

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

COMMISSION ON SENTENCING

[204 PA. CODE CH. 309]

Adopted State Parole Guidelines

On March 10, 2022, the Pennsylvania Commission on Sentencing approved for the purpose of public comment proposed State Parole Guidelines. The proposed guidelines were published in the *Pennsylvania Bulletin* on April 23, 2022 (52 Pa.B. 2344). Public hearings were held on May 31, 2022 (via Zoom for incarcerated individuals at the Pennsylvania Department of Corrections) and June 1, 2022 (in Harrisburg and via Zoom for the general public). Previous public hearings were held on August 31, 2020 (via Zoom for incarcerated individuals at the Pennsylvania Department of Corrections) and September 9, 2020 (via Zoom for the general public).

On June 2, 2022, the Pennsylvania Commission on Sentencing adopted the State Parole Guidelines. The guidelines adopted by the Commission are submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin* and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

The Commission is authorized by 42 Pa.C.S. § 2154.5 to adopt guidelines that shall be considered by the Pennsylvania Parole Board and any other paroling entity when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any correctional institution. The guidelines are to:

- (1) Give primary consideration to the protection of the public and to victim safety;
- (2) Provide for due consideration of victim input;
- (3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;
- (4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;
- (5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and
- (6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

These initial State Parole Guidelines, as adopted by the Commission, are summarized below, and set forth in Annex A.

REPRESENTATIVE TODD STEPHENS,
Chair

Commentary

This Commentary highlights key factors considered in the development and adoption of the State Parole Guidelines. The State Parole Guidelines are set forth in Annex A.

As provided in statute, 61 Pa.C.S. § 6102 (relating to operation of parole system generally): The parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the board and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

Further, 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole) requires the Commission to adopt guidelines for parole that consider the following:

- (1) Give primary consideration to the protection of the public and to victim safety;
- (2) Provide for due consideration of victim input;
- (3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;
- (4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;
- (5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and
- (6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

Pursuant to 61 Pa.C.S. § 6137 (relating to parole power), the Board is required to consider guidelines for parole and reparole established by the Commission, and to report to the Commission the parole and reparole decision and provide a contemporaneous written statement of reasons for any deviation from the guidelines. In addition to consideration of the guidelines, the Board may develop and use internal decisional instruments.

The guidelines for parole established by the Commission are advisory guidelines, which must be considered by the Board but for which the Board may exercise discretion in deviating from the recommendations. The guidelines do not remove the discretionary authority of the Pennsylvania Parole Board, and do not prevent the Board from adopting policies and procedures related to parole decision-making.

As described in the document published prior to the 2020 public hearings, the Commission has proposed a two-step process for consideration of state parole. The first step involves the preparation and consideration of the State Parole Guidelines recommendation; the second step involves the consideration by the Board of these guidelines and other factors that may require or suggest a deviation from the guidelines.

The preparation of the State Parole Guidelines recommendations involves two categories of factors: risk and preparedness. As required by statute, a validated risk assessment instrument, the Level of Service Inventory—Revised (LSI-R), is used to address public and victim safety, while the analysis of objective criteria related to behavior and compliance and the weighting of factors identified during the parole interview are used to address readiness for parole. Based on these factors, recommendations to grant or refuse parole for individuals with a current conviction for a violent offense, or for individuals with a prior conviction within ten years for a violent offense, are included in the State Parole Guidelines Matrix (Violent) found at § 309.4(a). Recommendations to grant or refuse parole for all other individuals are included in the State Parole Guidelines Matrix (Non-Violent) found at § 309.4(b).

The parole guidelines also require the Board to consider statutory mandates and factors such as public safety inputs and reentry needs to further individualize the decision by the Board and inform the exercise of discretion. The State Parole Guidelines Form, found at § 309.5, is used to document and report decisions by the Board and reasons for deviation from the guidelines to the Commission.

Following the public hearings held in 2020, the Commission approved several modifications to the proposed State Parole Guidelines that were initially published. These include changes to the interview factors in order to give greater consideration to progress in rehabilitation, treatment, and education; replacing override factors with a non-exclusive list of reasons for deviation from the parole guidelines; and collecting additional information based on the parole decision: when parole is granted, conditions imposed that are not required by statute nor recommended by a validated risk assessment case management plan; and when parole is denied, reasons for scheduling a review that is more than one year from the date of the parole decision. The Commission also continued discussions with the Department of Corrections and the Parole Board regarding the transition away from the use of the LSI-R as the validated risk assessment instrument.

On September 10, 2020, the Commission tabled action on adoption of the parole guidelines anticipating validation and deployment by the Pennsylvania Department of Corrections (DOC) of a new risk assessment instrument, the Static Risk Offender Needs Guide—Revised (STRONG-R), intended to replace the LSI-R as the validated risk assessment instrument. However, due to delays in the implementation of STRONG-R and recognizing the continued use of the LSI-R by the DOC and Parole Board, the Commission voted on March 10, 2022 to resume consideration of the State Parole Guidelines. Because of the nearly two-year delay in action, the Commission voted to publish a revised version of the proposed guidelines, intended to serve as interim parole guidelines until the validation and deployment of the STRONG-R, and the subsequent reconstruction of the

parole guidelines. Following public hearings held on May 31, 2022 and June 1, 2022, the Commission adopted the State Parole Guidelines on June 2, 2022.

Commentary on Annex A

§ 309.1. Preliminary provisions.

Sub-section (a) provides the statutory authority for adopting guidelines for parole (42 Pa.C.S. § 2154.5).

Sub-section (b) provides definitions of terms used in the guidelines, as obtained from the Pennsylvania Parole Board, Department of Corrections, and Commission on Sentencing.

§ 309.2. State parole guidelines standards.

Section 309.2 addresses standards provided in statute for consideration of the guidelines by the Pennsylvania Parole Board, and the reporting of decisions to the Commission.

§ 309.3. Procedures for determining state parole guidelines.

The guidelines recommendations are based on two categories of factors: 1) the risk to public safety, as measured by the risk of recidivism and 2) an assessment of an offender's preparedness for parole release, as measured by pre-interview and interview factors. Both categories were developed based on data analysis of past parole decisions, recidivism, and decision makers' policies and philosophies.

The risk score utilizes the ten criminogenic domains of the Level of Services Inventory-Revised (LSI-R). Scores range from 0 to 54, with higher scores indicating a higher rate of recidivism risk. The guidelines include three risk levels based on risk score: low (0—19), medium (20—33), and high (34 and greater).

The preparedness score is based on seven pre-interview factors and four interview factors. Each is scored as a '1' or '0,' with '1' being more positive or indicating success. Pre-interview factors are a combination of actuarial and dynamic factors and include the Department of Corrections' recommendation. Interview factors are grounded in the professional judgement of the decision makers. The guidelines include three preparedness levels based on preparedness scores: low (0—7), medium (8-9), and high (10-11).

The recommendation to grant or refuse parole is based on the intersection of the risk and preparedness categories. These slightly vary depending upon whether the offender has a current or past conviction within ten years for a violent offense.

The guidelines are advisory, and the Board may deviate from the guidelines. Reasons for deviation are required and must be reported to the Commission with other parole-related information. Reasons include but are not limited to mental health or medication compliance status, negative interest in parole, an outstanding detainer, judicial input, prosecution or public safety input, and if the maximum sentence date occurs in less than one year.

