

# THE COURTS

## Title 237—JUVENILE RULES

### PART I. RULES

[ 237 PA. CODE CH. 1 ]

#### Proposed Amendment of Pa.R.J.C.P. 191

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Juvenile Court Procedure 191 to provide a written advisement to juveniles of their right to challenge a juvenile court hearing officer's recommendation of an adjudication of delinquency for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel  
 Juvenile Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9541  
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by May 31, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court  
 Procedural Rules Committee*

JUDGE JENNIFER R. SLETVOLD,  
*Chair*

### Annex A

## TITLE 237. JUVENILE RULES

### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 1. GENERAL PROVISIONS

#### PART D. JUVENILE COURT HEARING OFFICERS

#### Rule 191. Juvenile Court Hearing Officer's Findings and Recommendation to the Judge.

A. *Announcement of Findings and Recommendation.* At the conclusion of the hearing, the juvenile court hearing officer shall announce in open court on the record, the juvenile court hearing officer's findings and recommendation to the judge.

B. *Delinquency Recommendation.* If a recommendation includes an adjudication of delinquency:

1) the juvenile shall be advised of the right to challenge the recommendation pursuant to Rule 192, **as set forth in paragraph (E)**; and

2) a colloquy and inquiry of post-dispositional rights shall be conducted pursuant to Rule 512(C).

C. *Submission of Papers and Contents of Recommendation.* Within one business day, the juvenile court hearing officer shall submit a summary of the recommendation to the juvenile court judge. If requested, a copy of the summary shall be given to the juvenile's attorney, the juvenile, if unrepresented, the attorney for the Commonwealth, and the juvenile probation officer. The summary shall specifically state a recommendation to the judge.

D. *Judicial Action.* The judge shall by order:

- 1) accept the recommendation;
- 2) reject the recommendation and issue an order with a different disposition;
- 3) send the recommendation back to the juvenile court hearing officer for more specific findings; or
- 4) schedule a rehearing under Rule 192 within seven days.

**E. Advisement of Right to Challenge Recommendation.** **The hearing officer shall advise the juvenile of the right to challenge the hearing officer's recommendation substantially in the following form:**

#### **RIGHT TO CHALLENGE RECOMMENDATION OF HEARING OFFICER**

In re	:	JD
(Juvenile)	:	
	:	Delinquent Act(s):
	:	
	:	
	:	

**ADVISEMENT**

**1) You can disagree with the hearing officer's recommendation. You can ask for a new hearing before a judge. If you want a new hearing, you must request a new hearing in writing within three days from today and say why you want a new hearing.**

**2) You have the right to have a lawyer help you file your request. If your lawyer (who is helping you today) cannot or will not file the request for you, the court will appoint a new lawyer to help you.**

**3) Here's what could happen if you ask for a new hearing:**

**a) the court can deny your request for a new hearing within seven days after you ask for a new hearing; or**

**b) the court can give you a new hearing within seven days after you ask for a new hearing.**

**Comment**

The juvenile court may promulgate a form for juvenile court hearing officers to use. The summary of the recommendation may take the form of a court order to be adopted by the court.

The requirements of paragraph (B) are intended to ensure the juvenile is advised of the right to challenge the juvenile court hearing officer's recommendation and post-dispositional rights in the event the judge accepts the recommendation. If a party challenges the juvenile court hearing officer's decision, the copy of the summary may be used as an attachment in a motion for a rehearing in front of the judge.

The juvenile court hearing officer's decision is subject to approval of the judge. When the judge, in rejecting the juvenile court hearing officer's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the juvenile court hearing officer's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. See *In re Perry*, 459 A.2d 789 (Pa. Super. 1983). The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. See *In re Stephens*, 419 A.2d 1244 (Pa. Super. 1980).

Nothing in this rule prohibits the court from modifying conclusions of law made by the juvenile court hearing officer.

**The form contained in paragraph (E) is intended to advise juveniles in writing of their right to challenge the recommendation of delinquency adjudication by a juvenile court hearing officer pursuant to Rule 192 by requesting a rehearing before a juvenile court judge. This form is in addition to the form contained in Rule 512(C) advising a juvenile of post-dispositional rights.**

***Official Note:*** Rule 191 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017. Amended May 4, 2018, effective July 1, 2018. **Amended \_\_\_\_\_, 2019, effective \_\_\_\_\_, 2019.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 191 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 191 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 191 published with the Court's Order at 48 Pa.B. 2939 (May 19, 2018).

