

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1915 ]

#### Amendment to Rule 1915.4-1 of the Rules of Civil Procedure; No. 635 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

And Now, this 4th day of March, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1915.4-1 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective April 1, 2016.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

#### Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions.

(a) A custody action shall proceed as prescribed by [ Rule ] Pa.R.C.P. No. 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by [ Rule ] Pa.R.C.P. No. 1915.4-2 pursuant to which an action for partial custody may be heard by a hearing officer, except as provided in subdivision (b) [ below ].

(b) Promptly after the parties' initial contact with the court as set forth in [ Rule ] Pa.R.C.P. No. 1915.4(a), a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody where:

(1) there are complex questions of law, fact or both [ , ]; or

(2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either [ Rule ] Pa.R.C.P. No. 1915.4-2 or [ Rule ] Pa.R.C.P. No. 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that \_\_\_\_\_ County conducts its custody proceedings in accordance with [ Rule ] Pa.R.C.P. No. \_\_\_\_\_ .

\_\_\_\_\_  
(President Judge)

\_\_\_\_\_  
(Administrative Judge)

*Note:* Pursuant to [ Rule ] Pa.R.C.P. No. 1915.4-1, the following counties have certified to the Domestic Relations Procedural Rules Committee that their custody proceedings generally are conducted in accordance with the rule specified below:

COUNTY	RULE
	* * * * *
Northumberland	[ 1915.4-2 ] 1915.4-3
	* * * * *

[Pa.B. Doc. No. 16-449. Filed for public inspection March 18, 2016, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### DELAWARE COUNTY

#### Bail Bonds Posted by Corporate Surety; No. MD 29-2016

And Now, this 2nd day of March, 2016, It is hereby Ordered and Decreed that the existing Rule 531(e) is amended and shall be entirely replaced by New Rule 531(e) in accordance with the following language effective 30 days after publication.

**New Rule 531(e). Corporate Surety.** Pennsylvania Rule of Criminal Procedure 528(D)(5) recognizes the surety bond of a surety company authorized to do business in the Commonwealth of Pennsylvania as an acceptable form of security to satisfy the full amount of the monetary condition of a defendant's release on bail. Rule 531 of the Pennsylvania Rules of Criminal Procedure permits, by local rule of Court, additional requirement to be imposed on surety companies approved by the Court. This Regulation sets forth the additional requirement imposed by this Judicial District on corporate sureties and their agents.

1. *Applicability.* This Regulation applies to any corporate surety and its agents seeking to post a bond in satisfaction of the full amount of the monetary condition of a defendant's release on bail.

2. *Definitions.* For purposes of this Regulation:

A "Corporate Surety" is any corporation, limited liability corporation or partnership which engages in the business of providing bail, providing or soliciting bail undertakings, or providing or soliciting indemnity or court indemnity to others on bail undertakings.

3. *Requirements for Approval.* To become qualified to act as a corporate surety, or agent thereof, with respect to the posting of bail bonds in the Thirty Second Judicial District of Pennsylvania, a corporate surety and its agents must:

a) Present satisfactory proof that the corporate surety is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania, registered with the Department of State, and in full compliance with 42 Pa.C.S. § 5743.1.

b) Every corporate surety shall keep at its office the usual and customary records pertaining to transactions authorized by its license and/or the license of any of its agents, including, but not limited to, such records of bail bonds executed or countersigned by the corporate surety to enable the court to obtain all necessary information concerning such bail bonds for at least 3 years after the liability of the surety has been terminated. Such records must be open at all times to examination, inspection, and copying by the court or its representative, and the court may at any time require the corporate surety to furnish it, in such manner or form as the court requires, any information concerning the bail bond business of the corporate surety;

c) Certify that neither the corporate surety, nor its employees or agents, have been convicted of any criminal offense. The certification must be based on a criminal history search conducted by the Pennsylvania State Police for each employee or agent, and a copy of the search results must be attached to the list of employees or agents and certification submitted with the petition required by Section 5 of this Regulation. The on-line quick search/background check is not acceptable. Conviction of a corporate surety, or any of its employees or agents, will render the corporate surety ineligible to conduct business in the 32nd Judicial District.

