

THE COURTS

Title 255—LOCAL COURT RULES

BUCKS COUNTY

Adoption of District Court Diversionary Program; Administrative Order No. 90

Order

And Now, this 22nd day of July, 2021, Administrative Order No. 90, adopted May 7, 2018, effective July 1, 2018, District Court Diversionary Program, is amended to read in its entirety as follows:

In order to address the abuse of opioids and other drugs prevalent in our society by immediate treatment for offenders charged at the earliest point in our criminal justice system and to allow for alternative dispositions, the District Court Diversionary Program (“DCDP”) is hereby authorized and approved by the Court, and shall be implemented as follows:

Defendants who are residents of Bucks County may be referred by the Magisterial District Judge, at or prior to the preliminary hearing, to the Office of the District Attorney (“District Attorney”) for consideration for diversion for treatment for drug-related behavioral problems.

I. DCDP Dismissal

1. If the defendant’s case is referred for DCDP dismissal, the Magisterial District Judge shall continue the preliminary hearing to permit the defendant to be assessed to determine whether the defendant must participate in a drug treatment program. If the defendant is assessed and determined to not need treatment, then the defendant shall be mandated to take a one-day decisions class.

2. To qualify for a referral to the DCDP, a defendant who is charged with violations of Sections 780-113(a)(16), (31) and (32) of the Controlled Substance, Drug, Device and Cosmetic Act (“the Act”) related to marijuana must meet the following qualifications:

- a. Be approved by the District Attorney;
- b. Execute a waiver of the preliminary hearing and a waiver of the Rule 600 right to a speedy trial;
- c. Execute any appropriate documents for the District Attorney and the Court, including irrevocable waivers related to treatment programs; and
- d. Agree to comply with treatment conditions and to report to the Court as directed.

3. To qualify for a referral to the DCDP, a defendant who is charged with violations of Sections 780-113(a)(16) and (32) of the Act related to any controlled substance other than marijuana must meet the following qualifications:

- a. Be approved by the District Attorney;
- b. Have no prior criminal convictions;
- c. Execute a waiver of the preliminary hearing and a waiver of the Rule 600 right to a speedy trial;
- d. Execute any appropriate documents for the District Attorney and the Court, including irrevocable waivers related to treatment programs; and
- e. Agree to comply with treatment conditions and to report to the Court as directed.

4. All costs associated with the DCDP shall be borne by the defendant, unless waived due to indigency by the referring Magisterial District Judge with the agreement of the District Attorney.

5. Upon completion of all treatment conditions and supervisory period imposed as a result of the drug assessment and payment of all costs, the criminal charges shall be dismissed by the Magisterial District Judge and all records of the charges shall be expunged for first time offenders from the system, except that the District Attorney shall retain a record of the defendant’s participation in the program. The District Attorney may agree in his discretion to expunge any other offender’s arrest upon application of the offender and for good cause shown.

6. Should the defendant fail to complete the DCDP, then the case will proceed through the normal criminal case process in the Court of Common Pleas.

II. DCDP Probation

1. If a defendant is charged with violations of Sections 780-113(a)(16) and (32) of the Act and has a prior conviction or convictions, said defendant’s case may be referred for DCDP probation.

a. In such cases, defendants must meet the following qualifications:

- i. Be approved by the District Attorney;
- ii. Execute any appropriate documents for the District Attorney and the Court; and

iii. Enter a negotiated plea of guilty to the charge of possession of drug paraphernalia pursuant to Section 780-113(a)(32) of the Act.

b. Upon entry of the negotiated guilty plea, the Magisterial District Judge shall sentence the defendant to 6 months of probation, subject to the following conditions:

- i. compliance with all rules and regulations of the Bucks County Department of Adult Probation and Parole;
- ii. adherence to any treatment recommendations rendered following drug and alcohol assessment; and

iii. payment of court costs, unless waived due to indigency by the presiding judge with the agreement of the District Attorney.

c. Should any defendant violate the conditions of probation imposed by the Court in a matter referred to the DCDP, a probation violation hearing shall be scheduled before the Bucks County Court of Common Pleas.