The guidelines apply to parole decisions for offenders initially being considered for parole and to those previously denied parole. They also apply to parole violators being considered for reparole.

§ 309.4. State parole guidelines matrices.

The state parole matrices contain recommendations to grant or refuse parole based on two categories of factors: risk of re-offense and preparedness for parole. Each cell recommends either 'grant' or 'refuse' parole. The State Parole Guidelines Matrix (Violent) found at § 309.4(a) applies to those with a current (instant) or previous

conviction within ten years for a violent offense. The State Parole Guidelines Matrix (Non-Violent) found at § 309.4(b) applies to those without a current (instant) or previous conviction within ten years for a violent offense. The recommendations are based on recidivism analysis and grant rates, with a difference between the two matrices found at the intersection of the medium preparedness and medium risk categories.

§ 309.5. *State parole guidelines form.*

The form documents the risk level associated with the LSI-R score, all pre-interview and interview factors and the associated preparedness level, the state parole guidelines recommendation based on the applicable matrix (violent, non-violent), the decision by the Board, any reason(s) for deviation from the guidelines, and information on conditions of parole or reasons for delay in reviewing a case in which parole is denied.

Resource Utilization

In accordance with 42 Pa.C.S. § 2153(a)(15), prior to the adoption of changes to guidelines, the Commission is mandated to determine the resources that are required under current guidelines and the resources that would be required to carry out any proposed changes. Since the State Parole Guidelines adopted by the Commission are initial guidelines rather than changes to guidelines, there are no current guidelines from which to make a determination, and no basis for determining Board compliance with the State Parole Guidelines. However, based on data analyzed from all Board interviews conducted from 2010—2016, parole is recommended in 59% of all interviews, consistent with the Board grant rate of 59%; recommendations to parole those classified as violent is 41%, as compared to the Board grant rate of 51%; and recommendations to parole those classified as non-violent is 76%, as compared to the Board grant rate of 66%.

Effective Date

The State Parole Guidelines shall become effective January 1, 2023 unless disapproved by the General Assembly, pursuant to 42 Pa.C.S. § 2155(b).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 309. PAROLE GUIDELINES

Subchapter A. STATE PAROLE GUIDELINES

§ 309.1. Preliminary provisions.

(a) *Authorization.*

(1) As authorized by 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole), the Pennsylvania Commission on Sentencing (Commission) shall adopt guidelines that shall be considered by the Pennsylvania Parole Board when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any state correctional institution.

(i) The guidelines shall do all of the following:

(A) Give primary consideration to the protection of the public and to victim safety;

(B) Provide for due consideration of victim input;

(C) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;

(D) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;

(E) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(F) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

(ii) Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the board when exercising its power to parole and reparole.

(b) *Definitions.* For purposes of this chapter:

“*Aggregated Sentence.*” Two or more consecutive sentences that have been combined whereby the aggregate minimum term is the sum of the consecutive minimum terms and the aggregate maximum term is the sum of the consecutive maximum terms.

“*Conviction Offense.*” Offense for which the original sentence was imposed.

“*Court.*” A court of record.

“*Detainer.*” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“*Hearing Examiner.*” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“*Judicial Proceeding.*” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“*Misconduct.*” Any violation of Pennsylvania Department of Corrections rules, regulations, or policies as provided in DC-ADM 801, Inmate Discipline Procedures Manual. A detailed list of “criminal or assaultive misconducts” considered in the pre-interview factors is found at DC-ADM 801 Category A Misconducts/Rule Violations (Formal Resolution Only).

“*Non-Violent Offender.*” An offender not currently or previously convicted of a violent offense, for which the State Parole Guidelines Matrix (Non-Violent) applies. Non-violent offenders include but are not limited to those eligible for the following:

“*Rebuttable Parole.*” A statutorily designated non-violent inmate who has been certified by the DOC based on a good conduct record and nonviolent history.

“*Recidivism Risk Reduction Incentive (RRRI).*” A sentence imposed upon a non-violent inmate that can allow the opportunity to reduce the minimum sentence upon completion of recommended programming while maintaining a good conduct record.

“*Short Sentence Parole.*” Offenders sentenced to state incarceration with an aggregate minimum sentence of two years or less or a recidivism risk reduction incentive minimum sentence of two years or less, excluding ineligibility as defined in 61 Pa.C.S. § 6137.1, may be approved by the Board for parole without requiring an interview. If an offender is committed to the Department of Corrections after the expiration of the minimum sentence, parole may be approved within 30 days after commitment.

“Original Sentence.” The sentence resulting from the original conviction. It is from this sentence the Board paroles the inmate and the parolee serves the remaining time on the street unless recommitted by the Board.

“Panel.” A two-member unit of the Parole Board comprised of either two Board Members or one Board Member and one Hearing Examiner, empowered to make parole release decisions and recommitment decisions.

“Parole.” The conditional release from imprisonment of an inmate from a correctional facility to serve the remainder of his/her unexpired sentence in the community under supervision as long as (s)he satisfactorily complies with all terms and conditions provided in the parole order.

“Parole Preparedness Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole preparedness category is a scale based on 11 factors identified prior to and during the parole interview, intended to measure an inmate’s readiness for parole release. A higher score indicates greater preparedness. One point is assigned for each positive assessment; 0 points for each negative assessment.

“Parole Risk Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole risk category is determined through the Level of Service Inventory-Revised (LSI-R). The LSI-R is a validated risk-screening instrument used by the Department of Corrections. LSI-R assesses an inmate’s general risk based on each of 10 criminogenic domains. Scores range from 0 to 54, with scores of 0 to 19 designated as low risk, scores of 20 to 33 designated as medium risk, and scores of 34 to 54 designated high risk.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms.

“Reasons for deviation.” Common reasons found for deviation from parole guidelines include mental health/medication compliance, negative interest in parole, judicial input, prosecution/public safety input, detainer status, and less than one year until maximum sentence reached. Other reasons may apply. Decision makers are required to provide one or more reasons when deviating from the State Parole Guidelines recommendation.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“State Parole.” The Pennsylvania Parole Board has paroling authority for offenders sentenced to state incarceration.

“Underlapping Concurrent Sentence.” A sentence that is served at the same time as the controlling sentence but has a shorter minimum and/or maximum sentence than the controlling sentence.

“Violent Offender.” An offender with a current or previous conviction within ten years as provided below, or offenses otherwise designated by the Pennsylvania Parole Board as violent offenses, for which the State Parole Guidelines Matrix (Violent) applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 309.2. State parole guidelines standards.

(a) *Guidelines.* The Board shall consider the State Parole Guidelines when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to a state correctional institution.

(b) *Effective Date.* The State Parole Guidelines apply to all persons sentenced to a state correctional institution and considered for parole on or after January 1, 2023. Amendments to the parole guidelines shall apply to all persons sentenced to a state correctional institution and considered for parole on or after the effective date of the Amendment.

(c) *Reasons.* In every case in which the Board renders a parole decision, the Board shall make as part of the record a statement of the reason or reasons for the decision to grant or refuse parole.