**Final Report explaining the amendments to Rule 191 published with the Court's Order at \_\_\_\_\_ Pa.B. (\_\_\_\_\_, 2019).**

**REPORT*****Proposed Amendment of Pa.R.J.C.P. 191***

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rule of Juvenile Court Procedure 191 to provide a written advisement to juveniles of their right to challenge a juvenile court hearing officer's recommendation of an adjudication of delinquency. The catalyst for this proposal was the Committee's review of a local form used for a similar purpose.

Currently, Rule 191(B)(1) requires a juvenile court hearing officer to advise a juvenile of the right to challenge a recommendation for an adjudication of delinquency pursuant to Rule 192. The Committee believed the advisement should be in writing using "plain language" intended to be more easily understood by a juvenile. This approach is consistent with the written information provided to a juvenile advising of post-dispositional rights. See Pa.R.J.C.P. 191(B)(2); Pa.R.J.C.P. 512(C). Accordingly, the Committee proposes a new paragraph (E) to contain an example of such an advisement. The requirement of this written advisement is only intended when there is a recommendation for an adjudication of delinquency; it is not intended for other types of recommendations.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 19-566. Filed for public inspection April 19, 2019, 9:00 a.m.]

**Title 237—JUVENILE RULES****PART I. RULES****[ 237 PA. CODE CH. 2 ]****Proposed Amendment of Pa.R.J.C.P. 231**

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Juvenile Court Procedure 231 to eliminate the requirement that a written allegation be submitted to a detention facility for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel  
 Juvenile Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
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 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9541  
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by May 31, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court  
 Procedural Rules Committee*

JUDGE JENNIFER R. SLETVOLD,  
*Chair*

### Annex A

## TITLE 237. JUVENILE RULES

### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

#### PART C. WRITTEN ALLEGATION PROCEDURES

#### Rule 231. Written Allegation.

A. *Submission.* In every delinquency case, the law enforcement officer shall submit a written allegation to the juvenile probation office.

1) *Juvenile [ not under arrest ] Not Under Arrest.* When a juvenile is not under arrest, a written allegation shall be submitted to the juvenile probation office and a copy shall be forwarded to the attorney for the Commonwealth unless the District Attorney elects to require initial receipt and approval of the written allegation under paragraph (B).

2) *Juvenile [ under arrest ] Under Arrest.* When a juvenile is under arrest, a written allegation shall be submitted promptly to the court [ or detention facility ], and copies shall be immediately forwarded to the juvenile probation office and the attorney for the Commonwealth unless the District Attorney elects to require initial receipt and approval of the written allegation under paragraph (B).

B. *Approval by the District Attorney.* The District Attorney of any county may require initial receipt and approval of written allegations by an attorney for the Commonwealth before a delinquency proceeding is commenced.

1) *Certification.* If the District Attorney elects to require initial receipt and approval of written allegations in his or her county, the District Attorney shall file a certification with the court of common pleas. The certification shall specifically state the classes, grading, or types of cases that the police officer shall submit to the attorney for the Commonwealth.

2) *Timeliness.* All written allegations shall be approved or disapproved without unreasonable delay. An attorney

for the Commonwealth shall be available at all times for this purpose unless the District Attorney has specified otherwise in the certification pursuant to (B)(1).

C. *Procedures Following the Attorney for the Commonwealth's Approval.*

1) *Juvenile [ not under arrest ] Not Under Arrest.* If a juvenile is not under arrest and an attorney for the Commonwealth approves the written allegation, notice of the approval and a copy of the written allegation shall be forwarded immediately to the juvenile probation office.

2) *Juvenile [ under arrest ] Under Arrest.* If a juvenile is under arrest, the written allegation shall be submitted to the attorney for the Commonwealth and approved prior to taking the juvenile to a detention facility. If the written allegation is approved, it shall be submitted promptly to the court [ or detention facility ]. A copy of the notice of the approval and the written allegation shall be forwarded to the juvenile probation office.