d) Post with the Office of Judicial Support as security the minimum sum of \$50,000 in United States currency or unencumbered securities of the United States Government, which will entitle the corporate surety to post bond in the aggregate sum of \$500,000 or post \$75,000 in US currency or unencumbered securities of the US Government, which will entitle the corporate surety to post bond in the amount of \$1,000,000, and by further posting the sum required for each individual bond or undertaking with the bail authority. Provided, however, that the corporate surety must post additional security with the Office of Judicial Support in the event the corporate surety intends to post bond in excess of \$1,000,000. The additional security to be posted with the Office of Judicial Support must be in units of \$50,000 which will entitle the corporate surety to post bond in the additional sum of \$1,000,000 per unit. No interest will be paid on any deposits;

e) Provide a financial statement certified by a Certified Public Accountant which verifies that the corporate surety has sufficient assets to satisfy all bail obligations undertaken by or on behalf of the corporate surety in the Delaware County and in other jurisdictions in which the corporate surety conducts business. A current certified statement must be filed with the petition required in Section 5 of this Regulations;

f) Certify that only the corporate surety, which is approved by the President Judge of the Delaware County Court of Common Pleas, or his designee, upon petition as provided in this Regulation, may post bail for criminal defendant, in the name exactly as it appears on the surety's license, and not in the name of any agent or other business entity;

g) Certify full compliance with the training and education requirements set forth in Section 6 of this Regulation;

h) Upon approval of the petition required in Section 5 of this Regulation, register with Delaware County and pay to the Office of Judicial Support an initial registration fee of \$400 plus any applicable filing fee, or such amount as may be established from time to time by the 32nd Judicial District, and County Council;

i) Certify that neither the corporate surety nor any agent or employee of such surety, will represent itself, directly or indirectly, as an employee or agent of the Commonwealth of Pennsylvania or Delaware County. The employees and agents of the corporate surety must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment of the Commonwealth of Pennsylvania, Delaware County or any of its units, including the Pretrial Services Unit or the Warrant Unit of Delaware County;

j) Each applicant or licensee shall provide to the District Attorney such information as may be required concerning its business practices or business methods, or proposed business practices or methods, as a Corporate Surety. The Solicitor of Delaware County shall also be served with a copy of this information.

k) Certify that the corporate surety, its agents and employees are in compliance with all applicable laws, regulations, rules of court and procedures and that neither the corporate surety nor any of its agents or employees are under suspension or revocation in any jurisdiction.

4. *Standards of Conduct.* To remain qualified to post bond in Delaware County, the corporate surety and its agents must:

a) Maintain compliance with the requirements specified in Section 3 of this Regulation;

b) Provide quarterly statements certified by the corporate surety that it is in compliance with the security posting requirements specified in Section 3 of this regulation;

c) Provide, on a quarterly basis, or as often as requested by the Common Pleas Court President Judge, or his designee, a financial statement certified by a Certified Public Accountant which verifies that the corporate surety has sufficient assets to satisfy all bail obligations undertaken by the corporate surety and all agents acting on its behalf in Delaware County and in other jurisdictions in which the corporate surety conducts business;

d) Immediately notify, in writing, the Common Pleas President Judge, or his designee, and the Office of Judicial Support, if the corporate surety, or any of its employees or agents, has been charged with any criminal offense, or if its license or the license of any of its agents has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;

e) Certify continued full compliance with the training and education requirements set forth in Section 6 of this Regulation;

f) Annually renew their registration with Delaware County, provide all certifications required by this Regulation and pay to the Office of Judicial Support an annual renewal registration fee of \$200, on or before the anniversary date of the initial authorization to post bail, or such amount as may be established from time to time by the 32nd Judicial District and County Council.

g) Each applicant or licensee shall provide to the District Attorney such information as may be required concerning its business practices or business methods, or proposed business practices or methods, as a Corporate Surety. The Solicitor of Delaware County shall also be served with a copy of this information.

h) Fully comply with all statutes, laws, regulations, rules of court and procedures as may be established from time to time.