(d) *Deviation from the Guidelines.* In every case in which the Board deviates from the guidelines, the Board shall identify reasons for deviation from the guidelines, and the reasons for the deviation from the guidelines shall be recorded on the State Parole Guidelines Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing (Commission) in the manner described in subsection (e).

(e) *Reporting decision.* Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software application (SGS Web) shall be used at the Board’s direction to prepare and submit State Parole Guidelines Forms and guidelines-required parole decision information for each consideration of parole or reparole. An example of the State Parole Guidelines Form is found at § 309.5 (relating to State Parole Guidelines Form).

(1) The completed State Parole Guidelines Form shall be made a part of the record and the information electronically submitted to the Commission no later than 30 days after the date of the parole decision.

(2) In the case of revocation and recommitment, the completed State Parole Guidelines Form used to report the grant of parole shall be attached to the State Parole Guidelines Form prepared for each consideration of reparole.

§ 309.3. Procedures for determining state parole guidelines.

(a) The State Parole Guidelines consider two categories of factors to determine the parole recommendation: parole risk category and parole preparedness category.

(1) *Parole Risk Category.*

(i) *Risk score.* The LSI-R score is calculated prior to the interview, and the score is used to determine the risk level.

(ii) *Risk Level.* The LSI-R score is divided into three levels:

(A) High Risk (scores 34 and greater)

(B) Medium Risk (scores of 20 to 33)

(C) Low Risk (scores 19 and less)

(2) *Parole Preparedness Category.*

(i) *Pre-Interview Factors.* The pre-interview factors are determined based on a review of Department of Corrections records and scored as a “1” or a “0,” with 1 being successful or positive.

(A) Factors directly related to the offender’s behavior and compliance:

(I) Enrollment in and/or completion of required programs.

(II) Misconduct free for the past 12 months.

(III) Free of criminal or assaultive misconducts for the past 12 months.

(IV) One or no prior probation or parole revocations.

(V) Free of alcohol or drug dependence.

(VI) Compliance with all prescribed medications.

(B) Factor related to the recommendation of the Department of Corrections.

(ii) *Interview Factors.* The interview preparedness factors are based on the professional judgement of the decision maker(s) following a parole interview and scored as a “1” or a “0,” with 1 being positive or successful.

(A) Factors related to progress and commitment to rehabilitation:

(I) Motivation for success or progress in rehabilitation, treatment, or education.

(II) Acceptance of responsibility.

(III) Insight and positive response to address criminal behavior.

(B) Stable release plan (community and/or family support).

(iii) *Preparedness Level.* The preparedness score is the total of the pre-interview and interview factors and is divided into three levels:

(A) Low preparedness: Score 0 to 7.

(B) Medium preparedness: Score 8 to 9.

(C) High preparedness: Score 10 to 11.

(b) The State Parole Guidelines recommendations are based on the combination of the risk level and preparedness level and include consideration of whether the individual is classified as violent or non-violent. These recommendations are contained in two matrices and found at § 309.4(a) (relating to State Parole Guidelines Matrix (Violent)) and § 309.4(b) (relating to State Parole Guidelines Matrix (Non-Violent)).

(c) *Deviations from the Guidelines.* The State Parole Guidelines are advisory. The Board must consider the guidelines but may exercise discretion in deviating from the recommendation.

(1) Reasons for deviations from the State Parole Guidelines shall be provided on the State Parole Guidelines Form and reported to the Pennsylvania Commission on Sentencing (Commission).

(2) Reasons for deviation from the State Parole Guidelines may include but are not limited to the following:

(i) Mental health or medication compliance.

(ii) An inmate’s negative interest in parole.

(iii) Judicial input.

(iv) Prosecution and public safety input.

(v) Outstanding detainee.

(vi) Maximum sentence date is less than one year from interview date.

(3) *Additional information.* The following information shall be provided on the State Parole Guidelines Form and reported to the Commission:

(i) If parole is granted, condition(s) of parole ordered but not required by statute or recommended by a validated risk assessment case management plan.

(ii) If parole is denied, reason(s) a review is scheduled more than one year from the date of the parole decision.

(d) *Additional Applications.*

(1) The State Parole Guidelines must be considered in all cases for which the Board is authorized to exercise discretionary parole, including all initial and subsequent parole decisions.

(2) For individuals recommitted as parole violators, the State Parole Guidelines must be considered prior to reparole.


§ 309.4(a). State Parole Guidelines Matrix (Violent).

		Preparedness Category		
		Low	Medium	High
Risk Category	High	Refuse	Refuse	Grant
	Medium	Refuse	Refuse	Grant
	Low	Refuse	Grant	Grant

§ 309.4(b). State Parole Guidelines Matrix (Non-Violent).

		Preparedness Category		
		Low	Medium	High
Risk Category	High	Refuse	Refuse	Grant
	Medium	Refuse	Grant	Grant
	Low	Refuse	Grant	Grant

§ 309.5. State Parole Guidelines Form.

	Pennsylvania Commission on Sentencing STATE PAROLE GUIDELINES FORM	Commission ID: _____ Date Risk Score Calculated: _____																																
Offender Name: _____ Date of Birth: _____ Age at Interview: _____	State ID Number: _____ Parole ID Number: _____ Inmate Number: _____ Institution: _____	Type of Case: _____ Majority/Panel/RRRI Type of Interview: _____ Min/Min Subseq Repairole/Repairole Subsq Application Date of Interview: _____																																
Current Offense: _____ Total Sentence: _____ Minimum Date: _____ Maximum Date: _____	Violent: _____ Requires SORNA Registration: _____ Alcohol or Drug Related: _____ Firearm/Other Weapon Used: _____																																	
Summary of Risk: Level of Service Inventory-Revised																																		
LSI-R Score:	Overall Rating	Overall Risk Category																																
Summary of Preparedness Factors																																		
Overall Rating		Overall Preparedness Category:																																
Pre-Interview Required programs completed or in progress? - Out of 11 Factors Free of misconducts for the past year? - 0 - 7 Low Free of criminal or assaultive misconducts for the past year? - 8 - 9 Medium Free of prior probation/parole revocations? - 10 - 11 High Free of alcohol or drug dependence? - Compliant with all prescribed medications? - Positive recommendation from DOC? -																																		
Interview Expressed motivation for success or exhibited progress in rehabilitation, treatment, or education - Expressed acceptance of responsibility - Expressed insight and positive response to criminal behavior? - Stable release plan (community and/or family support)? - Total Score = _____																																		
State Parole Guidelines Matrix (Violent)		State Parole Guidelines Matrix (Non-Violent)																																
Preparedness Category Low Medium High		Preparedness Category Low Medium High																																
Risk Category	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%;">Low</td> <td style="width:15%;">Medium</td> <td style="width:15%;">High</td> </tr> <tr> <td style="width:15%;">High</td> <td>Refuse</td> <td>Refuse</td> <td>Grant</td> </tr> <tr> <td style="width:15%;">Medium</td> <td>Refuse</td> <td>Refuse</td> <td>Grant</td> </tr> <tr> <td style="width:15%;">Low</td> <td>Refuse</td> <td>Grant</td> <td>Grant</td> </tr> </table>		Low	Medium	High	High	Refuse	Refuse	Grant	Medium	Refuse	Refuse	Grant	Low	Refuse	Grant	Grant	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%;">Low</td> <td style="width:15%;">Medium</td> <td style="width:15%;">High</td> </tr> <tr> <td style="width:15%;">High</td> <td>Refuse</td> <td>Refuse</td> <td>Grant</td> </tr> <tr> <td style="width:15%;">Medium</td> <td>Refuse</td> <td>Grant</td> <td>Grant</td> </tr> <tr> <td style="width:15%;">Low</td> <td>Refuse</td> <td>Grant</td> <td>Grant</td> </tr> </table>		Low	Medium	High	High	Refuse	Refuse	Grant	Medium	Refuse	Grant	Grant	Low	Refuse	Grant	Grant
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Recommend Grant _____ Recommend Refusal _____		Recommend Grant _____ Recommend Refusal _____																																
Parole Decision																																		
Grant parole _____ Refuse Parole _____																																		
Does this decision deviate from the State Parole Guidelines recommendation? Yes No																																		
Reasons for Deviation from the State Parole Guidelines																																		
Mental Health / Medication Compliance _____ Negative Interest in Parole _____ Judicial Input _____ Prosecution/Public Safety Input _____ Detainer Status _____ Approaching Maximum Sentence (less than 1 year) _____ Other reason(s): _____ _____ _____																																		
Additional Information																																		
If parole is <u>granted</u> , list condition(s) not required by statute or recommended by a validated risk assessment case management plan: _____ _____																																		
If parole is <u>denied</u> , provide reason(s) for a scheduled review greater than one year from the date of this parole decision: _____ _____																																		