D. *Attorney for the Commonwealth's Disapproval.* If the written allegation has been disapproved for prosecution, it shall nevertheless be transmitted to the juvenile probation office with notice of the disapproval. If the juvenile is in custody, the juvenile shall be released immediately unless there are other grounds for the juvenile's detention.

#### Comment

A "petition" and a "written allegation" are two separate documents and serve two distinct functions. A "written allegation" is the document that initiates juvenile delinquency proceedings. Usually, the "written allegation" will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

See Rules 210 (Arrest Warrants) and 220 (Procedures in Cases Commenced by Arrest Without Warrant) for the procedures on submitting written allegations for arrests.

Under paragraphs (A)(2) and (C)(2), the police officer is to submit the written allegation promptly to the intake staff at the court [ or the detention facility ].

As used in this rule, "District Attorney" is the District Attorney of each county. This rule gives the District Attorney of each county the option of requiring that written allegations and/or arrest warrant affidavits filed in that county by police officers have the prior approval of an attorney for the Commonwealth. Under the rule, the District Attorney may elect to require prior approval of written allegation, or arrest warrant affidavits (see Rule 210), or both. In addition, the District Attorney is given the authority to define which offenses or grades of offenses will require such prior approval. For example, the District Attorney may specify that prior approval will be required only if a felony is alleged, or that prior approval will be required for all cases.

Under paragraph (B), the District Attorney decides whether an attorney for the Commonwealth receives initial receipt and approval of written allegations. Once the District Attorney has filed a certification with the court under paragraph (B)(1), any attorney for the Com-



monwealth may receive and approve written allegations as specified in the certification by the District Attorney. This procedure creates a new option for the District Attorney to decide if written allegations need to be approved by an attorney for the Commonwealth. To implement this procedure, Rule 800 suspends 42 Pa.C.S. § 6304, only to the extent that probation officers may have to seek approval of any attorney for the Commonwealth.

Under paragraph (D), a juvenile should be released from custody unless there are other legally sufficient bases for detaining the juvenile, such as, violation of probation or other pending allegations.

If a juvenile is detained, the juvenile is to be placed in a detention facility, which does not include a county jail or state prison. See Rule 120 and its Comment for definition of “detention facility.”

**Official Note:** Rule 231 adopted April 1, 2005, effective October 1, 2005. Amended June 28, 2013, effective immediately. **Amended** \_\_\_\_\_, **2019, effective** \_\_\_\_\_, **2019.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 231 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 231 published with the Court’s Order at 43 Pa.B. 3938 (July 13, 2013).

**Final Report explaining the amendments to Rule 231 published with the Court’s Order at Pa.B. \_\_\_\_\_, 2019.**

**REPORT**

**Proposed Amendment of Pa.R.J.C.P. 231**

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rule of Juvenile Court Procedure 231 to remove the requirement that a written allegation be submitted to a detention facility.

Currently, Rule 231 requires the prompt submission of a written allegation to the juvenile court and the detention facility when a juvenile is under arrest. See Pa.R.J.C.P. 231(A)(2) & (C)(2). The Committee received feedback that Rule 231 has been interpreted to require the written allegation to accompany the juvenile at the time of placement in the detention facility. Further, this interpretation places a burden on law enforcement to complete and deliver the written allegation at the time of placement.

The Committee was advised that the necessary information for such placements, as required by 37 Pa. Code § 200.2, was being conveyed to the detention facilities via the Juvenile Court Judges’ Commission’s form JCJC-D-1 (4/04) (“Statement of Facts and Reasons Accompanying the Detention of a Child by a Probation Officer/Intake Officer Pursuant to 42 Pa.C.S. §§ 6304, 6225, and 6331”). Therefore, the written allegation need not accompany a juvenile at the time of placement in a detention facility.

Accordingly, the Committee proposes the removal of this requirement with regard to detention facilities in Rule 231. Please note this proposed amendment is not intended to prohibit the later transmission of the written allegation to a detention facility. The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 19-567. Filed for public inspection April 19, 2019, 9:00 a.m.]

