, it was intended to make inspection and copying of juvenile probation files more accessible to attorneys, SOAB, and JCJC. However, this rule never was intended to bypass other legal restrictions placed upon records or reports. For example, there may be confidential communications between a patient and psychiatrist that is protected by law. *See Commonwealth v. Carter*, 821 A.2d 601 (Pa. Super. Court. 2003), for clarification of protected information.

The addition of “unless the court has determined that the information sought is otherwise protected by law” was added to paragraph (A) to clarify the original intent of the rule. If the juvenile probation office fails to permit inspection and/or copying of specific information, the court must to determine whether the information sought is protected communications.

Rule 195

As stated *supra*, the chief juvenile probation officer must follow specific directives in carrying out the registry requirements for juveniles classified as “juvenile offenders.” In addition, if a juvenile is in a placement facility ninety days prior to turning twenty years old and is in placement on an enumerated sexual offense, which could lead to an “Act 21” placement, the chief juvenile probation officer must make a referral to the SOAB.

To assist the chief juvenile probation officer in his or her duties, Rule 195 requires assigned juvenile probation officers to assist their Chief in fulfilling the mandated duties for notification and registry of “juvenile offenders” and juveniles adjudicated delinquent for acts of sexual violence that may be designated as a “sexually violent delinquent child” in the future.

Rules 302, 409, and 800

Rules 302 and 409 require the court to *classify* an out-of-county juvenile as a “juvenile offender” at the time of the adjudication of delinquency. This differs from 42 Pa.C.S. § 9799.23, which requires the court to classify the “juvenile offender” at the time of disposition.

An out-of-county juvenile is required to *register* as a “juvenile offender” at the time of the adjudication of delinquency pursuant to 42 Pa.C.S. § 9799.19(H). Before a juvenile can register, the juvenile first must be classified as a “juvenile offender” by the court. Therefore, Rule 800 makes these two requirements consistent. *See* Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).

Rule 407

Rule 407 requires the juvenile to complete a mandatory written admission colloquy with the juvenile prior to entering the courtroom if the juvenile is admitting to the delinquent act(s). A part of this colloquy requires the attorney to review the consequences of an adjudication of delinquency with the juvenile. In addition to this explanation by the attorney, the rule also requires an independent inquiry by the court asking the juvenile if the juvenile understands the consequences that stem from admitting to the delinquent act(s).

Act 111 now requires a juvenile to register as a “juvenile offender” or “a sexually violent delinquent child” for certain sexual offenses and to follow many requirements for that registry. To explain these new requirements to the juvenile, a separate colloquy must be performed in those specific cases when the juvenile is

admitting to an enumerated sexual offense. This new “SORNA” and “Act 21” colloquy is an addendum to the admission colloquy. The court is to review both colloquies with the juvenile when making a determination that the admission is knowingly, intelligently, and voluntarily made.

Because the consequences of an adjudication of delinquency on an enumerated sexual offense include reporting requirements for the rest of the juvenile’s life and could include a mandatory jail sentence for non-compliance, the “SORNA” and “Act 21” colloquy is being mandated.

Rule 512

The court must classify the juvenile as a “juvenile offender” at the time of the disposition. *See* 42 Pa.C.S. § 9799.19(H). For out-of-county juveniles, see Rules 302 and 409.

In addition to the classification, the court must notify the juvenile of specific duties as set forth in paragraph (E)(1) and fulfill specific duties as provided in paragraph (E)(2).

Rule 614

This new proposed rule provides the steps that the Chief Juvenile Probation Officer must take when a juvenile has committed an enumerated sexual offense that actuates possible involuntary civil commitment if the juvenile is in placement ninety days prior to the juvenile’s twentieth birthday for that triggering offense.

Initial proceedings to “evaluate” the juvenile begin in juvenile court but once a petition has been filed by the county solicitor or a designee, civil proceedings are commenced.

The rule specifically provides that the Chief Juvenile Probation Officer has specific duties, which include explaining to juveniles what could occur if they have been adjudicated delinquent for an act of sexual violence and are in a placement facility ninety days prior to their twentieth birthdays.

[Pa.B. Doc. No. 12-2301. Filed for public inspection November 30, 2012, 9:00 a.m.]

PART I. RULES

[237 PA. CODE CHS. 11, 12 AND 16]

Proposed Amendments to Rules 1120, 1150, 1151 and 1200 and Proposed Rules 1610, 1611, 1631, 1634 and 1635

The Juvenile Court Procedural Rules Committee is eliciting public comment on proposed modifications to Rules 1120, 1150, 1151, and 1200 and new proposed Rules 1610, 1611, 1631, 1634, and 1635. These proposed modifications address the recent “Resumption of Jurisdiction” legislation.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

Only for those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq.
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than Friday, February 1, 2013.