*5. Process to be Utilized in Seeking Approval as a Corporate Surety.*

Any corporate surety which is licensed by the Pennsylvania Department of Insurance may seek approval to post bail in Delaware County by filing a petition and paying the filing fee with the Office of Judicial Support. The petition must provide the information, documents and certifications set forth in Section 4 of this Regulation. Upon filing, the petition shall be assigned to the President Judge, or his designee for determination.

*6. Training and Continuing Education.*

To register as a corporate surety desiring to post bail in Delaware County, the corporate surety must certify that all employees and agents who will write any bail on its behalf in Delaware County, not less than thirty (30) hours of education in subjects pertinent to the duties and responsibilities of corporate sureties, including, but not limited to, all laws and regulations relating thereto, the criminal justice system, rights of the accused, bail bond industry ethics, prohibited conduct and apprehension of bail fugitives. Additionally, a corporate surety desiring to post bail in Delaware County must certify that all employees and agents who will write any bail on its behalf in Delaware County have satisfactorily completed not less than eight (8) hours of continuing education in these subjects during the year preceding any renewal of its registration in Delaware County.

*7. Bail Piece Procedure.* Whenever a bail piece is used pursuant to Pa.R.Crim.P. 536(B)(2) and the defendant is apprehended by or on behalf of the corporate surety or its agents, the defendant must be brought to the George W. Hill Correctional Facility or such other location as designated by a Common Pleas Judge of the 32nd Judicial District after the filing of a petition or presentation of a warrant.

*8. Review and Monitoring.* The District Attorney of Delaware County shall be served with a copy of any petition filed pursuant to this Joint General Court Regulation and shall have the continuing power to investigate the qualification, training, character, and integrity of any Corporate Surety that seeks leave of Court to post bail for criminal defendants as provided in this Regulation, as well as the business practices and business methods of any corporate surety and its Agents who have been approved to post bail as Corporate Surety of as an Agent for the Corporate Surety in Delaware County and may, as appropriate, request, for good cause, denial or revocation of permission to post bail for criminal defendants in Delaware County. The Solicitor of Delaware County shall also be served with a copy of the petition.

Failure to comply with any provision of this rule may result in suspension and the freezing of the surety account.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

[Pa.B. Doc. No. 16-450. Filed for public inspection March 18, 2016, 9:00 a.m.]

**DELAWARE COUNTY**

**Bail Conditions; No. MD 29-2016**

*And Now*, this 2nd day of March, 2016, It is hereby Ordered and Decreed that the existing Rule 526(d) is amended and shall be entirely replaced by New Rule 526(d) in accordance with the following language effective 30 days after publication.

**New Rule 526(d). Bail Conditions.**

(1) The person for whom bail has been set or a private third party surety shall, with the approval of the court or Magisterial District Judge, execute the bail bond and deliver to the Office of Judicial Support (O.J.S.) for deposit in an account designated by order of the President Judge of the Court of Common Pleas, Delaware County, a sum of money equal to 10 percent of the bail, but in no event shall such deposit be less than \$75. Corporate sureties are expressly prohibited from posting the deposit for bail set under this section.

(2) When the conditions for the bail bond have been performed and the defendant discharged from all obligations in the case for which bail was set, the Office of Judicial Support shall return to the defendant or surety 60 percent of the amount deposited. The balance to be retained by the court shall be applied as an administrative cost for this program and the sum retained shall not in any case be less than \$100. The monies retained shall be considered as earned at the time the bail is set and a sum equal to 10 percent posted by the defendant or third party surety.