**Title 246—MINOR COURT CIVIL RULES**

**PART I. GENERAL**

[ 246 PA. CODE CHS. 200, 300, 400 AND 500 ]

**Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 209, 304, 403, 410, 503, 515 and 516**

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 209, 304, 403, 410, 503, 515, and 516 governing attachment of a non-military service affidavit to complaints for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Pamela S. Walker, Counsel  
 Minor Court Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9546  
 minorrules@pacourts.us

All communications in reference to the proposal should be received by May 28, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Workgroup will acknowledge receipt of all submissions.

*By the Minor Court Rules Committee*

HONORABLE DAVID M. HOWELLS, Jr.,  
*Chair*

**Annex A**

**TITLE 246. MINOR COURT CIVIL RULES**

**PART I. GENERAL**

**CHAPTER 200. RULES OF CONSTRUCTION;  
 GENERAL PROVISIONS**

**Rule 209. Continuances and Stays.**

\* \* \* \* \*

E. Continuances and stays shall be granted in compliance with federal or state law, such as the Servicemembers Civil Relief Act [ **50 App. U.S.C. § 501 et seq.** ], **50 U.S.C. §§ 3901 et seq.**

**Official Note:** This rule was amended in 2005 to consolidate the provisions of former Rules 320 (relating to continuances in civil actions) and 511 (relating to continuances in possessory actions) into one general rule governing continuances. The limitations set forth in [ **subdivision** ] **paragraph C** are intended to ensure that these cases proceed expeditiously. The grounds set forth in

[ subdivisions ] paragraphs D and E, of course, are not intended to be the only grounds on which a continuance will be granted

**CHAPTER 300. CIVIL ACTION**

**Rule 304. Form of Complaint.**

A. The complaint shall be made in writing on a form [ which shall be ] prescribed by the State Court Administrator.

B. [ The complaint shall be signed by the plaintiff or plaintiff's agent and verified as follows:

The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
Signature

C. ] The complaint shall set forth:

(1) The names and addresses of the parties.

(2) The amount claimed.

(3) A brief and concise statement of the facts upon which the claim is based including:

(a) the date, time and place of the occurrence and a brief description of the damages sustained when the claim alleges tortious conduct; or

[ **Official Note: A civil action in which the claim alleges tortious conduct was formerly called an action in trespass. ]**

(b) the date of the transaction and a brief description of the subject matter when the claim is contractual;

[ **Official Note: A civil action in which the claim is contractual was formerly called an action in assumpsit. ]**

(c) the date and description of the occurrence when the claim is for a civil fine or penalty and the citation to the statute authorizing the claim.

(4) Such other information as shall be required on the complaint form.

**C. The complaint shall be signed by the plaintiff or plaintiff's agent and verified as follows:**

**The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.**

\_\_\_\_\_  
Signature

**D. The plaintiff or plaintiff's agent shall attach a verified statement to the complaint setting forth facts showing that the defendant is in the military service, that the defendant is not in the service, or that the plaintiff is unable to determine whether or not the defendant is in the service.**

**Official Note:** Rule 304 is designed to promote uniformity, simplification of procedure, and better access by the public to the judicial services of magisterial district judges. The use of a form will help to accomplish this purpose and will also provide easier statistical and other administrative control by the Supreme Court.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. See Rule 217.

**A civil action that alleges tortious conduct was formerly called an action in trespass. A civil action in which the claim is contractual was formerly called an action in assumpsit.**

**Paragraph D requires the plaintiff to affirm if the defendant is or is not in the military service, or if the defendant's military service status is unknown. This information is required to ensure that an eligible defendant receives the protections afforded by the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 et seq. The verified statement shall be made in writing on a form prescribed by the State Court Administrator.**

**CHAPTER 400. ENFORCEMENT OF JUDGMENTS RENDERED BY MAGISTERIAL DISTRICT JUDGES FOR THE PAYMENT OF MONEY**

**Rule 403. Issuance and Reissuance of Order of Execution.**

\* \* \* \* \*

**Official Note:** Under [ subdivision ] paragraph A, the order may be executed by the sheriff of the county in which the office of the issuing magisterial district judge is situated, as well as by any certified constable in that county.

If payment of the judgment was ordered to be made in installments under Rule 323, the magisterial district judge should not issue an order of execution on the judgment unless it appears that there was a default in the installment payments.