By the Juvenile Court
Procedural Rules Committee

HONORABLE TODD A. HOOVER,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

* * * * *

CHILD is a person who:

1) is under the age of eighteen [**who**] and is the subject of the dependency petition[, **or who**]

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

3) has requested the court to resume jurisdiction; and

a) is under twenty-one years of age;

b) was adjudicated dependent prior to turning eighteen years of age; and

c) is, one of the following:

i) completing secondary education or an equivalent credential;

ii) enrolled in an institution which provides postsecondary or vocational education;

iii) participating in a program actively designed to promote or prevent barriers to employment;

iv) employed for at least eighty hours per month; or

v) incapable of doing any of the activities as prescribed above in (3)(c)(i)—(iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan for the child.

* * * * *

Comment

In 201-, the definition of “child” was expanded to include those children who have requested the court to resume jurisdiction after juvenile court jurisdiction had been previously terminated. This

rule change followed the changes to the definition of “child” in the Juvenile Act pursuant to Act of July 5, 2012 (P. L. 880, No. 91). See 42 Pa.C.S. § 6302.

The county agency is a party to the proceeding and should not function as the “Clerk of Courts.”

The definition of [“clerk of courts”] “Clerk of Courts” should not necessarily be interpreted to mean the office of clerk of courts as set forth in 42 Pa.C.S. § 102, but instead refers to that official who maintains the official court record and docket regardless of the person’s official title in each judicial district. It is to be determined locally which official is to maintain these records and the associated docket.

* * * * *

PART B(2). COUNSEL

Rule 1150. Attorneys—Appearances and Withdrawals.

* * * * *

Comment

* * * * *

See also Rule 1613 for termination of court supervision.

See the Comment to Rule 1634 for assisting children in filing resumption of jurisdiction motions. It is best practice for the court to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel in the reopened case. If there extenuating circumstances preventing the attorney from representing the child, the attorney should make this known at the time of the filing of the motion for resumption of jurisdiction so the court can assign a new attorney.

* * * * *

Rule 1151. Assignment of Guardian Ad Litem and Counsel.

* * * * *

B. Counsel for child. The court shall appoint legal counsel for a child:

1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

* * * * *

f) has filed a motion for resumption of jurisdiction pursuant to Rule 1634.

2) upon order of the court.

* * * * *

Comment

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem* when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8. Under paragraph (C), legal counsel represents the legal interests of the child and the guardian *ad litem* represents the best interests of the child.

Pursuant to paragraph (B)(1)(f), the court is to appoint legal counsel when a motion for resumption of jurisdiction has been filed. It is best practice

to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel.

* * * * *

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

PART A. COMMENCING PROCEEDINGS

Rule 1200. Commencing Proceedings.

Dependency proceedings within a judicial district shall be commenced by:

- 1) the filing of a dependency petition;
- 2) the submission of an emergency custody application;
- 3) the taking of the child into protective custody pursuant to a court order or statutory authority;
- 4) the court accepting jurisdiction of a resident child from another state; [or]
- 5) the court accepting supervision of child pursuant to another state's order[.]; or

6) the filing of a motion for resumption of jurisdiction pursuant to Rule 1634.

Comment

* * * * *

For proceedings that have already been commenced in another judicial district, see Rule 1302 for inter-county transfer of the case.

For resumption of jurisdiction, see Rules 1634 and 1635 & 42 Pa.C.S. §§ 6302 and 6351(J).

The clerk of courts should have form motions available for children who want to file for resumption of juvenile court jurisdiction. These forms are available at <http://www.pacourts.us/Forms/dependency.htm>.

The clerk of court is to accept all filings for resumption of juvenile court jurisdiction whether the motions meet the standard for legal filings or there are objections by other parties. This is to ensure these children have access to the court. See also Rule 1126.

* * * * *

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

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Comment

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See Rule 1136 regarding *ex parte* communications.

See Rule 1610 for permanency hearing for children over the age of eighteen.

* * * * *

Rule 1609. Permanency Hearing Orders.

* * * * *

Comment

* * * * *

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a child and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

See Rule 1611 for permanency hearing orders for children over the age of eighteen.

* * * * *

(Editor's Note: Rules 1610 and 1611 are new and printed in regular type to enhance readability.)

Rule 1610. Permanency Hearing for Children Over Eighteen.

A. *Purpose and timing of hearing.* For every case for children over the age of eighteen, the court shall conduct a permanency hearing at least every six months for purposes of determining or reviewing:

- 1) the transition plan of the child;
- 2) the date by which the goal of permanency for the child might be achieved; and
- 3) whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Recording.* The permanency hearing shall be recorded.