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Philadelphia Court of Common Pleas Civil Rules *204.1, *215, *1041.1 and Rescission of Philadelphia Court of Common Pleas Civil Rule *1569; President Judge General Court Regulation; No. 15 of 2022

Order

And Now, this 20th day of September, 2022, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on September 15, 2022, to adopt Philadelphia Court of Common Pleas Civil Rules *204.1, *215, *1041.1, and to rescind Philadelphia Court of Common Pleas Civil Rule *1569, as follows to this Order, and, as required by Pa.R.J.A. 103, the Supreme Court Criminal Procedural Rules Committee has reviewed the following local rules, has determined that Rules *204.1, *215, *1041.1 are not inconsistent with applicable statewide rules, and has authorized their promulgation.

Now, therefore, it is hereby *Ordered* and *Decreed* that Philadelphia Court of Common Pleas Civil Rules *204.1, *215, *1041.1 are adopted, as follows, effective thirty days after publication in the *Pennsylvania Bulletin*.

It is further *Ordered* and *Decreed* that Philadelphia Court of Common Pleas Civil Rule *1569 is rescinded, effective thirty days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), the local rule which follows this Order was submitted to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the local rule is not inconsistent with any general rule of the Supreme Court. This Order and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE IDEE C. FOX,
President Judge
Court of Common Pleas

Rule *204.1. Pleadings and Other Legal Papers. Format.

(a) In order to accommodate the filing of documents in an electronic format as authorized by Philadelphia Civil

Rule *205.4, all "legal papers," as defined in Pa.R.C.P. No. 205.4(a)(2), must conform to the following requirements:

(1) All files must be no larger than 5MB each. If an electronic file exceeds this limit, then it must be split into multiple files;

(2) All PDF pages must be 8 and 1/2 inches in size exactly. Other file sizes may be incompatible with electronic filing;

(3) Except as provided in Rule *205.2(b) Cover Sheet, Proposed Orders, and exhibits and attachments, all pages must be numbered consecutively in Arabic figures at the bottom: e.g. 1, 2, 3 etc. On the first page, the number may be suppressed and need not appear;

(4) No security, passwords or other restrictions may be placed on electronic files. If an electronic file contains passwords or other security devices, it will be rejected; and

(5) After an electronic file is created, it must not be modified in any way. If an electronic filing is modified, it may be incompatible with the electronic filing system and will be rejected.

(b) In order to accommodate the scanning of legal papers presented in hard-copy format and saving in an electronic format as provided by Philadelphia Civil Rule *205.4(b)(1), in addition to the requirements of Pa.R.C.P. No. 204.1, all hard-copy "legal papers" must conform to the following requirements:

(1) all legal papers must be printed on only one side of the paper;

(2) all orders must contain a 3-inch space from the top of the page for all electronic court stampings, filing notices, etc.;

(3) legal papers must not be stapled or permanently bound, but must be secured by binder clips or other fasteners which do not puncture or otherwise interfere with scanning;

(4) bar codes on any page of the legal paper interfere with scanning and must therefore be crossed out or otherwise redacted; and

(5) to avoid scanning errors, Exhibit separator pages must be used instead of Exhibit tabs.

Explanatory Note: The source of this rule is Administrative Docket No. 01-2008, issued by Administrative Judge D. Webster Keogh on July 16, 2008. Adopted by the Board of Judges on November 20, 2008; effective on January 5, 2009. Amended May 15, 2014, July 6, 2014 and September 19, 2022 effective October 31, 2022.

Rule *215. Assignment of Cases in the Trial Division.

A. All cases filed in the Trial Division of the Court of Common Pleas shall be listed for trial in accordance with those management procedures in effect for the program to which a case is assigned.

(1) *Arbitration Cases.* All cases which when filed are subject to compulsory arbitration under Philadelphia Civil Rule *1301 shall be assigned a hearing date and time upon commencement on the face of the initial filing.

(2) *Major Jury Cases.* All jury cases, other than Arbitration Appeals and Mass Tort matters, shall be listed for trial by the Judicial Team Leader for that Program to which a given case is assigned in accordance with the pertinent Case Management Order. Protracted and complex cases will be listed for dates certain. Those cases classified standard and expedited typically will be assigned to a trial pool for a given Pool Month within the

appropriate program. A Pool Month begins on the first Monday of each month ("Pool Month") and continues until the start date of the next Pool Month. If the case is not reached during the Pool Month, it will be placed in each successive Pool Month until the matter is called for trial.

Whether a given case is assigned a date certain or a pool month date is within the sound discretion of the Program Team Leader (or his or her designee).

(3) *Non Jury Cases.* All Non Jury cases will be designated as either Commerce Program or Non Jury Program cases. Commerce Program cases will be listed for trial at a status conference by the Supervising Judge of the non Jury Program, located at the Complex Litigation Center.

(4) *Mass Tort Cases.* All Mass Tort cases shall be listed for trial by the Supervising Judge of the Mass Tort Program, located at the Complex Litigation Center.

(5) *Arbitration Appeal Cases.* All Arbitration Appeal cases shall be listed for trial by the Supervising Judge at the Complex Litigation Center in a monthly trial pool in accordance with a Case Management Order. A Pool Month begins on the first Monday of each month and continues until the start date of the next Pool Month. If the case is not reached during the Pool Month, it will be placed in each successive Pool Month until the matter is called for trial.

B. *Jury Trial Requests.* (1) Upon commencement of an action, the plaintiff shall pay the non jury listing fee, or if a jury trial is initially demanded, the jury listing fee. (2) Thereafter, a jury trial may be demanded and perfected in accordance with Philadelphia Civil Rule *1007.1. (3) Payment of a jury fee will determine the case program assignment, except in those cases seeking equitable relief which shall be in either the Commerce Program or the Non Jury Program.

