

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

[204 PA. CODE CHS. 71 AND 73]

Order Permitting Limited Practice by Persons Unable to Sit for July 2020 Pennsylvania Bar Examination Because of COVID-19; No. 837 Supreme Court Doc.

Order¹

Per Curiam

And Now, this 28th day of April, 2020, upon the recommendation of the Pennsylvania Board of Law Examiners,

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania, and Rule 1952(A) of the Rules of Judicial Administration, that persons unable to sit for the July 2020 Pennsylvania bar examination because of COVID-19 shall be permitted to temporarily engage in the limited practice of law as follows:

(a) *Limited practice permitted.* The requirements for the limited practice of law by a person who is unable to sit for the July 2020 Pennsylvania Bar Examination because the administration of the bar examination has been postponed or cancelled because of the COVID-19 pandemic (a “2020 limited licensee”) include the following:

(1) The 2020 limited licensee is a graduate from a law school that was ABA accredited at the time the 2020 limited licensee matriculated or graduated who (i) received without exception a *juris doctor* degree and (ii) has never failed the Pennsylvania bar examination.

(2) The Pennsylvania Board of Law Examiners (the “Board”) has not determined that the 2020 limited licensee lacks the current character and fitness required to be a member of the bar of this Court.

(3) The 2020 limited licensee has filed an application to sit for the July 2020 Pennsylvania bar examination.

(4) The 2020 limited licensee shall be supervised by a member of the bar of this Court as described in this order and as certified as prescribed in Subdivision (c) of this order.

(5) The 2020 limited licensee shall agree to adhere to the Pennsylvania Rules of Professional Conduct and to submit to any applicable disciplinary authorities to the same extent as a generally licensed attorney.

(6) The 2020 limited licensee shall have submitted to the Board a declaration executed subject to a charge of perjury for false statements confirming that all of the foregoing requirements have been met and asking for certification as a 2020 limited licensee. The Board shall offer a form on which such a declaration may be submitted.

(b) *Bar Examination Application.* In order to be eligible for the benefits of this order, an applicant must have filed an application to sit for the Pennsylvania bar examination, and the Board must have received an affirmative certification from the law school from which the applicant

was graduated certifying that (1) the applicant has been awarded without exception a *juris doctor* degree from that law school and (2) to the best of the law school’s knowledge, the applicant has the character and fitness required to be a member of the bar of this Court.

(c) *Supervising Attorney.* The attorney under whose supervision a 2020 limited licensee engages in the limited practice permitted by this order—

(1) Shall have been an actively practicing member of the bar of the Supreme Court of Pennsylvania for at least five years.

(2) Shall assume personal professional responsibility for ensuring that the 2020 limited licensee’s legal work is competent and compliant with the Pennsylvania Rules of Professional Conduct.

(3) Shall submit a certification to the Board naming the 2020 limited licensee and confirming that the supervising attorney agrees to comply with his or her obligations pursuant to this order with respect to the designated 2020 limited licensee.

(4) Shall not supervise more than two 2020 limited licensees under the provisions of this order.

(d) *Limited Practice Permitted.* Subject to the restrictions of this subdivision, a 2020 limited licensee may engage in the following activities:

(1) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may counsel a client with respect to legal issues.

(2) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may prepare documents on behalf of a client, including documents that will be filed in a court, administrative tribunal or agency of the Commonwealth. The supervising attorney’s signature must appear on any documents that will be filed in a court, administrative tribunal or agency of the Commonwealth.

(3) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may appear for any activity subsumed within the practice of law. The supervising attorney or another attorney who meets the qualifications of Subdivisions (c)(1) and (2) of this order must be present for any such proceeding.

A 2020 limited licensee shall disclose in any legally related communications that he or she is a “2020 Limited Licensee,” and the 2020 limited licensee may not hold himself or herself out as an attorney generally admitted to the bar of this Court.

(e) *Duration.* Permission to engage in the limited practice of law pursuant to this order shall commence upon receipt by the applicant of a written certification from the Board that the Board has received (1) the applicant’s declaration described in (a)(6) confirming satisfaction of the requirements of this order; (2) the supervising attorney’s certification described in (c)(3); and (3) the law school’s confirmation described in (b) that it has conferred a law degree on the applicant and that, to the best of the law school’s knowledge, the applicant has the character and fitness required to be a member of the bar of this Court.

¹ This Order, as certified on April 28, 2020, replaces a previous version that was sent to the Prothonotary on April 27, 2020 and docketed, but was withdrawn prior to publication.

Permission to engage in the limited practice of law pursuant to this order shall terminate no later than (1) the date of the next Pennsylvania bar examination to be administered after the effective date of this order if the 2020 limited licensee does not sit for that examination or (2) the date on which the Board announces the results of the next Pennsylvania bar examination to be administered after the effective date of this order if the limited licensee does sit for that examination.

However, a person permitted to engage in the limited practice of law under this order who passes that next administration of the bar examination may continue to practice under this order until that person is formally admitted to the general practice of law.

In no event may any person engage in the limited practice of law under this order after the date that is six months after release of the results of the next Pennsylvania bar examination to be administered after the effective date of this order.