[ Subdivision ] Paragraph B will permit the reissuance of an order of execution upon a **timely-filed** written request of the plaintiff [ **timely filed** ]. Compare Pa.R.C.P. No. 3106(b). The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order of execution form, "Reissuance of order of execution requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reissued order of execution, "Reissued. Request for reissuance filed \_\_\_\_\_ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an order of execution, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order of execution.

The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act[ ., 50 App. U.S.C. § 501 et seq ], 50 U.S.C. §§ 3901 et seq.

**Rule 410. Stay of Execution Generally.**

\* \* \* \* \*

**Official Note:** Compare Pa.R.C.P. No. 3121(a). Other rules in this chapter may also provide for a stay in specific circumstances covered by those rules. The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act[ ., 50 App. U.S.C. § 501 et seq ], 50 U.S.C. §§ 3901 et seq.

**CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY**

**Rule 503. Form of Complaint.**

A. The complaint shall be made in writing on a form [ **which shall be** ] prescribed by the State Court Administrator.

B. [ **The complaint shall be signed by the plaintiff or plaintiff's agent and verified as follows: The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.** ]

\_\_\_\_\_  
Signature

C. ] The complaint shall set forth:

- (1) The names and addresses of the parties.
- (2) The location and the address, if any, of the real property possession of which is sought to be recovered.
- (3) That the plaintiff is the landlord of that property.
- (4) That [ **he** ] **the plaintiff** leased or rented the property to the defendant or to some other person under whom the defendant claims.
- (5) That notice to remove was given to the defendant in accordance with law, or that no notice was required under the terms of the lease.
- (6) That—
  - (a) the term for which the property was leased or rented is fully ended, or
  - (b) a forfeiture has resulted by reason of a breach of the conditions of the lease, or
  - (c) rent reserved and due has, upon demand, remained unsatisfied.
- (7) That the defendant retains the real property and refuses to give up possession of the property.
- (8) The amount of rent, if any, [ **which** ] **that** remains due and unpaid on the date the complaint is filed and whatever additional rent shall remain due and unpaid at the date of the hearing, and the amount of damages, if any, claimed for injury to or unjust detention of the real property.

**C. The complaint shall be signed by the plaintiff or plaintiff's agent and verified as follows:**

**The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.**

\_\_\_\_\_  
Signature

**D. The plaintiff or plaintiff's agent shall attach a verified statement to the complaint setting forth facts showing that the defendant is in the military service, that the defendant is not in the service, or that the plaintiff is unable to determine whether or not the defendant is in the service.**

**Official Note:** As in the other rules of civil procedure for magisterial district judges, the complaint will be on a printed form. The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified*

*Judicial System of Pennsylvania.* See Rule 217. As to notice to remove, the form will simply state that such a notice, when required, was given to the defendant in accordance with law. See § 501 of the Landlord and Tenant Act, 68 P.S. § 250.501, as amended by § 2(a) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53, 42 P.S. § 20002(a).

In [ **subdivision C(8)** ] **paragraph B(8)** the landlord is permitted to claim, in addition to the specific amount of rent due and unpaid at the date of filing, whatever unspecified amount of rent will remain due and unpaid at the date of the hearing. As to claiming damages for injury to property, *compare* Pa.R.C.P. No. 1055.

**Paragraph D requires the plaintiff to affirm if the defendant is or is not in the military service, or if the defendant's military service status is unknown. This information is required to ensure that an eligible defendant receives the protections afforded by the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 et seq. The verified statement shall be made in writing on a form prescribed by the State Court Administrator.**

See Act of January 24, 1966, P.L. (1965) 1534, § 1, as amended by Act of August 11, 1967, P.L. 204, No. 68, § 1, Act of June 11, 1968, P.L. 159, No. 89, § 2, 35 P.S. § 1700-1, which states that "no tenant shall be evicted for any reason whatsoever while rent is deposited in escrow" because the dwelling in question has been certified as unfit for human habitation by the appropriate city or county agency. It seems appropriate to leave the matter of evidencing or pleading such a certification or lack thereof to local court of common pleas rules.