C. *Evidence.* Any evidence helpful in determining the appropriate course of action, including evidence that was not admissible at the adjudicatory hearing, shall be presented to the court.

D. *Court's findings.* At the permanency hearing, the court shall:

- 1) enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1611; and
- 2) on the record in open court, the court shall state:
 - a) the appropriateness of the placement, if applicable;
 - b) the appropriateness, feasibility, and extent of compliance with the transition plan developed for the child;
 - c) the appropriateness and feasibility of the transition goal for the child;
 - d) the likely date by which the transition goal for the child might be achieved;
 - e) whether reasonable efforts were made to finalize the transition plan in effect;
 - f) whether the county agency has made services available, and if not, why those services have not been made available;
 - g) the continued appropriateness of the transition plan and the concurrent plan, if applicable;
 - h) whether the child is safe;
 - i) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child;
 - j) the services needed to assist a child to make the transition to independent living, including:

- i) the specific independent living services or instructions that are currently being provided by the county agency or private provider;
- ii) the areas of need in independent living instruction that have been identified by the independent living assessment completed pursuant to the Chafee Act, 42 U.S.C. § 671 *et seq.*;
- iii) the independent living services that the child will receive prior to the next permanency review hearing;
- iv) whether the child is in the least restrictive, most family-like setting that will enable him to develop independent living skills;
- v) the efforts that have been made to develop and maintain connections with supportive adults regardless of placement type;
- vi) whether the child is making adequate educational progress to graduate from high school or whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency;
- vii) the job readiness services that have been provided to the child and the employment/career goals that have been established;
- viii) whether the child has physical health or behavioral health needs that will require continued services into adulthood; and
- ix) the steps being taken to ensure that the youth will have stable housing or living arrangements when discharged from care; and

k) any educational, health care, and disability needs of the child and the plan to ensure those needs are met.

Comment

See 42 Pa.C.S. §§ 6341, 6351.

To the extent practicable, the judge or master who presided over the adjudicatory and original dispositional hearing for a child should preside over the permanency hearings for the same child. In resumption of jurisdiction cases, to the extent practicable, the judge or master who presided over the original case should preside over the re-opened case.

Pursuant to paragraph (A), courts are to conduct a permanency hearing every six months. Courts are strongly encouraged to conduct more frequent permanency hearings, such as every three months, when possible.

A three-month hearing or conference is considered best practice for dependency cases and is highly recommended. The court should not wait until six months has elapsed to determine if the transition plan is progressing. Time to achieve permanency is critical in dependency cases. In order to seek reimbursement under Title IV-E of the Social Security Act, 42 U.S.C. § 601 *et seq.*, a full permanency hearing is to be conducted every six months.

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences, which address specific issues based on the circumstances of the case, and which assist the court in ensuring timely transition.

See 42 U.S.C. § 675 (5)(A)—(H) for development of a transition plan pursuant to paragraph (D)(2)(j).

See Rule 1136 regarding *ex parte* communications.

When the court has resumed jurisdiction pursuant to Rule 1635, the court is to schedule regular permanency hearings. The county agency is to develop a new transition plan for the child.

Rule 1611. Permanency Hearing Orders for Children Over Eighteen.

A. *Court order.* After every permanency hearing for children over the age of eighteen, the court shall issue a written order, which provides whether the transition plan is best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Determination made.* The court’s order shall reflect a determination made pursuant to Rule 1610(D).

C. *Orders concerning education.* The court’s order shall address the stability and appropriateness of the child’s education, if applicable.

D. *Orders concerning health care and disability.*

1) The court’s order shall identify, monitor, and address the child’s needs concerning health care and disability; and

2) The court’s orders may authorize evaluations and treatment.

E. *Guardians.* The permanency order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

Comment

When issuing a permanency order, the court should issue an order that is “best suited to the safety, protection, and physical, mental, and moral welfare of the child.” 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. Ct. 2006) (citing *In re Tameka M.*, 525 Pa. 348, 580 A.2d 750 (1990)), for issues addressing a child’s mental and moral welfare.

Pursuant to paragraph (C), the court’s order is to address the child’s educational stability, including the right to an educational decision maker. See Comment to Rule 1609(D).

Pursuant to paragraph (D), the court’s order is to address the child’s needs concerning health care and disability. See Comment to Rule 1609(E).

PART (C). POST-DISPOSITIONAL PROCEDURES

- 1613. [Termination of Court Supervision] (Renumbered).
- 1616. (Post-Dispositional Procedures; Appeals) (Reserved).