(f) *Additional limitation.* Time spent in the limited practice of law permitted by this order may not be counted for purposes of any Bar Admission Rule that permits general admission to the bar of the Supreme Court of Pennsylvania without examination, including but not limited to Rule 204.

[Pa.B. Doc. No. 20-626. Filed for public inspection May 8, 2020, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 89]

Amendments to Rules of Organization and Procedure of The Disciplinary Board of The Supreme Court of Pennsylvania

Order No. 97

By this Order, the Disciplinary Board of the Supreme Court of Pennsylvania amends its Board Rules and Procedures to modify Rules §§ 89.163 and 89.202 related to the content and form of briefs and briefs on exceptions.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter C. HEARING PROCEDURES

ORAL ARGUMENT AND BRIEFS

§ 89.163. Content and form of briefs.

(a) *General rule.* Briefs shall contain:

(1) A concise statement of the case.

(2) An abstract of the evidence relied upon by the participants filing, preferably assembled by subjects, with references to the pages of the record or exhibits where the evidence appears.

(3) Proposed findings and conclusions together with the reasons and authorities therefor, separately stated.

(b) *Exhibits.* Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Any analysis of exhibits relied on should be included in the part of the brief containing the abstract of evidence under the subjects to which they pertain.

(c) *Length.* Briefs (exclusive of any cover, table of contents, table of citations or appendix) shall be limited to [30 pages] 6,000 words in length[, except that for] and shall be in 14-point Arial typeface. For good cause shown, the limitation on length may be altered or waived with respect to a particular brief upon application to and order of the Chair of the hearing committee or the special master at least ten days before the time fixed for the filing of the brief.

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.202. Content and form of briefs on exceptions.

(a) *Briefs on exceptions.*

(1) Briefs on exceptions shall contain:

(i) A short statement of the case.

(ii) A summary of the basic position of the party filing.

(iii) The grounds upon which the exceptions rest.

(iv) The argument in support of the exceptions with appropriate references to the record and legal authorities.

(2) There may also be included specific findings and conclusions proposed in lieu of those to which exception is taken and any proposed additional findings and conclusions.

(3) Exceptions to the form of recommended order shall specify the portions thereof to which exception is taken,

and may set forth a form of order suggested in lieu of that recommended by the hearing committee or special master.

(b) *Briefs opposing exceptions.* Briefs opposing exceptions shall generally follow the same style prescribed for briefs on exceptions, but may omit a statement of the case if it was correctly stated in a brief on exceptions.

(c) *Length.* Briefs on exceptions and briefs opposing exceptions shall be self-contained and limited to [30 pages] **6,000 words** in length [, except that for] **in 14-point Arial typeface.** For good cause **shown**, the limitation on length may be altered or waived for either class of briefs upon application to and order of the Board Chair at least ten days before the time fixed for filing of the respective briefs.

(d) *Copies.* Three copies of each brief shall be filed with the Board Prothonotary in addition to the copies served on the participants in the proceedings.

[Pa.B. Doc. No. 20-627. Filed for public inspection May 8, 2020, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 89 and 93]

Amendments to Rules of Organization and Procedure of The Disciplinary Board of The Supreme Court of Pennsylvania

Order No. 96

By Order dated March 31, 2020, effective April 30, 2020, the Supreme Court of Pennsylvania amended Rule 218 of the Pennsylvania Rules of Disciplinary Enforcement related to filing fees and penalties on unpaid taxed expenses in reinstatement matters. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

By the Disciplinary Board of the
Supreme Court of Pennsylvania

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE

REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS

§ 89.273. Procedures for reinstatement.

* * * * *

(d) *Attorneys suspended for less than one year.* Enforcement Rule 218(g) provides that:

(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Chapter 91 Subchapter E (relating to formerly admitted attorneys), **along with the payment of a non-refundable filing fee of \$250**, the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

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CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(d) *Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.*

(1) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) and (g)(2) of Enforcement Rule 208 **and subdivision (f)(3) of Enforcement Rule 218**, and/or failure to pay administrative fees assessed in accordance with subdivision (g)(4) of Enforcement Rule 208 within thirty days of notice transmitted to the respondent-attorney shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

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[Pa.B. Doc. No. 20-628. Filed for public inspection May 8, 2020, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 13]

Order Amending Rule 1300, and Rescinding and Replacing Rule 1302 of the Pennsylvania Rules of Juvenile Court Procedure; No. 838 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 28th day of April, 2020, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 49 Pa.B. 3887 (July 27, 2019):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Pennsylvania Rule of Juvenile Court Procedure 1300 is amended; and

2) Pennsylvania Rule of Juvenile Court Procedure 1302 is rescinded and replaced in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on October 1, 2020.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART A. VENUE

Rule 1300. Venue.

A. *Generally.* A dependency proceeding shall be commenced in:

- 1) the county in which the child is present; or
- 2) the child's county of residence.

B. *Change of [venue. For] Venue. At any time prior to the adjudicatory hearing, for* the convenience of parties and witnesses, the court, upon its own motion or motion of any party, may transfer an action to the appropriate court of any county where the action could originally have been brought or could be brought at the time of filing the motion to change venue.

