

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Proposed Amendments of Pa.R.J.A. Nos. 1950—1952 and 1954

The Administrative Office of Pennsylvania Courts (AOPC) is considering proposing to the Supreme Court of Pennsylvania amendments to Pennsylvania Rules of Judicial Administration 1950-52 and 1954 that require a judicial district to establish an emergency action plan for each court facility, restructure local court security committees so that the president judge, or designee, is the chair, and direct that a judicial district's local court security committee meet at least twice per year. The proposed amendments include other minor, non-substantive revisions.

The proposed amendments were originally recommended by the Magisterial District Court Security Task Group in its August 2020 report, posted on the UJS website at www.pacourts.us. The Task Group was charged with reviewing the current security posture of magisterial district courts and providing recommendations on improving court safety for the public, court staff and judges.

Proposed new material is bolded and underlined, and deleted material is in brackets and bolded.

All interested persons are invited to submit comments, suggestions, or objections in writing to:

Administrative Office of Pennsylvania Courts
ATTN: Office of the Court Administrator
601 Commonwealth Avenue
P.O. Box 1500
Harrisburg, PA 17106
Stephen.Baldwin@pacourts.us

All communications in reference to the proposal should be received by November 23, 2020.

GEOFF MOULTON,
Court Administrator of Pennsylvania

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

CONTINUITY OF OPERATIONS, EMERGENCY ACTIONS, EMERGENCY UNITS AND JUDICIAL SECURITY

Rule 1950. Definitions.

[**Emergency—An emergency is an event or events that causes or threatens the destruction or partial destruction of court facilities, significantly interrupts the performance of court operations, or poses a threat to the health or safety of court personnel, court users or the public.**]

Continuity of Operations—Continuity of operations is the process, during and following an emergency, by which a court maintains at least minimum levels of service.

Court Facility—Court facility includes the courtrooms, judicial chambers, witness rooms, jury deliberation rooms, attorney conference rooms, court administrative offices and any other office or space under the control of or supervised by the judiciary.

Emergency—An emergency is an event or events that causes or threatens the destruction or partial destruction of court facilities, significantly interrupts the performance of court operations, or poses a threat to the health or safety of court personnel, court users or the public.

President Judge—For the purposes of these Rules, “president judge” refers to the president judge of the judicial district.

Security Incident—A security incident is an event that has the potential to cause, or has in fact caused, personal injury or property damage **or has caused significant interruption of the performance of court operations.**

Official Note: See also definitions in Pa.R.J.A. No. 102.

Rule 1951. Continuity of operations **and emergency planning.**

(a) *Responsibility for Continuity of Operations and Emergency Planning.*

(1) The Court Administrator shall establish minimum standards and procedures for continuity of operations and other emergency plans. The standards shall include procedures for periodic review, including the procedures for conducting exercises to ensure the efficacy of the plan.

(2) The president judge has primary responsibility for planning for the continuity of operations in the event of an emergency, and for implementing such plans in his or her judicial district.

Official Note: See also Pa.R.J.A. No. 1954.

(b) *Continuity of Operations Plans.*

(1) Pursuant to the standards and procedures established by the Court Administrator in Rule 1951(A)(1), the president judge, in conjunction with the district court administrator, **the local court security committee,** and any other relevant individuals designated by the president judge shall, in consultation with county emergency service agencies and other governmental entities, develop a plan to provide for the continuity of court operations during and following the occurrence of an emergency.

(2) The continuity of operations plan shall provide for the continuation or immediate resumption of court business by the most expeditious and practical means possible, consistent with continuity of operations standards as established by the Court Administrator.

(3) The president judge shall be responsible for ensuring that the continuity of operations plan is accurate and updated as needed.

(4) On an annual basis, the president judge shall review the continuity of operations plan **in consultation with the local court security committee** and shall certify on a form prescribed by the Court Administrator that the review has taken place and that the plan is accurate and meets the requirements established by the Court Administrator.

(c) Emergency Action Plans.

(1) Pursuant to the standards and procedures established by the Court Administrator in Rule 1951(A)(1), in conjunction with the district court administrator, the local court security committee, county emergency service agencies and any other relevant parties, the president judge shall develop an emergency action plan for each court facility located in the judicial district to use in response to, during, and immediately following the occurrence of an emergency.

(2) On an annual basis, the president judge shall review the judicial district's emergency action plans and shall certify in a form prescribed by the Court Administrator that the review has taken place, the plans are accurate, the plans meet the requirements established by the Court Administrator, and the relevant plans have been disseminated to all district court employees under the purview of the president judge.

Comment

Fires. Floods. Hurricanes, earthquakes and tornados. Terrorist attacks. Pandemics. Nuclear and biohazardous accidents (and attacks). The experiences from other states and countries around the world have shown that if any of these events should occur in Pennsylvania, the results could be catastrophic.

[State and local governments, and in particular chief judges and court administrators, have learned from the experiences of governments in places where natural and human-made disasters have occurred, for example: the state and city of New York in the aftermath of the 2001 terrorist attacks; the city of Toronto in Canada's Ontario Province after the 2003 SARS outbreak; the Gulf Coast states, such as Louisiana and Florida in the wake of Hurricane Katrina and other devastating storms; and California, among other states, coping with calamitous wildfires and earthquakes. One lesson learned is that many of the difficulties citizens face during and after an emergency or disaster can be ameliorated if the court system is operational and providing at least its essential functions.]