Comment: This *Rule has been completely rewritten to comport with the principles of differentiated case management and the assignment of cases by program. Counsel are advised to consult, where appropriate, the following General Court Regulations and Administrative Orders: 1. Trial Division General Court Regulation No. 94-2. (Procedure and Criteria for Advanced Trial Listings pursuant to Pa.R.C.P. 214.) 2. General Court Regulation No. 95-2. (Day Forward Program. Procedure for Disposition of Major Jury Cases Filed on and after January 2, 1996.) 3. Administrative Docket No. 01 of 1998. (Protocol for Trial Pools in the Day Backward and the Day Forward Programs.) Editor's Note: This rule may be impacted by the following: Administrative Docket No. 01 of 1999, Administrative Docket No. 02 of 2003, General Court Regulation 95-2, Administrative Docket No. 01 of 1998, Administrative Docket No. 02 of 1993, Administrative Docket No. 04 of 2005, Administrative Docket No. 05 of 2005, General Court Regulation No. 2012-01, General Court Regulation No. 2012-03, and General Court Regulation No. 2013-01. Amended February 28, 2019, and September 19, 2022, effective October 1, 2022.

Rule 1041.1.

(A) Long Form Complaint.

(1) Counsel representing plaintiffs in asbestos cases may file a Long Form Complaint under the General Asbestos Pleading Numbers. The Long Form Complaint shall set forth all theories of recovery and all liability

allegations that the counsel filing it expects to advance in any asbestos case. To the greatest extent possible, all counsel regularly representing plaintiffs in asbestos cases should attempt to agree on a single Long Form Complaint subscribed to by each of them.

(2) The Long Form Complaint shall sufficiently identify each defendant against whom claims for asbestos related personal injuries are expected to be pursued and shall include the capacity in which each defendant will be sued.

(3) Upon approval of a Long Form Complaint by the Court, it shall be deemed to apply to all cases subsequently filed by that counsel. Counsel may subsequently file an Amended Long Form Complaint which shall then become the designated Long Form Complaint for that counsel without leave of Court, provided that no objection to the amendment is made by any party within thirty days of its filing with the Court.

(4) All theories of recovery and all liability allegations, including allegations of successor or predecessor liability, contained in any Long Form Complaint or Amended Long Form Complaint shall be automatically deemed denied and at issue as to any and all defendants.

(B) *Short Form Complaint.* Counsel who have filed a Long Form Complaint shall file and serve a Short Form Complaint in every asbestos case thereafter, containing the following information:

(1) The name, address, social security number and date of birth of each plaintiff or decedent;

(2) A list of the specific defendants against whom the claim is being made. Any defendant not previously identified in the Long Form Complaint must be sufficiently identified in the Short Form Complaint, including the capacity in which the defendant is being sued. Counsel are reminded of the provisions of Pa.R.C.P. 1023(b) regarding certification of the contents of pleadings, and are cautioned that no defendant may be included in a Short Form Complaint unless, after reasonable inquiry, it is believed in good faith that there exists a valid cause of action against that defendant;

(3) A complete employment history, including location and type of employment;

(4) The asbestos exposure dates with identification of corresponding employment;

(5) To the extent possible, the name and manufacturer of each asbestos-containing product to which exposure is alleged;

(6) With respect to each product identified in paragraph (5) above, the inclusion dates of exposure and the job site at which the exposure occurred;

(7) The disease claimed, along with date of diagnosis and the date of the plaintiff's first knowledge of the asbestos-related injuries;

(8) A statement as to whether or not a claim for lost wages is being asserted;

(9) If appropriate, the date of death, the authority of the named plaintiff to bring the suit and the persons entitled to recover under the relevant statutes; and

(10) If appropriate, any unusual allegations or jurisdictional statements specific to the particular case, which are not included in the Long Form Complaint.

(C) Responsive Pleadings by Defendants.

(1) In response to each Long Form Complaint, the defendants regularly named in asbestos cases may collectively assert all affirmative defenses on behalf of all defendants. This shall be accomplished by the filing of a pleading known as the defendants' Long Form New Matter. The defendants' Long Form New Matter shall be

filed with the Court within thirty (30) days of the filing of the [Master] Long Form Complaint to which it responds. The Long Form New Matter shall be deemed incorporated as a response to each Short Form Complaint filed under each Master Long Form Complaint. Defendants need not file responses to the liability allegations of the Long Form Complaint, including allegations of citizenship, place of doing business, and predecessor or successor liability, as they are automatically deemed denied and at issue. The defendants' Principal New Matter may be supplemented or amended at subsequent times by the filing of a Supplemental New Matter.

(2)(a) In response to a Short Form Complaint, each defendant may file an Entry of Appearance and Answer to Complaint, containing the name, address and telephone number of counsel representing each defendant, together with a statement incorporating the Long Form New Matter. Without waiver of the right to file preliminary objections or to contest jurisdiction or service, the filing of an Entry of Appearance and Answer to Complaint by a defendant shall be deemed to constitute a denial of all theories of recovery and all liability and damage allegations contained in the Long Form Complaint and the Short Form Complaint and an assertion of all defenses contained in the Long Form New Matter.

(b) If a complaint other than a Short Form Complaint is used by a plaintiff in a particular action, a defendant may file a Short Form Answer which responds only to allegations concerning the identity of the answering defendant. All remaining allegations shall be deemed denied and at issue. The Short Form Answer may set forth affirmative defenses by way of new matter, may incorporate by reference the defendants' Long Form New Matter, or may include any combination of both.

(3) A defendant may file preliminary objections, but any objections to personal jurisdiction, venue or service shall be deemed to have been waived unless they are filed within ninety (90) days after service of the complaint.

(4) Claims for contribution or indemnity by and among the defendants shall be implied and need not be asserted in a Short Form Answer. All such claims shall be deemed denied without the necessity of filing a reply.

(5) All new matter shall be deemed denied by all parties without the necessity of filing a reply.

(D) *Joinder of Additional Defendants.*

(1) An additional defendant joined by one defendant shall be deemed to have been joined by all defendants without the necessity of any further pleadings.

(2) Joinder of additional defendants shall be by means of a Short Form Joinder Complaint which shall consist of the following information:

(a) Identification of each additional defendant, including the capacity in which each additional defendant is being joined.

(b) A statement in the following form: You are hereby joined as an additional defendant in this action and it is asserted that you are alone liable to the plaintiff, jointly and severally liable to the plaintiff and/or liable to the original defendants for contribution and/or indemnification.

(c) The legal theory upon which each additional defendant is being joined if other than an alleged common law right to contribution or indemnity.

(3) A copy of the plaintiff's complaint or Short Form Complaint shall be attached to the Short Form Joinder Complaint.

(4) The Short Form Joinder Complaint must be filed and served in accordance with the Pennsylvania Rules of Civil Procedure.

(5) A party joined as an additional defendant may file an Entry of Appearance and Answer to Complaint in accordance with the provisions of paragraph (C)(2)(a) above, which shall constitute a denial of all liability and damage allegations of the joinder complaint and the plaintiff's complaint and shall also serve to assert all defenses set forth in the defendants' Long Form New Matter.