PART (D). CESSATION AND RESUMPTION OF COURT SUPERVISION OR JURISDICTION

- 1631. Termination of Court Supervision.
- 1634. Motion of Resumption of Jurisdiction.
- 1635. Hearing on Motion for Resumption of Jurisdiction.

Rule [1613] 1631. Termination of Court Supervision.
 * * * * *

Comment

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A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). See paragraph (B). **Paragraph (B) does not apply to resumption of jurisdiction cases.**

* * * * *

Pursuant to paragraph (E)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of paragraph (E) are to be followed. In no case is a juvenile over twenty-one to remain under juvenile court supervision. See Rule 1635(E). See also Rule 1635(F) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

* * * * *

(Editor's Note: Rules 1634 and 1635 are new and printed in regular type to enhance readability.)

Rule 1634. Motion of Resumption of Jurisdiction.

A. *Venue.* A motion to resume jurisdiction shall be filed with the court that terminated court supervision of the child pursuant to Rule 1631.

B. *Contents.* The motion for resumption of jurisdiction shall aver:

- 1) dependency jurisdiction was previously terminated:
 - a) within ninety days prior to the child's eighteenth birthday; or
 - b) on or after the child's eighteenth birthday but before the child turns twenty-one years of age; and
- 2) the child continues to meet the definition of child pursuant to 42 Pa.C.S. § 6302 because the child:
 - a) is under twenty-one years of age;
 - b) was adjudicated dependent prior to turning eighteen years of age;
 - c) has requested the court to resume jurisdiction; and
 - d) is, one of the following:
 - i) completing secondary education or an equivalent credential;
 - ii) enrolled in an institution which provides postsecondary or vocational education;
 - iii) participating in a program actively designed to promote or prevent barriers to employment;
 - iv) employed for at least eighty hours per month; or
 - v) incapable of doing any of the activities as prescribed in paragraphs (B)(2)(c)(i)—(iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan for the child;
- 3) whether the child would like his or her parent, guardian, or other interested adult involved in the court proceedings; and
- 4) a verification by the child that the above requirements have been met.

C. *Service.* A copy of the motion shall be served upon:

- 1) the county agency;
- 2) the attorney for the county agency;
- 3) the child; and
- 4) the child's attorney.

Comment

A motion to resume jurisdiction can be filed by the child, county agency, or attorney for the child. At the request of the child, if the county agency or previous attorney is approached by the child concerning the court reopening the child's case, the county agency or attorney is to assist the child in the filing of the motion.

Pursuant to paragraph (A), the motion is to be filed in the county that terminated juvenile court jurisdiction. If the juvenile has moved to another county, the juvenile may request the court to transfer jurisdiction pursuant to Rule 1302 at any time after the filing of the motion to resume jurisdiction, including prior to the hearing on the motion. See Rules 1302 and 1635.

If the child does not have attorney at the time of the filing of the motion, the court is to assign legal counsel pursuant to Rule 1151(a) and immediately order service of the motion to resume jurisdiction on the child's attorney. It is best practice to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel. See Rule 1151.

If the child is the party filing the motion, the President Judge of each judicial district is to designate a person to serve the other parties for the child. If the county agency or attorney is filing the motion, they should serve the other parties.

See 42 Pa.C.S. §§ 6302 & 6351(J).

See also Rule 1300 for change of venue and Rule 1302 for inter-county transfer of the case.

Rule 1635. Hearing on Motion for Resumption of Jurisdiction.

A. *Time for hearing.* Within thirty days of receiving a motion for resumption of jurisdiction, the court shall conduct a hearing to determine whether it will resume juvenile court jurisdiction.

B. *Notice.* Notice of the date, time, place, and purpose of the hearing shall be given to:

- 1) the county agency;
- 2) the attorney for the county agency;
- 3) the child;
- 4) the child's attorney;
- 5) any other persons as directed by the court.

C. *Hearing.* At the hearing, the court shall state its findings and conclusions of law on the record in open court as to whether:

- 1) dependency jurisdiction was previously terminated:
 - a) within ninety days prior to the child's eighteenth birthday; or
 - b) on or after the child's eighteenth birthday but before the child turns twenty-one years of age; and
- 2) the child continues to meet the definition of child pursuant to 42 Pa.C.S. § 6302 because the child:
 - a) is under twenty-one years of age;
 - b) was adjudicated dependent prior to turning eighteen years of age;
 - c) has requested the court to resume jurisdiction; and
 - d) is, one of the following:
 - i) completing secondary education or an equivalent credential;
 - ii) enrolled in an institution which provides postsecondary or vocational education;
 - iii) participating in a program actively designed to promote or prevent barriers to employment;
 - iv) employed for at least eighty hours per month; or
 - v) incapable of doing any of the activities as prescribed in paragraphs (C)(2)(d)(i)—(iv) due to a medical or behav-

ioral health condition, which is supported by regularly updated information in the permanency plan for the child;