Current eligibility criteria for the DCDP shall be made available by the District Attorney posting said criteria on the District Attorney’s website and providing said criteria to each Magisterial District Court office for distribution.

The eligibility requirements for the DCDP outlined herein may be modified by approval of the President Judge upon recommendation of the District Attorney, without the need for further amendment of this Order.

Such modification(s) shall be published on the website of the District Attorney and provided to each Magisterial District Court office for distribution.

By the Court

WALLACE H. BATEMAN, Jr.,
President Judge

[Pa.B. Doc. No. 21-1564. Filed for public inspection September 17, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUCKS COUNTY

Order Promulgating Rule of Civil Procedure 3129.3—Motions to Stay, Continue, Postpone or Adjourn Sheriff's Sales; Administrative Order No. 102

Order

And Now, this 1st day of September, 2021, Bucks County Rule of Civil Procedure No. 3129.3—Motions to Stay, Continue, Postpone or Adjourn Sheriff's Sales, is promulgated as follows:

Bucks County Rule of Civil Procedure No. 3129.3. Motions to Stay, Continue, Postpone or Adjourn Sheriff's Sales.

(a) Motions to stay, continue, postpone or adjourn the sale of a property at a regularly scheduled monthly Sheriff's Sale of Real Estate ("motions to stay") shall be heard by the Court on the morning of the scheduled sale, which is generally held on the second Friday each month, at 9:30 a.m. in a courtroom to be assigned by the Court Administrator.

Note: This rule does not apply to any sale of real property not listed for the regularly scheduled monthly Sheriff's Sale of Real Estate. Motions to stay sales other than those listed for the monthly Sheriff's Sale shall be filed and proceed in the discretion of the assigned judge.

(b) Plaintiffs', or any agreed or uncontested, motions to stay Sheriff's sales may be electronically filed until 4:30 p.m. on the Tuesday of the week of the scheduled sale. Any motion not electronically filed by 4:30 p.m. on the Tuesday of the week of the scheduled sale may be filed and presented in person in the Office of the Court Administrator at any time prior to the time set forth in subsection (a) above for hearing. Any agreed or uncontested motion not presented in the manner required by this rule may not be timely acted upon by the Court.

(c) Defendants', or any contested, motions to stay Sheriff's sales shall be filed and presented in person in the Office of the Court Administrator on the morning of the subject sale prior to the time set forth in subsection (a) above for hearing.

(d) *Mandatory Notice of Defendant's Motion to Stay on All Counsel of Record.* Notice of presentation of a defendant's motion to stay Sheriff's sale must be provided to all counsel of record not less than 24 hours prior to the time set forth in subsection (a) above for hearing. Proof of such notice of presentation shall be presented to the Court at the time of hearing, failing which the motion may be dismissed in the Court's discretion.

(e) The Court may refuse to consider any motion to stay a sale presented after the time set for the subject sale to commence.

Explanatory Comment: The purpose of this rule is to formalize court practice regarding motions to stay, continue, postpone or adjourn Sheriff's sales to the extent possible. Due to the exigent circumstances of many of the cases in which such sales are scheduled, the Court is aware that a rigid standardized practice is not entirely practicable, and the rule is accordingly drafted in a manner that allows the Court maximum discretion in its handling of the subject motions. One area of significant Court concern is establishing appropriate advance notice to all counsel of presentation of defendants' motions to stay sale by the filing party, which is specifically addressed at subsection (d). The Court has found such notice is too often insufficient in these matters, notwithstanding the clear role of proper notice in ensuring fundamental fairness in all proceedings.