C. *Transmission of [all records] All Records.* If there is a change of venue **ordered** pursuant to paragraph (B), **within five days:**

[1) the transferring court shall transfer certified copies of all documents, reports, and summaries in the child's official court record to the receiving court; and

2) The county agency of the transferring court shall transfer all its records to the county agency where venue has been transferred.]

1) the transferring county's clerk of courts shall inform the receiving county's clerk of courts of the manner in which certified copies of all documents, reports, and summaries in the child's official court record will be transferred;

2) the transferring county's clerk of courts shall transfer certified copies of all documents, reports, and summaries in the child's official court record to the receiving county's clerk of courts;

3) the transferring county agency shall transfer all its records to the receiving county agency;

4) the receiving county's clerk of courts shall notify its county agency and the transferring county's clerk of courts of its receipt of the official court records; and

5) the receiving county agency shall schedule the next court proceeding in accordance with the time requirements of these Rules.

D. Continuation of Services. To ensure there is no interruption in services, the transferring county agency is to continue services until the case transfer has been completed, which occurs when the receiving county's clerk of court notifies of receipt of the official court record as provided in paragraph (C)(4).

Comment

See 42 Pa.C.S. § [6321] **6321(b)**.

For procedures regarding motions and answers, see Rule 1344. In addition to the procedures for service of orders under Rule 1167, an order changing venue is to be served upon the new county agency and the receiving court so they may begin proceedings in the receiving county.

Pursuant to paragraph (C), all records are to be transferred within five days of the order for change in venue. Nothing in this rule prohibits the use of electronic means when transferring and receiving records, but the manner in which records are transmitted must be communicated. If there is an electronic transfer, the receiving county is to send an electronic confirmation of receipt of the records as the return receipt. The transferring county's clerk of courts is to docket the confirmation of receipt of records by the receiving county and may close the case once the confirmation has been received.

For transfer of agency records, see 55 Pa. Code § 3490.401.

Official Note: Rule 1300 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. **Amended April 28, 2020, effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1300 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1300 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1300 published with the Court's Order at 50 Pa.B. 2389 (May 9, 2020).

Rule 1302. [Inter-County] **Intercounty** Transfer.

[A. *Transfer.* A court may transfer a case to another county at any time.

B. *Transmission of official court record.* If the case is transferred pursuant to paragraph (A):

1) the transferring court shall transfer certified copies of all documents, reports, and summaries in the child's official court record to the receiving court; and

2) the county agency of the transferring court shall transfer all its records to the county agency where jurisdiction has been transferred.

Comment

See 42 Pa.C.S. § 6321.]

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

A. *Best Interest of the Child.* Any time after the adjudicatory hearing, upon motion of a party or court, a court may consider the transfer of a case to another county if the transfer is best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Notice.* The court shall serve notice of a hearing upon the parties. The county agency in the proposed receiving county shall receive notice of the hearing and be granted standing to participate in the hearing.

C. *Hearing.* The hearing should be conducted in the transferring county no more than 20 days from the date of the notice in paragraph (B). The county agency in the proposed receiving county shall be permitted to appear at the hearing utilizing advance communication technology.

D. *Acceptance of Jurisdiction.* If the court in the transferring county finds that a proposed transfer would be in the child's best interest and would result in a transfer between judicial districts:

1) the court shall communicate with the president judge or designee of the receiving judicial district to ascertain whether jurisdiction will be accepted;

2) a record of the communication shall be made and served promptly by the court on the parties; and

3) upon service of the record of the communication, the parties shall have five days to file written responses with the court regarding the decision to accept jurisdiction.

E. *Order.*

1) An order approving a transfer shall specify an effective date for the transfer no less than ten days from date of the order to allow for the coordination of services and preparation of the official court record for transmission.

2) The court shall direct the clerk of courts to serve the order upon the parties, the receiving county agency, and the president judge or designee of the receiving court, if applicable.

F. *Matters of Cooperation between Courts.* Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

G. *Receiving Court.* On or before the effective date of the order established in paragraph (E)(1), the receiving court shall enter an order:

1) accepting jurisdiction of the case as of the effective date;

2) appointing a guardian *ad litem* and counsel, if necessary;

3) directing the clerk of courts to serve the order upon the transferring court, if necessary, the county agencies, the parties, and the transferring county's clerk of courts;

4) directing the receiving county agency to conduct a home visit and safety assessment consistent with the requirements of 55 Pa. Code § 3490.401; and

5) scheduling a review hearing to occur within 30 days.

H. *Transmission of Official Court Record.*

1) The transferring county's clerk of courts shall inform the clerk of the receiving court of the manner in which certified copies of all documents, reports, and summaries in the child's official court record will be transferred.

2) On the effective date of the transfer, the transferring county's clerk of courts shall transmit certified copies of all documents, reports, and summaries in the child's official court record to the clerk of the court of the receiving county.

3) The receiving county's clerk of courts shall notify its county agency and the transferring court of its receipt of the official court records.