\* \* \* \* \*

**Rule 515. Request for Order for Possession.**

A. If the magisterial district judge has rendered a judgment arising out of a non-residential lease that the real property be delivered up to the plaintiff, the plaintiff may, after the 15th day following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

B.(1) Except as otherwise provided in [ **subparagraph (2)** ] **paragraph B(2)**, if the magisterial district judge has rendered a judgment arising out of a residential lease that the real property be delivered up to the plaintiff, the plaintiff may after the 10th day but within 120 days following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

(2) In a case arising out of a residential lease, if before the plaintiff requests an order for possession,

(a) an appeal or writ of *certiorari* operates as a *supersedeas*; or

(b) proceedings in the matter are stayed pursuant to a bankruptcy proceeding **or other federal or state law**; and

(c) the *supersedeas* or **the bankruptcy or other** stay is subsequently stricken, dismissed, lifted, or otherwise terminated so as to allow the plaintiff to proceed to request an order for possession,



the plaintiff may request an order for possession only within 120 days of the date the *supersedeas* or **the** bankruptcy **or other** stay is stricken, dismissed, lifted, or otherwise terminated.

**Official Note:** The [ **fifteen** ] **15** days in [ **subdivision** ] **paragraph** A of this rule, when added to the [ **16 day** ] **16-day** period provided for in Rule 519A, will give the defendant time to obtain a *supersedeas* within the appeal period. See Rules 1002, 1008, 1009, and 1013.

The 1995 amendment to section 513 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.513, established a [ **ten-day** ] **10-day** appeal period from a judgment for possession of real estate arising out of a residential lease; therefore, the filing of the request for **an** order for possession in [ **subparagraph** ] **paragraph** B(1) is not permitted until after the appeal period has expired. In cases arising out of a residential lease, the request for **an** order for possession generally must be filed within 120 days of the date of the entry of the judgment.

**The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 et seq.**

[ **Subparagraph** ] **Paragraph** B(2) provides that in a case arising out of a residential lease, if a *supersedeas* (resulting from an appeal or writ of *certiorari*) or bankruptcy **or other** stay is stricken, dismissed, lifted, or otherwise terminated, thus allowing the plaintiff to proceed with requesting an order for possession, the request may be filed only within 120 days of the date the *supersedeas* or **the** bankruptcy **or other** stay is stricken, dismissed, lifted, or otherwise terminated.

The time limits in which the plaintiff must request an order for possession imposed in [ **subdivision** ] **paragraph** B apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. See Rule 516, Note, and Rule 521A.

At the time the plaintiff files the request for an order for possession, the magisterial district court should collect server fees for all actions through delivery of possession. Thereafter, if the order for possession is satisfied 48 hours or more prior to a scheduled delivery of possession, a portion of the server costs may be refundable. See Rules 516 through 520 and [ **Section 2950(d) of the Judicial Code, 42 Pa.C.S. § 2950(d)** ] **44 Pa.C.S. § 7161(d)**.

**Rule 516. Issuance and Reissuance of Order for Possession.**

A. Upon the timely filing of the request form, the magisterial district judge shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The order shall direct the officer executing it to deliver actual possession of the real property to the plaintiff. The magisterial district judge shall attach a copy of the request form to the order for possession.

B.(1) Except as otherwise provided in [ **subdivision** ] **paragraph** C, upon written request of the plaintiff the magisterial district judge shall reissue an order for possession for one additional [ **60 day** ] **60-day** period.

(2) If an order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas*, or a stay pursuant to a bankruptcy proceeding **or other federal or state law**, and

(a) the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy **or other** stay is lifted; and

(c) the plaintiff wishes to proceed with the order for possession,

the plaintiff must file with the magisterial district judge a written request for reissuance of the order for possession in accordance with [ **subparagraph (1)** ] **paragraph B(1)**.

C. In a case arising out of a residential lease a request for reissuance of an order for possession may be filed only within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas*, or a stay pursuant to a bankruptcy proceeding **or other federal or state law**, only within 120 days of the date the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated or the bankruptcy or **other stay** is lifted.

D. A written request for reissuance of the order for possession filed after an appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated, or a bankruptcy **or other** stay is lifted, must be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of *certiorari*, or *supersedeas*, or lifting the bankruptcy **or other** stay.