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

By the Court

WALLACE H. BATEMAN, Jr.,
President Judge

[Pa.B. Doc. No. 21-1565. Filed for public inspection September 17, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Adoption of Amended Court of Common Pleas Juvenile Rules

Administrative Order No. 14-2021

And Now, this 7th day of September, 2021, the following amended Chester County Court of Common Pleas Juvenile Rules ("Amended Juvenile Rules") are adopted in their entirety. In accordance with Pennsylvania Rule of Juvenile Court Procedure 121, these proposed Amended Juvenile Rules were submitted to and approved by the Juvenile Court Procedural Rules Committee.

Effective Date

These Amended Juvenile Rules shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin*.

Procedural Compliance

In conformity with Pa.R.J.A. 103(d), the Chester County Court Administrator shall do the following:

1) Distribute two (2) paper copies of the Amended Juvenile Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, along with a copy of the Amended Juvenile Rules in an agreed upon format which complies with the requirements of 1 Pa. Code § 13.11.

2) File one copy of the Amended Juvenile Rules with the Administrative Office of Pennsylvania Courts.

3) Publish a copy of the Amended Juvenile Rules on the Chester County website.

4) Incorporate the Amended Juvenile Rules in the complete set of the published Chester County Court Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

By the Court

JOHN L. HALL,
President Judge

**CHESTER COUNTY COURT OF COMMON PLEAS
JUVENILE RULES**

Rule L.101. Citing the Rules.

These rules shall be known as the Chester County Court of Common Pleas Juvenile Rules, and shall be cited as "C.C.Juv.Rule _____."

Rule L.140. Hearing Officers Authorized to Hear Juvenile Bench Warrant Hearings.

All lawyers employed by the County of Chester to preside as Hearing Officers in juvenile cases are hereby designated to preside over and hear juvenile bench warrant hearings.

Rule L.151. Assignment of Counsel to Juveniles in Juvenile Court.

The Chester County Public Defender's office or, in the event of a conflict, assigned conflict counsel shall represent all juveniles against whom a petition has been filed in juvenile court and who have not retained private counsel.

Rule L.210.A. Arrest Warrant Procedures in Juvenile Delinquency Court.

All magisterial district judges of Chester County (Fifteenth Judicial District) are hereby designated as issuing authorities for arrest warrants for juveniles in delinquency cases.

Applications for Chester County juvenile arrest warrants made pursuant to Pa.R.J.C.P. 210.A, with approval of an attorney for the Commonwealth pursuant to Pa.R.J.C.P. 210.B and 231.B when required, shall be submitted to the local magisterial district judge during business hours and to the "on-call" magisterial district judge after business hours.

Rule L.220.A(2)(b). Juvenile Support Bench Warrants.

Any juvenile (a person who is less than eighteen (18) years of age) taken into custody pursuant to a bench warrant issued for failure to pay support shall be transported to the Chester County Youth Center (Youth Center) for detention until the bench warrant is quashed or a court of common pleas judge holds a seventy-two (72) hour hearing for the juvenile. In the event that the judge determines that further detention is warranted, the juvenile shall remain in the Youth Center. Under no circumstances shall such a juvenile be incarcerated in the Chester County Prison. The Youth Center shall immediately notify the appropriate supervisor of the Chester County Domestic Relations Office (DRO) to apprise the DRO of the juvenile's detention. Upon such notice, the DRO shall promptly perform all functions that it normally performs for incarcerated support defendants, including the scheduling of a seventy-two (72) hour hearing for the juvenile before a judge.

Rule L.310.A. Pre-Adjudication Conditions.

The Chester County juvenile probation office ("probation office") is hereby authorized to impose reasonable pre-adjudication conditions on all juveniles against whom

Petitions have been filed or are pending under the Juvenile Act, including a requirement that the juvenile submit to a urinalysis to determine controlled substance use. Such conditions shall be from among those previously approved by the court to protect the public, maintain the competencies of the juvenile and/or assist the probation office in recommending an appropriate disposition in the event of an adjudication of delinquency. Any juvenile, or attorney representing a juvenile, may seek emergency relief from the juvenile court supervising judge if any pre-adjudication condition imposed by the juvenile probation office is deemed to be unreasonable. Any juvenile who refuses, explicitly or implicitly, to comply with any pre-adjudication condition, including the refusal to submit to a urinalysis, without providing an adequate medical or other extraordinary reason to justify that refusal, shall be presumed by the court to have failed to successfully comply with that condition. In no event shall the court consider a juvenile's compliance or failure to comply with a pre-adjudication condition when it determines whether the juvenile committed any charged delinquent act.