I. *County Agencies.* The transferring county agency shall continue services until the effective date of the transfer.

Comment

If proceedings are commenced in a county other than the county of the child's residence, then a change of venue should be sought pursuant to Rule 1300 prior to adjudication.

The child's best interest concerning an intercounty transfer includes, but is not limited to, the child's current or anticipated county of residence, the resources of the receiving county, and needs of the child and family. A proposed transfer between judicial districts is not in the child's best interest unless the court of the receiving judicial district accepts jurisdiction.

Service of the acceptance order on the transferring court pursuant to paragraph (G)(3) is unnecessary if the transfer occurs within the same judicial district.

The period between the order approving the transfer and the effective date of the transfer is intended to prepare for the case transfer. The county agencies are expected to communicate prior to the actual transfer of a case to another county so that efforts can be coordinated and services transitioned without interruption. Coordination includes the inter-agency transfer of records maintained by the county agency that are not otherwise included in the official court record. *See* 55 Pa. Code § 3490.401. This period also allows the clerk to prepare the official court record for transmission to the receiving county on the effective date of the transfer.

Nothing in this rule prohibits the use of electronic means when transferring and receiving records. However, if there is an electronic transfer, the receiving county is to send an electronic confirmation of receipt of the records as the return receipt. The transferring county's clerk of courts is to docket the confirmation of receipt of records by the receiving county and may close the case once the confirmation has been received.

Upon receiving the order accepting the case, the transferring court may order the termination of court supervision pursuant to Rule 1631(A)(12).

Official Note: Rule 1302 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009,

effective immediately. Rescinded and replaced April 28, 2020, effective October 1, 2020.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1302 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1302 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the rescission and replacement of Rule 1302 published with the Court's Order at 50 Pa.B. 2389 (May 9, 2020).

**JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

FINAL REPORT¹

Amendment of Pa.R.J.C.P. 1300 and Rescission and Replacement of Pa.R.J.C.P. 1302

On April 28, 2020, the Supreme Court amended Pennsylvania Rule of Juvenile Court Procedure 1300 concerning changes in venue in dependency proceedings, together with the rescission and replacement of Pennsylvania Rule of Juvenile Court Procedure 1302 concerning intercounty transfers of dependency cases. The purpose of this rule-making was to improve and formalize the areas of decision-making, communications, continuation of services, and records as they relate to these procedures.

Amendment of Pa.R.J.C.P. 1300 (Venue)

Paragraph (B) was amended to clarify that the window for seeking a change in venue is prior to the adjudicatory hearing. Paragraph (C) contains a specific five-day deadline for the transfer of records. Further, the paragraph includes a communication loop to indicate that records have been received, and a requirement for the receiving county agency to schedule the next court proceeding. These amendments are intended to facilitate the location of records and to ensure the case proceeds after the change of venue.

Post-publication, previously proposed Comment language addressing the continuation of services was elevated to the rule text and now appears as new paragraph (D). This language was added to address the continuation of services when services may have commenced prior to adjudication, such as those ordered in a shelter care hearing pursuant to Pa.R.J.C.P. 1242(E). Its placement in the rule text is similar to that of Pa.R.J.C.P. 1302(I).

Rescission and Replacement of Pa.R.J.C.P. 1302 (Intercounty Transfer)

Given the scope of the revisions, Pa.R.J.C.P. 1302 was rescinded and replaced in its entirety. The rule is intended to establish a procedural concept involving a two-step process for intercounty transfers. First, the transferring county is to conduct a hearing to determine whether an intercounty transfer is in the child's best interest. Second, assuming the transferring court determines in the affirmative, the transferring court then communicates with the receiving court to ascertain whether jurisdiction will be accepted.

The requirement of the child's best interest for an intercounty transfer is set forth in paragraph (A). Com-

mentary has been added to suggest factors in determining whether a transfer is in a child's best interest.

The receiving county agency, as the provider of services and the party to receive legal custody of the child, has an interest in the transfer. Therefore, paragraph (B) requires that receiving county agency be given notice of the transfer hearing in the transferring county and granted standing to participate. Further, paragraph (C) permits the receiving county agency to appear via advance communication technology.

Paragraph (D) requires subsequent communication with the court in the receiving judicial district to determine whether the receiving court will accept jurisdiction. Thereafter, the parties may file written responses with the transferring court regarding the decision to accept jurisdiction. Paragraph (F) permits the courts to discuss administrative matters without informing the parties or making a record. Paragraphs (D) and (F) were based, in part, on the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5410.

Paragraph (E) requires that an order approving a transfer contain a date certain and at least a ten-day window before the actual transfer. This window is to provide for the transmission of the record and coordination of services between the county agencies as set forth in paragraphs (H) and (I). Prior to the transfer order's effective date, the receiving court is required to enter an order accepting jurisdiction, as well as appointing a guardian *ad litem* and counsel, as needed, directing a home visit and safety assessment, and scheduling a review hearing.

The amended and replaced rules will become effective October 1, 2020.

[Pa.B. Doc. No. 20-629. Filed for public inspection May 8, 2020, 9:00 a.m.]