**Official Note:** The order for possession deals only with delivery of possession of real property and not with a levy for money damages. A plaintiff who seeks execution of the money judgment part of the judgment must proceed under Rule 521A, using the forms and procedure there prescribed. The reason for making this distinction is that the printed notice requirements on the two forms, and the procedures involved in the two matters, differ widely.

[ **Subdivision** ] **Paragraph** B provides for reissuance of the order for possession for one additional [ **60 day** ] **60-day** period. However, pursuant to [ **subdivision** ] **paragraph** C, in cases arising out of a residential lease, the request for reissuance of the order for possession must be filed within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of *certiorari*, *supersedeas* or a stay pursuant to a bankruptcy proceeding **or other federal or state law**, only within 120 days of the date the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise terminated, or the bankruptcy **or other** stay is lifted. The additional [ **60 day** ] **60-day** period need not necessarily immediately follow the original [ **60 day** ] **60-day** period of issuance. The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order for possession form, "Reissuance of order for possession requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reissued order for possession, "Reissued. Request for reissuance filed \_\_\_\_\_ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an

order for possession, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order for possession.

**The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 et seq.**

The time limits in which the plaintiff must request reissuance of an order for possession imposed in [ **subdivision** ] **paragraph** C apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. *See* Rule 521A.

**PUBLICATION REPORT**

***Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 209, 304, 403, 410, 503, 515, and 516***

The Minor Court Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 209, 304, 403, 410, 503, 515, and 516. These amendments will require the attachment of a verified statement regarding a defendant's military service status to complaints in civil and landlord tenant actions in magisterial district courts, and will also make stylistic, corrective, and correlative changes throughout the cited rules.

The Committee received inquiries regarding the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* ("Act"). Specifically, the Committee was asked how the Act's requirement that a plaintiff file an affidavit regarding the defendant's military service with a court prior to the entry of a default judgment was addressed in the Rules. Under the Act, in any civil action or proceeding in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit stating whether or not the defendant is in military service, or that the plaintiff is unable to determine whether or not the defendant is in military service. *See* 50 U.S.C. § 3931(1). The plaintiff's affidavit must state facts supporting the assertions regarding the defendant's military status. *Id.* The Act also provides protections for servicemembers in landlord tenant matters. *See* 50 U.S.C. § 3951.

The definition of "court" under the Act is defined broadly enough to encompass the magisterial district courts. "The term 'court' means a court or administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record." *See* 50 U.S.C. § 3911(5). However, current procedural rules for the magisterial district courts do not address attaching an affidavit regarding military service to the complaint, request for entry of judgment, or request for order of possession. The only current references to the Act in the Rules are in

Rules 209 (Continuances and Stays), 403 (Order of Execution), and 410 (Stay of Execution). These rules cite the Act as a basis for stays, but do not address the affidavit set forth in the Act.

Upon review of the Act, the Committee considered how to implement its requirements and determined that requiring the plaintiff to attach the affidavit to the complaint was the best way to ensure compliance with the Act. By requiring attachment of a verified statement regarding defendant's military service to the complaint, the court will be in possession of the statement before entering a default judgment for the plaintiff if the defendant does not appear at the hearing. Additionally, under Rule 319B, there are circumstances where the magisterial district judge may enter judgment for the plaintiff, even if neither party appears for the hearing. Having the verified statement prior to the hearing will permit the magisterial district court to move forward with the default judgment without having to belatedly obtain the verified statement from the plaintiff.

The Committee is considering proposing to the Court amendments to Rules 304 and 503 to add a requirement that the plaintiff attach a verified statement regarding defendant's military service to the complaint. The Committee is considering recommending the amendment of Rules 515 and 516 to parallel existing references to stays pursuant to federal and state law in Rules 403 and 410. Statutory citations in Rules 209, 403, 410, and 515 will be updated and stylistic changes have been made throughout the Rules.

[Pa.B. Doc. No. 19-568. Filed for public inspection April 19, 2019, 9:00 a.m.]

**DISCIPLINARY BOARD  
OF THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated April 4, 2019, Shannon Marie Pringle (# 207458) who resides in Niceville, Florida, is transferred to administrative suspension status for failure to pay taxed expenses under Pa.R.D.E. 208(g)(3). 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*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 19-569. Filed for public inspection April 19, 2019, 9:00 a.m.]