(6) An additional defendant may file a Short Form Answer to the joinder complaint in accordance with the provisions of paragraph (C)(2)(b) above which responds only to allegations concerning the identity of the additional defendant. All remaining allegations shall be deemed denied and at issue. The Short Form Answer may set forth affirmative defenses to the joinder complaint and the plaintiff's complaint by new matter, may incorporate by reference the defendants' Long Form New Matter, or may include any combination of both.

(7) In response to a Short Form Joinder Complaint, an additional defendant may file preliminary objections in accordance with the limitations set forth in paragraph (C)(3) above.

(8) Claims for contribution or indemnity against all other defendants and additional defendants shall be implied and need not be asserted in a Short Form Answer.

(9) An additional defendant may join other additional defendants under the same procedures set forth above for joinder by an original defendant.

(E) *Prospective Effect.* This rule shall have no effect on the rights of parties in actions where the pleadings were closed prior to the implementation of the procedures set forth herein.

(F) *Permissive Pleadings.* Notwithstanding any provision of this rule, any party may file and serve upon any other party any pleading containing any claim or defense permitted under the Pennsylvania Rules of Civil Procedure.

Note: Original Order dated July 30, 1986 in In Re: Asbestos Litigation, October Term, 1986, No. 0001. Former Rule *1019.1, renumbered and amended by order dated September 19, 2022, and published in the *Pennsylvania Bulletin* on October 1, 2022 and effective October 31, 2022.

Rule *1569. Partition Proceedings-Master's Report.

[A Master appointed under Pa.R.C.P. 1558(b) shall not file his report as required under Pa.R.C.P. 1569(a) until ten (10) days after he has notified all the parties who appeared before him that it is subject to their inspection and that it will be filed on a given date, unless written exceptions be filed with the Master before that time. If exceptions are filed, the Master shall re-examine the subject and amend his report, if, in his opinion, the exceptions are well founded in whole or in part.]

Note: Former Rule 125; originally Star Rule *1569 adopted June 7, 1956. **Rescinded October 31, 2022.**

[Pa.B. Doc. No. 22-1507. Filed for public inspection September 30, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FAYETTE COUNTY

Local Rule 212.5; Mediation; No. 1815 of 2022 GD

Order

And Now, this 19th day of September 2022, pursuant to Pennsylvania Rule of Judicial Administration 103(d), it is hereby ordered that Fayette County Civil Rule 212.5, Mediation, is amended as follows hereto.

The Prothonotary is directed as follows:

(1) Two copies and CD-ROM of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(2) One copy of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.

(3) One copy of the Local Rule shall be sent to the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

The Administrative Office of Fayette County Courts is directed as follows:

(1) Publish a copy of the Local Rule on the website of the Administrative Office of Fayette County Courts.

(2) Thereafter, compile the Local Rule within the complete set of local rules no later than 30 days following the publication in the *Pennsylvania Bulletin*.

The amendment of the previously listed Local Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN F. WAGNER, Jr.,
President Judge

Rule 212.5. Mediation.

(a) Certification of Mediators.

(1) The President Judge shall certify as many mediators as determined to be necessary.

(2) All mediators will be members of the Fayette County Bar Association.

(3) An attorney may be certified by the President Judge as a mediator if:

(i) he or she has been a member of the Pennsylvania bar for a minimum of ten (10) years;

(ii) he or she has been admitted to practice before the Fayette County Court of Common Pleas;

(iii) he or she has been referred to the President Judge by the Civil Rules Committee of the Fayette County Bar Association. Notwithstanding such referral, the President Judge may nonetheless certify an attorney as a mediator.

(iv) he or she has been determined by the President Judge to be competent to perform the duties of a mediator;

(v) he or she has professional liability insurance in the minimum amount of a \$300,000.00 single limit policy.

(4) Each individual certified as a mediator shall take the oath or affirmation prescribed by 42 Pa.C.S.A. § 3151 before serving as a mediator.

(5) A list of all persons certified as mediators shall be maintained in the office of the Court Administrator.

(6) A member of the bar certified as a mediator may be removed from the list of certified mediators by the President Judge for any reason.

(b) Payment of Mediators.

(1) The parties shall pay the mediator directly. The court assumes no responsibility for the supervision or enforcement of the parties' agreement to pay for mediation services.

(2) Any charges relating to the mediator's services shall be shared equally by the parties.

(3) The mediator shall be paid a mediation fee of two hundred and fifty (\$250.00) dollars per hour, divided equally among all of the parties to the mediation. A deposit of two hundred and fifty (\$250.00) dollars shall be paid by each party within twenty (20) days of the order directing mediation. Failure to pay the deposit by all parties shall result in the cancellation of the mediation and shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019. Failure to pay the balance due twenty (20) days after receipt of the mediator's bill shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019.

(4) Except as provided herein, a mediator shall not accept anything of value from any source for services provided under the court-annexed mediation program.

(c) Types of Cases Eligible for Mediation.

Every personal injury, medical or professional malpractice, wrongful death or damage to property action filed in the Fayette County Court of Common Pleas is eligible for mediation, except any case which the assigned judge determines, after application by any party or by the mediator, is not suitable for mediation.

(d) Voluntary Mediation.

The parties to any civil action, with the exception of arbitration and domestic relations/custody cases, may voluntarily submit the case to mediation by filing a joint motion of all parties with the assigned judge.

(e) Mandatory Mediation.

The assigned judge may order a case to mandatory mediation at any time. All cases selected for mandatory mediation by the assigned judge, and which are not settled or referred to arbitration, shall be given preference pursuant to Pa.R.Civ.P. 214(2) on the trial list of the assigned judge.

(f) Mediation Conference Scheduling.

(1) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator.

Within ten (10) days of his or her assignment, the mediator shall notify all parties and the Court Administrator of the date, time and place of the mediation, which shall be within forty-five (45) days of the assignment.

(2) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the President Judge.

(3) The court administrator shall provide the mediator with a current docket sheet.

(4) The mediator shall advise the court administrator as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies at no charge to the mediator. However, the assigned Judge, in his or her discretion, may require that the parties share in the cost of providing the necessary copies.

(5) Any continuance of the mediation session beyond the period prescribed in the referral order must be approved by the assigned judge.

(6) A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may, in his or her discretion, end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the original mediator or initiate another alternative dispute resolution mechanism.

(g) *The Mediation Session and Confidentiality of Mediation Communications.*

(1) The mediation session shall take place as directed by the court and the assigned mediator. The mediation session shall take place in a neutral setting designated by the mediator.

(2) The parties shall not contact or forward documents to the mediator except as directed by the mediator or the court.

(3) At least ten (10) days prior to the Mediation, the parties and/or their attorneys shall be required to prepare and submit a Confidential Position Paper disclosed only to the mediator in the format attached or as modified by the mediator or the assigned judge. The Confidential position paper shall not become a part of the court record and shall be destroyed at the conclusion of the mediation.

(4) If the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter file a report with the assigned Judge stating that there has been compliance with the requirements of mediation in accordance with the local rules, but that no settlement has been reached.

(5) In the event that a settlement is achieved at the mediation session, the mediator shall file a report with the assigned Judge stating that a settlement has been achieved. The order of referral may direct the mediator to file the report in a specific form.