SUPREME COURT

General Statewide Judicial Emergency—Investigation Grand Jury Operations; No. 535 Judicial Administration Doc.

Order

Per Curiam

And Now, this 28th day of April, 2020, in consideration of this Court's declaration of a general, statewide judicial emergency, which has been extended through June 1, 2020, *see* 531 and 532 Judicial Administration Docket, the Court offers the following guidance and directives as to the operation of investigating grand juries. *See generally* 42 Pa.C.S. §§ 4541—4553 (commonly known as the Investigating Grand Jury Act).

Presently-impaneled investigating grand juries *Are Permitted* to operate during the general, statewide judicial emergency. However, all in-person access and proceedings *Shall Be Closely Regulated*. All supervising judges *Shall Implement And Maintain* procedures that restrict potential COVID-19 exposure that could result from interactions of supervising judges, court staff, the Commonwealth's attorneys, grand jurors, witnesses and their counsel, and others who may come before the investigating grand jury. To the extent practicable in light of the necessity for some in-person appearances and proceedings, safety measures should be employed that are as

¹ The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

consistent as possible with the federal and state executive guidelines for countering the spread of the COVID-19 virus.

In alignment with this Court's previous guidance as to other judicial functions, supervising judges are encouraged to establish protocols for conducting investigating grand jury proceedings through the use of advanced communication technology, to the extent that constitutional requirements can be satisfied.¹ It is noted that advanced communication technology could be used in conjunction with certain in-person participation at proceedings. By way of example, a witness could appear and be questioned by the attorney for the Commonwealth in person, while some or all of the investigating grand jurors participate in the proceedings via the use of advanced communication technology.

The Administrative Office of Pennsylvania Courts stands ready to provide guidance to the supervising judges concerning implementation of technological resources.

Should any witness or other person involved in the operation of the investigating grand jury believe that the enforcement of a time deadline or the participation in any portion of the proceedings poses a significant danger to the health of one or more persons, or that compliance or participation is unreasonable or impossible in light of restrictions arising out of the Governor's prevailing orders and directives, he or she may file a certification detailing the reasons with the supervising judge. Upon receipt of such a certification, the supervising judge *Shall Set* a deadline for any responses and *Shall Provide* a reasonable opportunity to be heard. Relief from deadlines, as well as temporary excusal from or modification of participation in any portion of the proceedings, *Shall Be Liberally Allowed* upon the filing of a certification, unless the certification is deemed to be unfounded after the affordance of appropriate process.

Supervising judges *Shall Facilitate* the submission of filings, documents, and other materials by means other than in-person delivery whenever possible. Any state or local rule that impedes such alternative means of filing is suspended through June 1, 2020.

Physicians, nurses, or other healthcare professionals who are substantially involved in responding to the COVID-19 public health emergency *Shall Not Be Required* to appear before or otherwise participate in investigating grand jury proceedings during the pendency of the general, statewide judicial emergency.

Applications to convene new investigating grand juries, see 42 Pa.C.S. §§ 4543 and 4544, may be submitted and adjudicated during the general, statewide judicial emergency. The summoning of prospective jurors and the selection of grand jurors, see generally Pa.R.Crim.P. 221, 222, 241, and 242, are *Suspended* during the pendency of the emergency.

[Pa.B. Doc. No. 20-630. Filed for public inspection May 8, 2020, 9:00 a.m.]

¹ Advanced communication technology includes, but is not limited to, systems providing for two-way simultaneous communication of image and sound, as well as closed-circuit television. See Pa.R.J.A. No. 1952(A)(2)(e) and Note (citing Rule of Criminal Procedure 103 for the definition of advanced communication technology).

SUPREME COURT

WESTERN DISTRICT

General Statewide Judicial Emergency; Nos. 531 and 532 Judicial Administration Doc.

Emergency Order of Statewide Judicial Administration Applicable from May 1, 2020, through June 1, 2020

Per Curiam

And Now, this 28th day of April, 2020, pursuant to Rule of Judicial Administration 1952(A) and the Pennsylvania Supreme Court's constitutionally-conferred general supervisory and administrative authority over all courts and magisterial district judges, see PA. CONST. art. V, § 10(a), this Court *Directs* that the general, statewide judicial emergency declared in this Court's Order of March 16, 2020, *Is Extended* through June 1, 2020.

From the time of the Court's Order of March 16, 2020, Pennsylvania's courts have remained operational, albeit with significant limitations due to the current pandemic, including restricted public access to court facilities. Beginning May 4, 2020, unless otherwise provided by a local emergency order, Pennsylvania courts generally *Shall Be Open* to conduct all court business. However, all *In-Person Access And Proceedings Shall Be Strictly Limited* according to the terms of this Order or a more restrictive order issued by a local court under its authorized emergency powers.

The courts' priorities *Shall Remain Centered* on their critical functions;¹ however, courts *Shall Put Forward Their Best Efforts* to accomplish the timely administration of justice in all other matters, subject to the constraints and safety considerations set forth below.