(3) In the event that bail is ordered either increased or decreased at any time during the proceedings, the fee set forth under Rule 526(d)(2) shall be computed on the basis of the last bail set and posted in the case. The phrase "last bail set" is intended to include post-conviction and/or post-sentence bail.

(4) When a defendant has failed to comply with the rules and regulations of the bail bond or any additional conditions of his release, he may be brought before the court to determine if additional bail shall be set in his case.

(5) The following fee schedule shall be implemented:

(a) The administrative fee for percentage bail shall be forty percent (40%).

(b) The cash bail fee shall be four percent (4%) of the first \$1,000. All amounts above \$1,000 shall be two percent (2%).

(c) An administrative fee of \$75 shall be charged whenever a corporate surety posts a bail piece.

(d) If the defendant appears and surrenders to the court within 48 hours after a breach of the condition of bail and issuance of a bench warrant, an administrative fee of \$50 may be imposed as a bail reinstatement fee.

(e) If the defendant appears after 48 hours of a bench warrant, a \$100 administrative fee may be imposed as a bail reinstatement fee.

(f) The Court of Common Pleas may waive such fee if the defendant can satisfy the court that his appearance or surrender was impossible or with good cause.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

[Pa.B. Doc. No. 16-451. Filed for public inspection March 18, 2016, 9:00 a.m.]

## DELAWARE COUNTY

### Establishing Uniform Rules Regarding Taking of Photographs, Video or Motion Pictures of Judicial Proceedings or in the Hearing Room, Courtroom or Its Environs; MD-29-2016

#### Administrative Order

*And Now*, this 2nd day of March, 2016,

*It is Ordered:*

1) No sound recording, photograph, video recording or motion picture may be made or taken of any judicial proceeding or in any hearing room or courtroom, without the prior permission of the President Judge, the presiding judge, the presiding hearing officer or the designee of the presiding judge or the presiding hearing officer.

2) All electronic devices, including cell phones, tablets, laptops, and cameras, shall be powered off (not simply muted) in all hearing rooms, and courtrooms unless permission to activate such device has been first obtained from the presiding judge, the presiding hearing officer or the designee of the presiding judge or the presiding hearing officer.

3) No photograph, video recording or motion picture of any witness, juror or police officer connected to a pending judicial proceeding may be taken or made in the courthouse or in any building housing a courtroom or hearing room, whether or not the court is actually in session, without the prior permission of the presiding judge, the presiding hearing officer or the designee of the presiding judge or the presiding hearing officer.

4) The transmission of any conversation or testimony taken by any electronic means during any judicial proceeding without the prior permission of the presiding judge, or the presiding hearing officer is strictly prohibited.

5) Violation of this Order may constitute contempt of court and result in the confiscation of such device, the deletion of any offending data or material on such device, the imposition of a fine of up to \$1,000.00 and/or imprisonment of up to six (6) months.

6) The presiding judge or the presiding hearing officer or his/her designee, are authorized to enforce this Order, including taking immediate possession of any offending device.

7) Any device confiscated pursuant to this Order that is not claimed by its lawful owner within seven (7) business days of such confiscation shall be deemed forfeited to the County of Delaware.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

[Pa.B. Doc. No. 16-452. Filed for public inspection March 18, 2016, 9:00 a.m.]

## DELAWARE COUNTY

### Realty as Bail; No. MD 29-2016

*And Now*, this 2nd day of March, 2016, It is hereby Ordered and Decreed that the existing Rule 528(f) is amended and shall be entirely replaced by New Rule 528(f) in accordance with the following language effective 30 days after publication.

#### New Rule 528(f). Realty as Bail.

1. If realty is offered to satisfy the bail set for an individual defendant, the following must be provided to the Office of Judicial Support (O.J.S.)—the Bail Agency:

a) A written appraisal by a reputable licensed real estate broker in the county in which the property is situated.

b) Proof of entry of the bail bond as a lien in favor of the County of Delaware in the Prothonotary's Office of the county in which the property is situated.

c) If the property is mortgaged, a letter from the mortgage indicating any unpaid balance due.

d) A current lien and judgment search by a reputable title insurance company.

e) Affidavit of justification of surety as provided in paragraph (4).