3) reasonable efforts were made by the county agency to prevent the return of the child to juvenile court jurisdiction unless due to the necessity of emergency placement, such lack of services was reasonable;

4) it will exercise jurisdiction pursuant to 42 Pa.C.S. § 6351(J) because it is best suited to the protection and physical, mental, and moral welfare of the child;

5) a parent, guardian, or other interested adult should be involved in the child's case;

6) there are any health or educational needs of the child; and

7) the county agency has developed an appropriate transition plan.

D. Orders.

1) After a hearing, the court shall enter an order granting or denying the motion to resume juvenile court jurisdiction.

2) If the court resumes jurisdiction, the court shall order:

a) that resumption of jurisdiction is best suited to the protection and physical, mental, and moral welfare of the child;

b) any findings as to the transition plan for the child;

c) regular scheduling of permanency hearings pursuant to Rule 1608;

d) any designations of custody and/or placement of the child; and

e) any evaluations, tests, or treatments for the health and educational needs of the child.

E. *Termination of court supervision in resumption cases.*

1) Once a child has completed the transition plan for children over the age of eighteen; or the child has refused to cooperate with the plan, a party may move for termination of court supervision pursuant to Rule 1631.

2) In no event shall a child remain on juvenile court supervision once the child has turned twenty-one years of age.

F. *Termination of court supervision when motion denied.* If the court denies the motion for resumption of jurisdiction, the court shall enter an order terminating juvenile court jurisdiction.

G. *Advanced Communication Technology.* The provisions of Rule 1129 shall apply to this proceeding.

Comment

The court is to decide whether a parent, guardian, or other interested adult will participate in the child's case. The court is to consider the preferences of the child when making an order for participation. See Rule 1634(B)(3) for notation of child's preference and 42 Pa.C.S. § 6310 for guardian involvement.

See 42 Pa.C.S. §§ 6302 & 6351(J).

A master may conduct these hearings. See Rule 1187.

Request for Public Comment

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on amendments to

Rules 1120, 1150, 1151, and 1200 and new proposed Rules 1610, 1611, 1631, 1634, and 1635.

With the adoption of Act 91 of 2012 (P. L. 880, No. 91, Cl. 18), a child may request the court to resume juvenile court jurisdiction if specific requirements are met.

Rule 1120

The definition of a child now includes those children who are under twenty-one years of age and were adjudicated dependent prior to turning eighteen years of age and are requesting the court to resume juvenile court jurisdiction after jurisdiction had been previously terminated. In addition, these children must be: 1) completing secondary education or an equivalent credential; 2) enrolled in an institution which provides postsecondary or vocational education; 3) participating in a program actively designed to promote or prevent barriers to employment; 4) employed for at least eighty hours per month; or 5) incapable of doing any of the activities as prescribed above due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan for the child. See 42 Pa.C.S. § 6302.

Rules 1150 and 1151

Courts should easily be accessible to children requesting the court to resume jurisdiction of their cases. If the child contacts the previously assigned guardian *ad litem* or counsel, the attorney should assist the child in filing a motion for resumption of jurisdiction. If extenuating circumstances exist and the attorney cannot represent the child, the attorney should still file the motion for the child but explain the circumstances to the court and ask not to be reappointed.

The court is to appoint legal counsel for the child in the new resumption of jurisdiction case. The Comment to Rule 1151 provides that it is best practice for the court to assign the previous attorney as legal counsel for the child if they are available.

Rule 1200

Dependency proceedings commence when a motion for resumption of jurisdiction pursuant to Rule 1634 has been filed.

If the court grants the motion for resumption of jurisdiction, dependency proceedings would continue and regular permanency hearings would occur for children over eighteen pursuant to Rule 1611. If the court denies the motion for resumption of jurisdiction, the court is to order termination of juvenile court proceedings pursuant to Rule 1635(F).

Rules 1608 & 1609

References to the new rules for permanency hearings and permanency hearing orders for children over eighteen have been placed in the Comments.

Rule 1610

A new separate rule has been proposed for permanency hearing for children over eighteen.

Paragraph (A) provides the purpose and the timing of the hearing. The court must conduct hearings every six months. The child must appear in person at the six-month hearing. See Rules 1128 and 1129.

Paragraph (B) provides that the hearing must be recorded and paragraph (C) sets forth the evidentiary standard for the hearing.