This Order prospectively replaces the Second Supplemental Order of April 1, 2020, issued at the above dockets, which *Shall Remain In Effect* until that Order expires on its own terms. The explanatory background information set forth in that Order, as well as the Order of March 18, 2020, is incorporated here by reference.

The Court further explains and *Directs* as follows:

I. Background

Per the request of the Commonwealth's Secretary of Health, Pennsylvania courts have been generally closed to the public for over one month, subject to a series of general and specific directives and exceptions centered on the continuous performance of the courts' most critical functions. The Secretary's concern—shared by all Justices of this Court—is with safeguarding the health and safety of court personnel, court users, and members of the public in light of the risks posed by the COVID-19 virus. In view of the ongoing public health crisis, this Court finds that a further extension of the statewide judicial emergency is necessary.

Some local courts have utilized the procedures specified in Rule of Judicial Administration 1952 and/or this Court's prior orders to declare local emergencies. Such local emergencies REMAIN IN FULL FORCE AND EFFECT, empowering President Judges in those districts to continue to exercise emergency powers under Rule

¹ As reflected below, the present Order employs the term "critical functions" to include the tasks referred to in prior orders as "essential" ones. This approach recognizes that—since the prevailing circumstances have required several extensions of this Court's emergency declaration—it has now become incumbent upon the courts to undertake a broader range of functions to assure the proper administration of justice.

1952(B)(2). Extant local emergency orders and directives, including any provisions of these affecting time calculations or deadlines, SHALL REMAIN IN FULL FORCE AND EFFECT until they expire or are rescinded locally.

Should other President Judges deem it prudent to exercise emergency powers above and beyond the authority and latitude provided in this Order, they may file a declaration of an emergency in their districts with the Supreme Court Prothonotary in the Eastern, Western, or Middle District Office, as appropriate for the particular local judicial district. Such a declaration generally SHALL BE SELF-EFFECTUATING subject to any subsequent order by this Court or the local court, with the understanding that the temporary suspension or modification of any statewide court rules other than those addressed in this Order shall first require an application to this Court pursuant to Rule of Judicial Administration 1952(B)(2)(m).

In the jurisdictions with prevailing local emergencies, self-effectuating extensions may be filed. However, any declaration extending a local emergency beyond June 1, 2020, should provide supporting reasoning.²

II. The Safety of Judges, Court Staff, Court Users, and Others

To the extent they are not already in place, all court leaders MUST IMPLEMENT AND MAINTAIN procedures that restrict potential COVID-19 exposure which could result from interactions of judges, court staff, and county agency staff among themselves and with or among members of the public present at court facilities. Among other measures, President Judges may restrict access to court facilities so that appropriate social distancing can be maintained. To the degree practicable in light of the necessity for some in-person appearances and proceedings, safety measures should be employed that are as consistent as possible with the federal and state executive guidance associated with countering the spread of the COVID-19 virus. To the extent that hearings and conferences can be held in the presence of counsel only, the courts SHALL PERMIT the parties' physical presence to be excused. In all events, any necessary in-person proceedings SHALL BE HELD in courtrooms designated by the individual courts of common pleas to minimize person-to-person contact.

Consistent with the previous guidance, and subject to the direction of President Judges, all courts—including magisterial district courts—are encouraged to consider deciding matters on the papers and/or to conduct court proceedings through the use of advanced communication technologies,³ to the extent that constitutional requirements can be satisfied. Any state or local rule that impedes a judge's ability to utilize available technologies to limit in-person contact is suspended through June 1, 2020.

The Administrative Office of Pennsylvania Courts stands ready to provide guidance to courts concerning local implementation of technological resources. In the absence of a certification as provided in Part III of this Order, no proceeding should be delayed solely on account of the present public health crisis that could reasonably

² If a docket number has been assigned to the judicial district for emergency purposes, any further order concerning administrative directives or other matters associated with the local judicial emergency should be captioned so as to indicate that docket number. For convenience, declarations of emergency and associated local orders may be transmitted via electronic mail to: Irene.Bizzoso@pacourts.us.

³ Advanced communication technology includes, but is not limited to: systems providing for two-way simultaneous communication of image and sound; closed-circuit television; telephone and facsimile equipment; and electronic mail. See Pa.R.J.A. No. 1952(A)(2)(e) & comment (citing Rule of Criminal Procedure 103 for the definition of advanced communication technology).

be conducted using available advanced communication technologies in a manner that is consistent with constitutional requirements.

III. Court Filings and Time Limitations and Deadlines

The suspensions of time calculations and deadlines indicated in this Court's previous orders and in any order of an intermediate or local court SHALL REMAIN IN EFFECT for the time specified in those orders. In all events, legal papers or pleadings (other than commencement of actions where statutes of limitations may be in issue) which are required to be filed between March 19, 2020, and May 8, 2020, generally SHALL BE DEEMED to have been filed timely if they are filed by close of business on May 11, 2020. Upon adequate notice, however, President Judges or presiding judges may enforce deadlines prior to May 11, 2020, in the critical-functions arena.