(6) Unless stipulated in writing by all parties and the mediator or except as required by law or otherwise ordered by the court, all discussions which occur during mediation shall remain strictly confidential and no communication at any mediation session (including, without limitation, any verbal, nonverbal or written communication which refers to or relates to mediation of the pending litigation) shall be disclosed to any person not involved in the mediation process, and no aspect of the mediation session shall be used by anyone for any reason.

(7) No one shall have a recording or transcript made of the mediation session, including the mediator.

(8) The mediator shall not be called to testify as to what transpired in the mediation.

(9) Prior to the beginning of the mediation, all parties and their attorneys shall be required to sign a form developed by the Court wherein the parties agree:

- (i) to the terms of the mediation; and
- (ii) to waive any professional liability claims that they might assert against the mediator, the assigned Judge,

the Court of Common Pleas of the 14th Judicial District, or Fayette County, as a result of their participation in the mediation process.

(h) *Duties of Participants at the Mediation Session.*

(1) *Parties.* All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (A) and (B) below.

Unless attendance is excused, willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions pursuant to Pa.R.Civ.P. 4019.

(A) *Corporation or Other Entity.* A party other than a natural person (e.g., a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(B) *Government Entity.* A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(2) *Counsel.* Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(3) *Insurers.* Insurer representatives are required to attend in person unless excused, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(4) *Request to be Excused.* A person who is required to attend a mediation session may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than ten (10) days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

Where an individual requests to be excused from personal participation at the mediation, a preference shall be given to attending by telephone at the expense of the excused party rather than complete excusal from the mediation.

(i) *Mediator’s Report.*

Within fifteen (15) days of the mediation, the mediator shall send to the assigned judge a mediation report which shall advise that court whether the case has settled. If not, the mediation report shall set forth the following:

- (1) plaintiff’s final settlement demand;
- (2) defendant’s final settlement offer;
- (3) Mediator’s assessment of liability;
- (4) Mediator’s assessment of damages;
- (5) Mediator’s opinion regarding potential range of verdict and settlement value of case; and
- (6) Mediator’s recommendation regarding settlement of case.

The mediator shall provide all parties and the Court Administrator with a copy of the mediation report.

**Appendix A: Form for Confidential Position Paper.
Confidential Position Paper**

- Case Caption:
- Docket #:
- Assigned Judge:
- Date of Report:
 - A. Summary of Critical Facts.
 - B. Insurance Coverage
 - C. Prior demands and offers of settlement
 - D. Issues that may assist the Mediator, with citations
 - E. Medical and Expert reports
 - F. Itemized list of damages
 - G. Succinct statement of position regarding liability and damages

[Pa.B. Doc. No. 22-1508. Filed for public inspection September 30, 2022, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

Clerk of Orphans’ Court Division, Fee Schedule; File No. AO-2022-0001

Administrative Order

Now, this 19th day of September, 2022, upon consideration of the motion of the Clerk of the Orphans’ Court;

It Is Ordered pursuant to 42 P.S. § 21032.1 that the Fee Schedule for the Clerk of the Orphans’ Court Division that is as follows hereto and incorporated herein by this reference, is approved, and the charges set forth therein shall be the fees for services rendered by the said Clerk of the Orphans’ Court Division.

It Is Further Ordered that said Fee Schedule is effective November 1, 2022 and shall supersede any and all previously established fee schedules for the transaction of business with the Clerk of the Orphans’ Court Division.

It Is Further Ordered that the District Court Administrator shall file seven (7) certified copies of this Order with the Administrative Office of the Pennsylvania Courts and shall file two (2) certified copies the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the Clerk of the Orphans’ Court shall cause a copy of the annexed Fee Schedule to be published in the *Lehigh Law Journal*.

By the Court

J. BRIAN JOHNSON,
President Judge

**SCHEDULE OF FEES
Clerk of Orphans’ Court Division, Lehigh County**

FEES CHARGED TO INITIATE A CASE In addition to the Orphans’ Court filing fee	
JUDICIAL COMPUTER FEE (JCS): This is a statutorily created surcharge imposed upon “first filings of petitions concerning Incapacitated Persons, Estates, all cases involving Minors and Inter Vivos trusts” 42 P.S. § 3733.1 Effective October 30, 2017. This surcharge is in addition to the OC filing fee, the Lehigh County E-filing fee and Automation fee.	\$40.25
LEHIGH COUNTY E-FILING FEE: This fee is imposed pursuant to 42 P.S. § 2107.2. It is in addition to the OC filing fee, JCS surcharge, if applicable, and Automation fee regarding all initial filings in OC cases.	\$5.00
AUTOMATION FEE: This fee is imposed pursuant to 42 P.S. § 2107.2. It is in addition to the OC filing fee, JCS surcharge, if applicable, and the Lehigh County E-filing fee regarding all initial filings in OC cases.	\$5.00
ADMINISTRATIVE FEE: Conversion of legal paper and/or exhibit presented for filing from paper to PDF for electronic filing. The paper copy shall be returned to the filing party for retention pursuant to Pa.O.C. Rule 4.7(c)(3).	\$1.00/page
A filing fee in an amount equal to that of the most similar pleading will be assessed regarding pleadings not specifically enumerated in the fee schedule.	

Payment is expected at the time of filing and accepted in the form of cash, money order payable to Orphans' Court, and credit/debit card (Master Card, Visa and Discover accepted) 2.9% service fee is assessed on all credit/debit payments
 Personal Checks are not accepted

ADOPTIONS—PARENTAL TERMINATIONS

Adoption Petition		\$150.00
Assisted Conception Birth Registration Petition		\$150.00
Confirmation of Consent Petition		\$150.00
Counseling Fund Fee ¹		\$75.00
Foreign Adoption Registration—IR3 Visa (no hrg.)		\$75.00
Foreign Adoption Registration—IR4 Visa (Hrg.)		\$100.00
Voluntary/Involuntary Termination of Parental Rights Petition		\$100.00
Petition for Alternate Service		\$50.00
Petition for Access to Adoption Record	Non-identifying info.	\$150.00
	Identifying Information	\$200.00
Search fee for out of County Authorized Agent		\$25.00
Post Adoption Cont. Contact Agreement Petition		\$100.00
Reprinted Adoption Certificate		\$25.00
Report of Intention to Adopt		\$50.00

ADOPTION INVESTIGATION FEES
(Court Appointed Investigator)

Adoptive Parent Only		\$350.00
Adoptive Parents and Biological Parents interviewed within Lehigh County or within fifty (50) mile radius to Lehigh County		\$450.00
Adoptive Parents and if one or both Biological Parents interviewed reside outside a fifty (50) mile radius to Lehigh County		\$500.00

FORMAL ACCOUNTS—EXCLUDING Charitable Trusts

Amended Petition for Adjudication		\$25.00
Amended Statement of Proposed Distribution		\$25.00
Insolvent Estates		\$100.00
Restated Account		\$75.00
Supplemental Account		\$50.00

Filing fee is calculated on the gross estate

Valuation of Gross Estate			Cost
1	to	500,000	\$300.00
500,001	to	1,000,000	\$500.00

For each succeeding \$500,000 or fraction thereof over \$1,000,000 add an additional \$50.00

¹ Charged in conjunction with the filing of a Report of Intention to Adopt pursuant to 23 Pa.C.S.A. § 2505(e)