Paragraph (D) provides the findings and conclusions of law that the court must enter into the record in open court.

Rule 1611

This new proposed rule governs the permanency hearing orders for children over eighteen.

Rule 1631

The Comment to the Rule explains that a new transition plan is to be developed for the child if the court resumes jurisdiction. Before those cases can be terminated, the requirements of paragraph (E) must be met.

All dependency cases must be terminated when the child turns twenty-one. *See* Rules 1120 and 42 Pa.C.S. § 6302 for definition of “child” and Comments to Rules 1631 and 1635.

Rule 1634

This new proposed rule governs venue, the contents of the motion for resumption of jurisdiction, and service of the motion.

If the child meets the definition of “child,” a motion for resumption of jurisdiction must be filed with the court that terminated court supervision. There would be no record of the case in any other court. The Comment to Rule 1634 provides that if the juvenile has moved to another county, the court may transfer the case pursuant to Rule 1302 at any time after the filing of the motion, including prior to the hearing on the motion. *See* paragraph (A).

Paragraph (B) governs the contents of the motion, including whether the child wants his or her parent, guardian, or other interested adult involved in the court proceedings. There may be instances in which the court would want to order parental involvement even when the child does not desire to have the parents present or involved in the case. *See* 42 Pa.C.S. § 6310 for parental participation.

Paragraph (C) provides for service of the motion. If the child is filing the motion, the President Judge is to designate a person to serve the other parties. *See* Comment.

The Comment to the rule provides that the child, county agency, or attorney for the child may file the motion for resumption of jurisdiction. The clerk of courts must accept all resumption motions. *See* Comment to Rule 1200. Children should have access to the court and all parties approached by the child should assist the child in the filing of the motion. Counties may have form motions available for the child to fill out at the clerk of courts’ and county agency’s offices.

Rule 1635

This new proposed rule provides for the hearing on the resumption of jurisdiction. Within thirty days of receiving a motion to resume juvenile court jurisdiction, the court must conduct a hearing on the motion. *See* paragraph (A).

Pursuant to paragraph (B), notice of the date, time, place, and purpose of the hearing must be given to the county agency, the attorney for the county agency, the child, the child’s attorney, and any other persons as directed by the court.

After the court has determined whether jurisdiction can be resumed and has made findings and conclusions of law on the record in open court pursuant to paragraph (C), the court must enter an order pursuant to paragraph (D).

Paragraphs (E) and (F) govern termination of court supervision in resumption cases. If the court denies the motion of resumption of jurisdiction, the court must enter an order terminating juvenile court jurisdiction. Because

a resumption of jurisdiction case is commenced upon the filing of a motion, an order terminating supervision must be entered to close the case.

Advanced communication technology may be utilized pursuant to paragraph (G); however, the court must see the child in person every six months. *See* Rules 1128 and 1129.

[Pa.B. Doc. No. 12-2302. Filed for public inspection November 30, 2012, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Establishment of Readiness, Review and Resolution Program for the Trials of the Oldest Non-Fatal Shooting Cases, Gunpoint Robbery Cases, and Serious Family Violence Cases; Trial Division—Criminal; No. 03 of 2012

Order

And Now, this 5th day of November, 2012, in order to expedite the trial of the oldest non-fatal shooting cases, gunpoint robbery cases, and serious family violence cases without disrupting the current judicial assignments and at the same time to maximize available judicial resources by deploying judges who may be awaiting case assignments within their designated Program, the following Readiness, Review and Resolution Program (RRR) is being instituted:

1) on November 16, 2012, and from time to time thereafter, the Honorable Jeffrey P. Minehart, shall status the cases meeting the criteria and shall assign them for trial at the rate of three cases per week, beginning with the week of January 7, 2013;

2) the Commonwealth and counsel for the defendant for each of the three cases assigned on a weekly basis shall be trial-ready on the assigned trial date;

3) all cases sent out as part of this Program to a judge for trial shall be marked “must be tried;”

4) any of the cases in this Program which are not tried during the assigned week will be tried on the originally scheduled trial date; and

5) this Program will end on June 28, 2013 unless extended by the Court.