Rule L.404.B. Prompt Adjudication Hearing for Non-Detained Juveniles.

All juvenile adjudication hearings scheduled for non-detained juveniles shall be held within five (5) months from the filing of a delinquency petition initiated pursuant to Pa.R.J.C.P. 330, unless the supervising judge of the Chester County juvenile court grants an extension. This five month period shall not include time during which the juvenile is sought to be arrested pursuant to a bench warrant.

This regulation is intended to better assure that non-detained juveniles receive an adjudicatory hearing within a reasonable time, pursuant to Pa.R.J.C.P. 404(B), and that Pa.R.J.C.P. 404(B) is construed to eliminate unjustifiable delay, in accordance with Pa.R.J.C.P. 101(B).

The Chester County Juvenile Probation Department, the attorneys for juvenile defendants and the Commonwealth shall make a good faith effort to schedule formal adjudication hearings within the five month period required by this regulation. If an extension of this five month period is sought, the attorneys for the subject juvenile and the Commonwealth shall schedule a conference with the supervising juvenile judge and the assigned probation officer to explain the reason(s) for the anticipated delay. Any such reason(s) must constitute good cause for an extension to be granted. Except for unusual circumstances, any extension granted shall be provided within an order scheduling the adjudicatory hearing to begin on a date certain. Dismissal of the petition shall not result from the failure of the adjudication hearing to be held within the above described five month period or any extension of it.

All future juvenile probation court reports shall provide, in the upper right hand corner of the first page, the filing date of the juvenile delinquency petition and the date when the five month period to hold the adjudication hearing ends. (The five month period shall be recalculated to eliminate any time a bench warrant remains unexecuted.)

Rule L.512. Creation of a Juvenile Court Restitution Fund.

A juvenile court restitution fund is created as follows:
Authority

The authority for the creation of a juvenile court restitution fund ("JCR Fund") with contributions paid

by juveniles supervised by the Chester County Juvenile Probation Office (“JPO”) may be found in the Juvenile Act at 42 Pa.C.S.A. §§ 6304.1(b), 6323(f), 6340(c.1) and 6352(a)(5), and in the *Pennsylvania Code* at 37 Pa. Code § 200.501 et seq. These statutory sections and rules permit a court of common pleas president judge to establish a restitution fund for victims of juvenile delinquent acts with monies provided by children supervised by a juvenile probation office.

Purpose of Fund

The purpose of the JCR Fund is to provide a means for children under the supervision of the JPO to earn money, through community service work, to reimburse crime victims for financial loss resulting from delinquent acts. In this manner, juvenile offenders are held accountable to their victims, required to benefit the community they harmed and provided opportunities to develop occupational competencies. Consequently, the JCR Fund purpose is consistent with the overarching goals of the Pennsylvania juvenile justice system to provide victim restoration and competency development.

Guidelines

The JPO shall establish and administer the JCR Fund in accordance with these guidelines, as supplemented by any revisions or additional procedures approved by the president judge.¹

Juvenile Payor—A juvenile payor utilizing the JCR Fund is any child under the jurisdiction of the JPO whose conditions of supervision require the child to pay restitution to a victim of a delinquent act.

Victim Recipient—A victim recipient of the JCR Fund is any natural person (not a corporation, business or other organization unless ordered by a juvenile court judge in an individual case) who has submitted a restitution claim, approved by the JPO, which requests restitution for damages caused by a juvenile payor. Should the JCR Fund eventually have sufficient monies to routinely reimburse corporations, businesses and other organizations, the president judge may authorize those entities to be included as victim recipients.