President Judges are HEREBY INVESTED with substantial discretion in connection with the enforcement of time deadlines and are DIRECTED to ensure that the enforcement of any deadline does not create an unreasonable risk to the health or safety of court personnel, attorneys, court users, or the general public.

Should any attorney or *pro se* litigant believe that the enforcement of a time deadline or participation in any proceeding poses a significant danger to the health of one or more persons, or that compliance or participation is unreasonable or impossible in light of restrictions arising out of the Governor's prevailing orders and directives, he or she may file a certification detailing the reasons with the court having jurisdiction over the litigation. Upon receipt of such a certification, the presiding judge SHALL SET a deadline for responses and provide a reasonable opportunity to be heard to all parties.

All courts SHALL PROVIDE FOR COURT FILINGS BY MEANS OTHER THAN IN-PERSON DELIVERY WHENEVER POSSIBLE. Any state or local rule that impedes such alternative means of filing is suspended through June 1, 2020.

Attorneys are encouraged to conduct depositions remotely, via telephone, videoconference, or similar means. Absent articulable and specific concerns about reliability or other relevant considerations, court reporters need not be present in the same locations as witnesses and/or counsel.

Depositions of and required appearances for doctors, nurses, or other healthcare professionals who are substantially involved in responding to the COVID-19 public health emergency ARE SUSPENDED for the duration of this Order.

IV. Priorities

The performance of critical court functions, ensuring that parties' rights are protected, remains of the highest priority. Consistent with this Court's previous Orders, such functions include:

A. Intermediate Courts

- a. Election matters;
- b. Children's Fast-Track matters;
- c. Matters credibly labeled as emergency filings; and
- d. Any other function deemed by a President Judge to be critical consistent with constitutional limitations.

B. Courts of Common Pleas

- a. Election matters;
- b. Emergency bail review and habeas corpus hearings;
- c. Gagnon I hearings;
- d. Bench warrant hearings pursuant to Rule of Criminal Procedure 150;
- e. Juvenile delinquency detention;
- f. Juvenile shelter, adjudication and disposition, and permanency hearings;
- g. Temporary protection from abuse hearings;
- h. Emergency petitions for child custody or pursuant to any provision of the Juvenile Act;
- i. Emergency petitions for guardianship;
- j. Civil mental health reviews, *see* 50 P.S. § 7302;
- k. Emergency equity civil matters (injunctions and stays);
- l. Any pleading or motion relating to public health concerns and *involving immediate and irreparable harm*;
- m. Commencement of a civil action, *by praecipe* for a writ of summons, for purposes of tolling a statute of limitations;⁴
- n. Any other function deemed by a President Judge to be critical consistent with constitutional requirements.

C. Magisterial District Courts, Philadelphia Municipal Court, Philadelphia Arraignment Court Magistrates and Pittsburgh Municipal Court, Arraignment Division

- a. Preliminary arraignments (bail setting) for bailable cases;
- b. Criminal case filings and subsequent processing;
- c. Preliminary hearings for incarcerated persons only;
- d. Issuance of search warrants;
- e. Emergency protection from abuse petitions; and
- f. Any other function deemed by a President Judge to be critical consistent with constitutional limitations.

V. Open Courts

In proceedings as to which a right to public and press access would otherwise exist, provision must be made to ensure some reasonable means of access. For example, with respect to a proceeding conducted using audio-visual means, such public access may be effectuated during the proceeding by providing live-stream access, or by making a recording available as soon as possible after the proceeding has been concluded.

VI. Jury Trials

Jury trials, both criminal and civil, remain SUSPENDED and will be scheduled for a date in the future by the courts. Local court leaders SHALL ASSESS options for resumption of jury trials consistent with prevailing health-and-safety norms.

VII. Payments

Per the Orders of March 18 and April 1, 2020, in-person payments to Magisterial District Courts were suspended, but payments could be accepted by mail, electronically (online), or by telephone as permitted in the Magisterial District Court receiving the payment. The effect of that

⁴ If a court of original jurisdiction is closed to filings, the alternative mechanism for filing of an emergency *praecipe* in the Superior Court shall remain in place, as set forth in the March 24, 2020 Order.

Order is extended until May 11, 2020. To the extent that a payor was or is entitled to a payment determination hearing under these Orders or the extension provided herein, a missed payment or default SHALL NOT RESULT in the issuance of an arrest warrant for failure to make payment, nor shall the non-payment result in driving privileges being suspended, prior to such hearing.

On and after May 11, 2020, payments should be accepted by mail, electronically (online), or by telephone as may be permissible in the court receiving the payment, and the use of such means is strongly encouraged. Payments may be made in person, however, if other means are not available to the payor, as may be permissible in the Magisterial District Court receiving the payment pursuant to authorization by the President Judge.

VIII. Prompt Trial

Rule of Criminal Procedure 600(C) remains SUSPENDED in all judicial districts through at least June 1, 2020. The purport of this directive is that the time period of the statewide judicial emergency continuing through at least June 1, 2020, SHALL BE EXCLUDED from the time calculation under Rule 600(C). Nothing in this Order, however, or its local implementation, shall affect a criminal defendant's right to a speedy trial under the United States and Pennsylvania Constitutions—albeit that the circumstances giving rise to this Order and the suspension may be relevant to the constitutional analysis.