This Order shall be filed with the Prothonotary and the Clerk of Courts in a docket maintained for Orders issued by the First Judicial District of Pennsylvania, and, as required by Pa.R.Crim.P. No. 105(E), two certified copies of this Order and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. This Order will become effective thirty days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. No. 105 (F) one certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts and will also be published on the Unified Judicial System’s web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District’s website at <http://www.courts.phila.gov>. Copies shall be published in *The Legal Intelligencer* and will be submitted to American

Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE JOHN W. HERRON,
Administrative Judge, Trial Division

[Pa.B. Doc. No. 12-2303. Filed for public inspection November 30, 2012, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY

CSX Transportation Police Filing Venue Change; Administrative Order No. 65; AD 2-12

Order

And Now, to wit this 14th day of November 2012, pursuant to Pa.R.Crim.P. No. 130(A)(6), and at the request of the CSX Transportation Police, effective immediately and continuing until further notice, all CSX Transportation Police filings in Bucks County may be filed, processed and heard in any of the below designated magisterial district courts:

Magisterial District Court 07-1-03 / Bristol
Magisterial District Court 07-1-07 / Penndel
Magisterial District Court 07-1-11/ Morrisville

This Order is to promote the efficient administration of justice in Bucks County.

By the Court

SUSAN DEVLIN SCOTT,
President Judge

[Pa.B. Doc. No. 12-2304. Filed for public inspection November 30, 2012, 9:00 a.m.]

BUCKS COUNTY

Venue Consolidation—PA Department of Revenue Bureaus: Motor and Alternative Fuel Taxes, Collection and Taxpayer Services; Administrative Order No. 64; AD 1-2012

Order

And Now, this 9th day of November 2012, in accordance with Pennsylvania Rules of Criminal Procedure, Rule 130(A-6), it is hereby ordered and directed that the Pennsylvania Department of Revenue Bureaus; Motor and Alternative Fuel Taxes, Collection and Taxpayer Services inclusive of Traffic, Non-Traffic and Criminal filings in Bucks County shall be filed and heard in the following designated magisterial district courts:

Cases originating in the venues of 07-1-01, 07-1-02, 07-1-03, 07-1-04, 07-1-06, 07-1-07, 07-1-08, 07-1-09, 07-1-10, 07-1-11, 07-1-12, 07-2-01, and 07-2-07 shall be filed and heard in Court 07-1-07.

Cases originating in the venues of: 07-2-05, 07-2-03, 07-3-03, 07-2-02, 07-2-08, 07-3-01 and 07-3-02 shall be filed and heard in Court 07-3-02.

This venue consolidation is hereby ordered to better serve the administration of justice in Bucks County and efficiency in the magisterial district courts of this county.

The effective date of this action shall be 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

SUSAN DEVLIN SCOTT,
President Judge

[Pa.B. Doc. No. 12-2305. Filed for public inspection November 30, 2012, 9:00 a.m.]

CARBON COUNTY

Amendment of Orphans' Court Local Rule O.C.R.6.11.3 Settlement of Small Estates. Contents of Petition; No. 12-9359

Administrative Order 23-2012

And Now, this 8th day of November, 2012, it is hereby *Ordered* and *Decreed* that, effective December 1, 2012, the Carbon County Court of Common Pleas *Amends* Orphans Court Rule CARB.Co.O.C.R. 6.11.3 governing settlement of small estates and contents of the petition.

The Carbon County District Court Administrator is *Ordered* and *Directed* to

1. File one (1) certified copy of this Administrative Order and Local Rule with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Orphans Court Procedural Rules Committee.
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 Administrative Order and Local Rule in the Register of Wills/Orphans Court Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 6.11.3. Settlement of small estates. Contents Of Petition.

(A) *Contents of Petition*. A petition for the settlement of small estates under Section 3102 of the P.E.F. Code shall set forth:

- (1) the name, date of death, and residence of the decedent;
- (2) the petitioner's name and address and his/her relationship to the decedent;
- (3) if the petitioner is the surviving spouse, the date and place of marriage to the decedent;
- (4) whether the decedent died testate or intestate;
- (5) the names, relationship, and interest of all persons entitled to share in the decedent's estate under the Will, if any, and the names, relationship and interest, if any, of intestate heirs, stating who are minors, incapacitated

persons, or decedents, with the names of their fiduciaries, if any, and whether any of them received or retained any property of the decedent by payment of wages, salary or any accrued pension under Section 3101 of the P.E.F. Code or otherwise;

(6) where a claim for family exemption is included, a statement that claimant formed a part of the decedent's household at the date of death and, if the claimant is the surviving spouse, that he or she has not forfeited the right to claim the family exemption;

(7) an itemized statement of the gross personal estate to be distributed and the fair value of each item other than cash;

(8) the disbursements made prior to the filing of the petition; the date and name of the person to whom paid; and the nature and amount of each payment;

(9) the names of all unpaid claimants of whom the petitioner has notice, the nature and amount of each claim, and whether such claims are admitted; and

(10) a statement that ten (10) days written notice of intention to present the petition has been given to every beneficiary, heir, or unpaid claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown.