2. Upon review of the above documents, a determination must be made by the Office of Judicial Support (O.J.S.)—Bail Agency, that the actual net value of the property is equal to the amount of the bond. Only after the information requested above is supplied and a determination is made that actual net value is at least equal to the amount of the bond, will realty be accepted as consideration for bail.

3. A given piece of realty shall only be used as bail if it has not been posted or is not presently being used for bail for any other charges or defendants, unless allowed by court order.

4. If realty is offered as surety, the owner shall present justification for such by filing an affidavit containing the following information for such surety:

a) Owner's name, address, age and occupation.

b) A general description of the real estate which is offered as surety.

c) A statement of the manner in which title is obtained, including the deed or will book reference of the recording of such instrument of title.

d) A statement for all encumbrances, including taxes, upon said real estate.

e) A statement of any and all other surety undertakings.

f) A statement of the assessed market and rental value of the real estate.

g) A statement that the real estate is not being contemplated or actually negotiated for in any sale.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

[Pa.B. Doc. No. 16-453. Filed for public inspection March 18, 2016, 9:00 a.m.]

### WASHINGTON COUNTY

**Local Criminal Rules: L-529—Modification of Bail Order Prior to Verdict; L-530—Designation of Bail Agency; No. 2016-1**

#### Order

*And Now*, this 29th day of February, 2016; *It Is Hereby Ordered* that the previously-stated Washington County Local Criminal Rules are adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

KATHERINE B. EMERY,  
*President Judge*

**Rule 529. Modification of Bail Order Prior to Verdict.**

(a) All motions concerning bail before verdict pursuant to Pa.R.Crim.P. 529(C) shall be heard by the designated judge in open court and on the record.

(b) Notice of hearing concerning bail before verdict must be given to the Attorney for the Commonwealth, defense counsel of record and the Adult Probation and Parole Office and no hearing shall be conducted unless the Attorney for the Commonwealth and a representative of the Adult Probation and Parole Office are present.

(c) In cases of emergency, if defense counsel of record could not be notified of the bail hearing, defense counsel shall be promptly notified by the Adult Probation and Parole office of the judge's disposition on the motion, and,

if upon such notification, defense counsel requests an opportunity to be heard, another hearing will be scheduled by the Court.

**Rule 530. Designation of Bail Agency.**

The Adult Probation and Parole Office, Pre-Trial Services Unit, is designated as the bail agency of the Court of Common Pleas of Washington County.

[Pa.B. Doc. No. 16-454. Filed for public inspection March 18, 2016, 9:00 a.m.]

## SUPREME COURT

**Extension of Pilot Program for Electronic Filing and Service of Motions and Other Legal Papers in the First Judicial District Court of Common Pleas, Trial Division—Criminal Section and the Philadelphia Municipal Court—Criminal Section; No. 470 Criminal Procedural Rules Doc.**

#### Order

*Per Curiam*

*And Now*, this 29th day of February, 2016, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the pilot program for electronic filing in the First Judicial District Court of Common Pleas, Trial Division—Criminal Section and the Philadelphia Municipal Court—Criminal Section, as initially authorized by Order No. 424, Criminal Procedural Rules Docket (February 6, 2013) and its accompanying local rule, shall be extended until further Order of Court.

During the pilot program, the provisions of the local rule shall control to the extent that the local rule's provisions conflict with the Pennsylvania Rules of Criminal Procedure, the Electronic Case Record Public Access Policy and the Records Retention and Disposition Schedule With Guidelines.

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

Justice Eakin did not participate in the consideration or decision of this matter.

[Pa.B. Doc. No. 16-455. Filed for public inspection March 18, 2016, 9:00 a.m.]