JCR Fund Revenue

The JCR Fund will be provided funds in the following manner:

A. All monies previously collected by the JPO which remain in an existing restitution account shall be utilized as the initial JCR Fund.

B. The JPO shall collect a mandatory restitution fund contribution in the amount of \$60.00 payable to the JCR Fund from every child subject to delinquency proceedings whose case results in an Informal Adjustment.

C. The JPO shall collect a mandatory restitution fund contribution in the amount of \$40.00 payable to the JCR Fund from every child whose case results in a consent decree and \$30.00 payable to the JCR Fund from every child whose case results in an adjudication.

D. Monies collected from a child whose case has been referred to the JPO by a magisterial district court due to the child’s failure to pay summary offense fines and costs shall be deposited in the JCR Fund.

E. The president judge may approve other sources of revenue payable to the JCR Fund as the same become available, provided there is a statutory or other legal

basis for doing so. The president judge may also revise the mandatory restitution fund contribution amount described above as deemed prudent to achieve the purpose of the JCR Fund.

JCR Fund Management

Any and all JCR Fund monies will be deposited into a Chester County government account maintained by the county treasurer’s office and administered by the JPO. The purpose of this account will be to receive and disburse funds associated with the JCR Fund. Pursuant to the discretion of the president judge, the JCR Fund shall only be used to reimburse crime victims for financial losses resulting from delinquent acts. Disbursements from the JCR Fund shall require the review and signature approval of the chief juvenile probation officer (“Chief JPO”) and a deputy chief juvenile probation officer.

Review Committee

A committee to review the restitution reimbursement requests of a juvenile payor from the JCR Fund will be comprised of a deputy chief probation officer or a supervising probation officer designated by the Chief JPO and the probation officer assigned to the juvenile payor.

JCR Fund Expenditures

Juvenile payors will be able to request that they earn restitution and that victim recipients be reimbursed from the JCR Fund in the following manner:

A. The JPO will use an application form for juvenile payors. The application form will require the following information:

1. Descriptive information about the juvenile payor including name, date of birth, type and length of supervision, and ability to pay. Older juvenile payors who have the apparent ability to obtain employment will be required to explain why they are not employed and their efforts to gain employment.

2. A summary by the probation officer assigned to the juvenile payor regarding his/her overall performance while under supervision, including school, home and community behavior, community service hours ordered and completed and the amount of restitution ordered and paid to date.

B. The review committee will authorize the amount of eligible JCR Fund disbursements to be made on behalf of the juvenile payor.

C. The JPO will then arrange for the juvenile payor to perform community service and disburse restitution payments to all appropriate victim recipients in a proportionate share of the amount earned by the juvenile payor, calculated by the amount of community service hours worked multiplied by the Pennsylvania minimum wage.

D. The JPO may create incentives, as approved by the supervising judge of the juvenile court, for juvenile payors to avoid utilizing the JCR Fund and pay restitution directly to victim recipients, e.g. (1) if at least 50% of owed restitution is paid in cash, the wages earned by the juvenile payors shall be 20% higher than minimum wage; (2) if a juvenile payor pays all restitution within the first thirty days of supervision, any community service usually required by JPO as a condition of supervision (not community service necessary to earn JCR Fund monies) will be reduced or eliminated.

¹ Any future changes authorized to be made by the president judge pursuant to these guidelines will not necessitate the promulgation of a new administrative regulation.

Maximum Disbursement

The initial maximum amount that may be disbursed from the JCR Fund on behalf of any juvenile payor shall be one thousand dollars (\$1,000.00). A higher or lower maximum amount may be approved in the future by the president judge, provided any such higher or lower amount will allow the JCR Fund to maintain sustainability.

Suspension of Activity

The president judge shall have the authority to suspend any and all activities associated with the JCR Fund.

Audit

All payments to and disbursements from the JCR Fund shall be monitored monthly by the Chester County controller's office and shall be reviewed annually by that office in conjunction with the annual internal audit of the clerk of courts office, the adult probation office and the JPO.