IX. Children's Fast Track Appeals

This Court's "Order Regarding Alternative Filing Procedure for Children's Fast Track Appeals," dated March 27, 2020, SHALL REMAIN IN FULL FORCE AND EFFECT through at least June 1, 2020. This Order approved the Superior Court's provision for filing children's fast track appeals upon a certification that filing in the court of original jurisdiction is impractical due to the closure of court facilities.

X. Guidance to Legal Professionals

To the degree necessary, attorneys should counsel their clients that the public health emergency can in no way be used to secure strategic advantage in litigation, including by means of dilatory conduct. In such instances, it may be useful to explain that the duties of a lawyer as advocate continue during the COVID-19 crisis, including the duty to expedite litigation (Rule 3.2 of the Rules of Professional Conduct), the duty of candor toward the tribunal (Rule 3.3 of the Rules of Professional Conduct), and the duty of fairness to opposing party and counsel (Rule 3.4 of the Rules of Professional Conduct).

As previously prescribed with respect to Courts of Common Pleas, the Court continues to AUTHORIZE AND ENCOURAGE use by legal professionals of advanced communication technology to the greatest extent possible. In addition, updated guidance has been provided by the executive branch explaining that:

[A]lthough law offices remain generally closed and lawyers and staff should continue to perform all work remotely to the extent possible, lawyers and staff may access physical offices on a limited basis as necessary to render legal services that cannot practically be completed through the use of advanced communication technology, and which are being rendered to comply with a court directive or deadline, or

to meet client needs that are critical to the client's health or safety, including, but not limited to, matters of healthcare, incompetence, incapacitation, end-of-life decision making, government benefits necessary to sustain life and access healthcare and income, or legal functions necessary for the operation of government at all levels. Any in-person activity shall be subject to the Orders of Secretary of Health providing for building safety measures (issued April 5, 2020) and business safety measures (issued April 15, 2020), including any amendments, and related Department of Health guidance.

INDUSTRY OPERATION GUIDANCE, *Uploaded by Governor Tom Wolf*, <https://www.scribd.com/document/452553026/UPDATED-4-30pm-April-27-2020-Industry-Operation-Guidance> (last visited April 28, 2020).⁵

Lawyers accessing their offices for the purposes set forth above are expected to comply with the Secretary's Orders concerning building and worker safety. *See supra* note 5.

XI. Dispossession of Property

Per this Court's Orders of March 18 and April 1, 2020—in view of the economic effects of the COVID-19 pandemic—no officer, official, or other person employed by the Pennsylvania Judiciary at any level is authorized to effectuate an eviction, ejection, or other displacement from a residence based upon the failure to make a monetary payment through April 30, 2020. All terms of those Orders related to dispossession of residences ARE EXTENDED until May 11, 2020, at which time the statewide suspension of procedures related to dispossession of property SHALL CEASE. The Court takes judicial notice that certain filings, charges, and acts relating to dispossession will remain subject to temporary restraints

⁵ The referenced Orders of the Secretary of Health are as follows: ORDER OF THE SECRETARY OF THE PA. DEPT OF HEALTH DIRECTING BUILDING SAFETY MEASURES (April 5, 2020), <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200405-SOH-Building-Safety-Measures.pdf> (last visited April 28, 2020); and ORDER OF THE SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH DIRECTING PUBLIC HEALTH SAFETY MEASURES FOR BUSINESSES PERMITTED TO MAINTAIN IN-PERSON OPERATIONS (April 15, 2020), <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200415-SOH-worker-safety-order.pdf> (last visited April 28, 2020).

on account of other directives, including provisions of the federal Coronavirus Aid, Relief, and Economic Security Act. See 15 U.S.C. § 9058.

[Pa.B. Doc. No. 20-631. Filed for public inspection May 8, 2020, 9:00 a.m.]

SUPREME COURT

WESTERN DISTRICT

General Statewide Judicial Emergency—Supreme Court Operations; No. 533 Judicial Administration Doc.

Order

Per Curiam

And Now, this 28th day of April 2020, on account of the ongoing COVID-19 pandemic, and to safeguard the health and safety of court personnel, court users, and members of the public, the Court *Directs* that the due dates for any filings due in the Supreme Court from March 16, 2020, and through May 8, 2020, are *Extended*, and those filings will be considered timely if filed on or before May 11, 2020.

This extension on filing deadlines does not apply to:

A. Matters governed by Rule of Appellate Procedure 903(c)(1)(ii) (relating to appeals in matters arising under the Pennsylvania Election Code);

B. Matters governed by Rule of Appellate Procedure 3331 (relating to the review of special prosecutions or investigations);

C. Matters classified as Children's Fast Track, *see* Pa.R.A.P. 102 (relating to definitions); and

D. Any matters where the Supreme Court Prothonotary directs otherwise.

Filings encompassed by exceptions A, B, or C above must be made within the time established by general rule using the PACFile electronic filing system. *See* Pa.R.A.P. 125 (relating to electronic filing).

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