(B) *Exhibits.* The following exhibits shall be attached to the petition:

- (1) a copy of the decedent's Will;
- (2) the consents of unpaid beneficiaries, heirs, and claimants; and
- (3) the inheritance tax voucher, or in lieu thereof a statement from the inheritance tax department that no tax is due or an acknowledgment of the obligation to make payment and file an Inheritance Tax Report.

[Pa.B. Doc. No. 12-2306. Filed for public inspection November 30, 2012, 9:00 a.m.]

MONROE COUNTY

Administrative Order Establishing Central Booking Center Fee; No. 5CV2012; ADM No. 37

Order

And Now, this 25th day of October, 2012, the Court hereby Adopts and Promulgates the following Administrative Order:

Monroe County Central Booking Center Fee Administrative Order

And Now, this 25th day of October, 2012, It is hereby Ordered and Directed that, pursuant to 42 Pa.C.S.A. § 1725.6, a booking center fee of three hundred dollars (\$300.00) shall be imposed against defendants on each criminal complaint or citation in accordance with 42 Pa.C.S.A. § 1725.5, in addition to any other fines, penalties or costs imposed by law.

In accordance with the criteria set forth in 42 Pa.C.S.A. § 1725.5, the booking center fee shall be assessed as a cost of prosecution, collected by the Clerk of Courts and allocated to a Central Booking Center Fee Account maintained by the County of Monroe. Fees deposited in this account shall be used solely for the maintenance and

operation of the Monroe County Central Booking Center. No more than five per cent (5%) of funds in the Central Booking Center Fee Account may be appropriated by the County for administrative costs related to the collection of the fee pursuant to 42 Pa.C.S.A. § 1725.6 (f).

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

By the Court

MARGHERITA PATTI WORTHINGTON,
President Judge

[Pa.B. Doc. No. 12-2307. Filed for public inspection November 30, 2012, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that A. Robert W. Gloeser, a/k/a Arthur R. Gloeser, having been disbarred from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated March 7, 2012, the Supreme Court of Pennsylvania issued an Order on November 16, 2012, suspending A. Robert W. Gloeser, a/k/a Arthur R. Gloeser from the Bar of this Commonwealth for a period of 3 years, effective December 16, 2012. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 12-2308. Filed for public inspection November 30, 2012, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Hugh D. Jaeger having been indefinitely suspended from the practice of law in the State of Minnesota for a minimum of 120 days by Order of the Supreme Court of Minnesota dated August 11, 2011, the Supreme Court of Pennsylvania issued an Order dated November 9, 2012, indefinitely suspending Hugh D. Jaeger from the practice of law in this Commonwealth for a minimum of 120 days, effective December 9, 2012. 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. 12-2309. Filed for public inspection November 30, 2012, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Kevin H. Main having been suspended from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated June 5, 2012; the Supreme Court of Pennsylvania issued an Order dated November 9, 2012, suspending Kevin H. Main from the practice of law in this Commonwealth for a period of 2 years. 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. 12-2310. Filed for public inspection November 30, 2012, 9:00 a.m.]

SUPREME COURT

**Thomas M. Nocella, Court of Common Pleas
 Judge, First Judicial District, Philadelphia
 County; No. 391 Judicial Administration Doc.**

Order

Per Curiam

And Now, this 9th day of November, 2012, this Court has received notice that the Judicial Conduct Board has

found probable cause to file formal charges against the Honorable Thomas M. Nocella, Common Pleas Court Judge for the First Judicial District, Philadelphia County, alleging that he has violated Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Canons 2A and 7B(1)(c) of the Pennsylvania Code of Judicial Conduct. In view of the compelling and immediate need to protect and preserve the integrity of the Unified Judicial System and the administration of justice for citizens of this Commonwealth, Judge Thomas M. Nocella is hereby relieved of any and all judicial and administrative responsibilities as a Common Pleas Court Judge and ordered not to take any further administrative or judicial action whatsoever in any case or proceeding now or hereinafter pending in the First Judicial District until further Order of this Court. The suspension shall be served with no diminution in salary or benefits.

This Order is without prejudice to the rights of Judge Thomas M. Nocella to seek such relief in this Court for the purpose of vacating or modifying this interim Order. Pa.Const. Article V, § 10(a); *In Re: Avellino*, 690 A.2d 1138 (Pa. 1997); *see In Re: McFalls*, 795 A.2d 367 (Pa. 2002); and *see In Re: Singletary*, No. 377 Judicial Administration Docket (*per curiam*) (January 5, 2012).

Madame Justice Orié Melvin did not participate in this matter.

[Pa.B. Doc. No. 12-2311. Filed for public inspection November 30, 2012, 9:00 a.m.]