FORMAL ACCOUNT OF CHARITABLE TRUSTS OR FOUNDATIONS	
CARRYING VALUE OF TRUST PRINCIPAL	
Less than \$10,000,000	\$500.00.
More than \$10,000,000 but Less than \$20,000,000	\$750.00
More than \$20,000,000	\$1,000
This schedule does not apply to charitable remainder trusts during the lifetime of non-charitable beneficiaries	

GUARDIANSHIP OF INCAPACITATED PERSON/MINOR	
Additional Petition Filed (e.g. sale of ward's realty)	\$50.00
Certified copy of Order/Guardian Certificate	\$10.00
Guardian's Inventory (Assets under \$100.00, no charge for filing)	\$25.00
Guardian's Inventory (Supplemental)	\$15.00
Petition for Appointment of Guardian of Person of a Minor	\$50.00
Petition for Determination of Incapacity (Includes 1 certified copy of final order)	\$150.00
Petition for Review Hearing	\$50.00
Will Inspection	\$25.00

SETTLEMENT PETITIONS: MINOR'S COMPROMISE/WRONGFUL DEATH-SURVIVAL/INCAP.	
Settlement Petition—Action commenced in Civil, Non Lehigh County estate or ward, no minor beneficiaries	\$20.00
Settlement Petition—Action commenced in Civil Division Minor's Compromise or Existing Lehigh Co. Decedent's Estate/Incapacity file	\$25.00
Minor's Compromise Settlement Petition—No Civil action commenced	\$50.00
Settlement Petition—No Civil Action, existing Lehigh Co. Estate or Incapacity file	\$50.00
Refiling fee (Newly filed after dismissal)	\$25.00

MISCELLANEOUS FEES (In addition to applicable filing fees listed on page 1)	
Amended Petition	\$25.00
Answer to any Petition	\$25.00
Appeal to Higher Court (from OC Order)	\$125.00 ²
Certified Copy of any pleading	\$10.00
Claim filed against Estate	\$35.00
Copies per page (include photocopies, microfiche copies, or printed copies of scanned images)	.25
Corporate Fiduciary, Power/Sureties, Current Certificate	\$25.00
Disclaimer/Renunciation	\$25.00
Exercise of Elective Share Rights	\$50.00
Exceptions	\$50.00
Exemplification of any document	\$75.00
Informal Account/Praecepte to Docket Receipt, Release and Refunding Agreement	\$100.00
Motion	\$50.00
Objections	\$50.00
Petition for issuance of Citation/Notice to Plead	\$150.00

² In addition to the stated Orphans' Court fee there are additional appellate filing fees imposed by the Commonwealth, Superior and Supreme Courts. That fee payable to the appropriate appellate court by separate check must accompany the requisite notice of appeal and OC filing fee. Counsel is urged to contact the appellate court to obtain the correct filing fee.

MISCELLANEOUS FEES (In addition to applicable filing fees listed on page 1)	
Petition/No Notice required	\$75.00
Power of Attorney	\$50.00
Returned Check Charge (must be cash or check separate from the amount of the replacement check)	\$20.00
Request for Transcript form	\$10.00
Subpoena	\$15.00
Transcript Paper Copy (Post-filing)	.75/page
Transcript Electronic Copy (Post filing)	.50/page

MARRIAGE LICENSE	
Application for Marriage License (Includes 2 certified copies of the marriage record)	\$100.00
Certified copy of Marriage Record	\$10.00
Exemplification of Marriage Record	\$75.00
Petition to Amend Marriage Record	\$50.00
Petition to Waive 3 Day Waiting Period	\$25.00
Research Fee (Genealogy, Marriage, Birth, Death)	\$25.00 (Up to 6 names, \$2.00 each additional name)
Reprinted Marriage License	\$20.00
Completion of out of state ML application	\$50.00

[Pa.B. Doc. No. 22-1509. Filed for public inspection September 30, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MIFFLIN COUNTY

Crime Victim Services and Compensation Act 77 of 2022 (CVSC) 58th Judicial District; CP-44-CV-2-2016

Amended Administrative Order

And Now, To Wit, this 21st day of September 2022, this Court pursuant to Title 18, Section 11.1101, Costs, *Orders* the following:

The Crime Victim's Compensation Fund and Victim Witness Services Fund are eliminated. The Crime Victim's Compensation Fund and Victim Witness Services Fund shall be replaced by the Crime Victim Services and Compensation Act 77 of 2022 (CVSC). This cost shall be imposed at both the Magisterial District Courts and the Common Pleas Courts of the Judicial District notwithstanding any statutory provision to the contrary.

(A) Pursuant to Title 18, Section 11.1101, a sixty dollar (\$60.00) assessment shall be paid to the CVSC.

(1) If an amount of cost ordered by the Court to be assessed and collected exceeds sixty dollars (\$60.00), the amount shall be assessed and disbursed by a new assessment, the "Variable Amount to be Distributed CVSC (Act 77)." Seventy percent (70%) of this amount shall be disbursed to the County, and the remaining thirty percent (30%) shall be disbursed to the CVSC.

The county recipient of the monthly report will deposit the county portion of the "Variable Amount to be Distributed CVSC (Act 77)" monies into a Local Victim Services Fund. The county, specifically, the county treasurer, shall be responsible to administer and disburse the money at the discretion of the county district attorney.

(B) A twenty-five dollar (\$25.00) assessment shall be paid to the CVSC-Juvenile.

(1) If an amount of cost ordered by the Court to be assessed and collected exceeds twenty-five dollars (\$25.00) but is less than or equal to sixty dollars (\$60.00), the amount shall be assessed and disbursed by a new assessment, the "Variable Amount (\$25.01—\$60.00) to be Distributed CVSC (Act 77)—Juvenile." One hundred percent (100%) of this amount shall be disbursed to the CVSC.

(2) If an amount of cost ordered by the Court to be assessed and collected exceeds sixty dollars (\$60.00), the amount shall be assessed and disbursed by a new assessment, the "Variable Amount (over \$60.00) to be distributed CVSC (Act 77)—Juvenile." Seventy percent (70%) of this amount shall be disbursed to the County, and the remaining thirty percent (30%) of this amount shall be disbursed to the CVSC.

The county recipient of the monthly report will deposit the county portion of the "Variable Amount (\$25.01—\$60.00) to be Distributed CVSC (Act 77)—Juvenile" and the "Variable Amount (over \$60.00) to be Distributed CVSC (Act 77)—Juvenile" monies into a Local Victim Services Fund. The county, specifically, the county treasurer, shall be responsible to administer and disburse the money at the discretion of the county district attorney.

It Is Further Ordered that in accordance with 201 Pa. Code Rule 103, the District Court Administrator shall:

(a) File one (1) certified copy of this Order with the Administrative Office of the Pennsylvania Courts,

(b) Distribute two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,

(c) File one (1) certified copy hereof with the Criminal Procedural Rules Committee,

(d) Supervise the distribution of this Order to all Judges and all members of the Criminal Bar of this Court.

By the Court

JUDGE DAVID W. BARRON,
President Judge

[Pa.B. Doc. No. 22-1510. Filed for public inspection September 30, 2022, 9:00 a.m.]