Annual Report

The Chief JPO, or his/her designee, shall be responsible for the preparation of an annual report detailing the aggregate and individual data regarding payments to and disbursements from the JCR Fund. The annual report shall be provided to the president judge and supervising judge of the juvenile court.

[Pa.B. Doc. No. 21-1566. Filed for public inspection September 17, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES
LYCOMING COUNTY
Amendments to the Rules of General Court Business; CV-2021-00006

Order

And Now, this 3rd day of September 2021, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Rule of General Court Business L1901, as set forth as follows, is hereby promulgated.

2. The Lycoming County District Court Administrator is directed to do the following:

a. File this order with the Administrative Office of Pennsylvania Courts via email at adminrules@pacourts.us.

b. Forward two (2) certified copies of this order to the Legislative Reference Bureau, Pennsylvania Code & Bulletin Office, 647 Main Capitol Building, Harrisburg, PA 17111-0033.

c. File this order in Microsoft Word format with the Legislative Reference Bureau via email at bulletin@palrb.us for publication in the *Pennsylvania Bulletin*.

d. Forward a copy of this order to the chairperson of the Lycoming County Customs and Rules Committee (Gary L. Weber) for publication with the Court's local rules and for inclusion in the complete compilation of the Court's local rules.

3. The new rule shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

By the Court

NANCY L. BUTTS,
President Judge

L1901. Termination of Inactive Summary Cases in the Magisterial District Courts.

A. *Traffic cases*—On or before January 15th of each year, pursuant to 42 Pa.C.S. § 5553(e), each Magisterial District Court shall dismiss all summary offenses under Title 75 (relating to vehicles) where no plea has been entered and the commission of the offense was at least three years prior thereto.

B. *Non-traffic cases*

1. On or before January 15th of each year, each Magisterial District Court shall:

i. Identify all summary non-traffic cases where no plea has been entered and where there has been no evidence of activity on the docket during the prior two years other than the filing of a not found return on a warrant of arrest;

ii. Compile a list of those cases indicating the docket number, case caption, and charge(s) associated with the docket number; and

iii. Promptly provide the list to the District Court Administrator and the District Attorney.

2. Upon receipt of the list from the Magisterial District Court, the District Court Administrator shall submit the list to the *Lycoming Reporter* for publication.

i. The publication shall be advertised one time and shall state the docket number, case caption, and name and office address of the Magisterial District Court and shall indicate that the cases listed shall be dismissed on the 31st day following publication unless a party to the case files with the Magisterial District Court a written objection to dismissal of the case setting forth reasons why no activity has appeared of record for the past two (2) years other than a filing of a not found return on a warrant of arrest.

ii. If said written objection is filed within thirty (30) days of the publication, a hearing shall be scheduled to determine if dismissal is appropriate. The hearing shall be held by the Magisterial District Judge not less than thirty (30) days nor more than sixty (60) days after such filing, and the Magisterial District Court shall give at least thirty (30) days written notice thereof along with a copy of said written objections served by first class mail. If notice is returned undelivered, the case shall be dismissed. A party shall have the right to appeal to the Court of Common Pleas within the time period for Summary Appeals pursuant to Pa.R.Crim.P. 460.

iii. If said written objection is not filed within thirty (30) days of the publication, the Magisterial District Court shall dismiss the case.

C. When a case is dismissed under this rule, the Magisterial District Court shall:

1. Vacate any active warrant related to the case/citation/ticket and promptly remove the warrant from Magisterial District Judge System (MDJS), Common Pleas Case Management System (CPCMS), or any other system in which the warrant was issued; and

2. Forward notice to the Pennsylvania Department of Transportation that the case/citation/ticket has been dismissed and request withdrawal of the defendant's license suspension pursuant to Pa.R.Crim.P. 470.

[Pa.B. Doc. No. 21-1567. Filed for public inspection September 17, 2021, 9:00 a.m.]