In an attempt to plan and prepare for a wide variety of emergencies that could **[strike] occur in** Pennsylvania, the Supreme Court has adopted new Rules of Judicial Administration Nos. 1950—1954. Rules 1951—1953[,] **are** designed to become operational only in the event of a significant emergency that causes or threatens the disruption of court operations[, were derived in part from “judicial emergency” rules and statutes developed in other states such as Florida, California and Louisiana]. The Rules specify that the primary authority and responsibility for continuing court operations rests

with the Supreme Court and with the president judges of Pennsylvania's 60 judicial districts. Rule 1954 consolidates judicial security practices and directives developed over the past several years.

[Rule 1951 formalizes the requirement that each judicial district in Pennsylvania develop and practice emergency and continuity of operations plans. Under this Rule, the Court Administrator of Pennsylvania is responsible for establishing standards and procedures for emergency and continuity of operations plans, and the president judges of Pennsylvania's judicial districts, with the assistance of the district court administrators, are responsible for developing plans for their respective judicial districts. Continuity of operations plans must provide for the continuation or immediate resumption of court business—or at least essential functions—during and immediately following an emergency. The Rule calls for these plans to be reviewed and updated annually.]

Courts have expectations of the people who serve the court to respond appropriately in the event of an emergency, natural or man-made. These emergencies come in several forms, such as fire, weather-related events such as tornado or flash flood, toxic chemical discharges that affect air quality, and active shooter events, to name a few. These emergency action plans should contain escape routes, secure locations of assembly for staff, and notification and communication protocols that mirror those already included in the continuity of operations plan. These plans should contain a series of expectations courts have to best ensure the safety and security of staff and customers of the court in the event of an emergency. In order for courts to quickly reconstitute business and operations, staff must be readily available through comprehensive alert and notification protocols, as well as evacuation from any and all danger zones to safely assemble in a secure location.

Rule 1952. Emergency actions, duties and authorities.

(a) Role of Supreme Court

(1) In the event of an emergency that affects court operations in the Commonwealth or in one or more judicial districts, the Supreme Court shall have the authority to declare a judicial emergency generally or in any judicial district affected by the emergency.

(2) By the declaration of a judicial emergency, the Supreme Court may:

(A) suspend or modify statewide or local procedural or administrative court rules;

(B) suspend time calculations for the purposes of time computation relevant to court cases or other judicial business;

(C) direct a court to sit in a location other than its normal place of operations, including outside of its judicial district;

(D) assign judges or court personnel from outside the affected judicial district;

(E) authorize additional uses of advanced communication technology to conduct court proceedings;

(F) take any action listed in Rule 1952(B)(2)(a)—(r) for an individual or multiple judicial districts; and

(G) take any other necessary administrative action regarding judicial staff, court facilities and operations.

Official Note: See also Pa.R.J.A. No. 1952(B)(2) for actions a president judge may take once a judicial emergency has been declared.

See Pa.R.Crim.P. 103 for the definition of advanced communication technology.

See Pa.R.Crim.P. 118 and 119 for general rules governing the use of two-way simultaneous audio-visual communications in criminal proceedings.

(b) *Role of the President Judge*

(1) In the event of an emergency, the president judge may request authorization from the Supreme Court to declare a judicial emergency in the judicial district. Such declaration shall remain in effect until such time as it is amended, rescinded, modified or superseded by order of the Supreme Court.

(2) If the Supreme Court authorizes the president judge to declare a judicial emergency in the judicial district, and unless limited by the Supreme Court, the president judge shall have the authority to:

(A) order the closure of court facilities until safe operations of the court and its offices can be restored;

(B) order the evacuation of court facilities;

Official Note: Ordering the evacuation of court facilities, when practical under the circumstances, should occur after consultation with members of the local [**standing**] court security committee, established under Rule of Judicial Administration No. 1954(A), and relevant law enforcement agencies.

(C) direct the relocation of court operations to safe locations;

(D) take necessary action to provide for (i) the safety of court personnel, court users and the public, and (ii) the security of court facilities, financial and cash operations, equipment and records;

(E) establish a telephone hotline or web site to provide the bench, bar and the public with court and emergency information;

(F) reassign judges or court personnel within the judicial district as needed to ensure the continuation of operations;

Official Note: See also Rule of Judicial Administration No. 1953 for requests for additional judges from within the Emergency Regional Administrative Unit.

(G) expand the duties and work hours of staff to handle emergency matters;

(H) cancel or modify court calendars, subpoenas or other court orders;

(I) cancel or suspend jury and non-jury trials;

(J) cancel or suspend jury duty;

(K) suspend or modify local rules of court and administrative rules or procedures, including personnel policies;

(L) suspend or modify the time requirements and limitations established by local rule;

(M) make application to the Supreme Court to temporarily suspend or modify statewide court rules as applied to any case or cases in the judicial district;

(N) provide for alternative signing, delivery and service of court documents and orders;

(O) extend the duration of any emergency or temporary order (for example, protection from abuse order) issued by a judge or magisterial district judge in the judicial district;

(P) assign custodial responsibility for court funds;

(Q) ensure compliance with any Federal, State or local emergency declarations;

(R) order the full or partial implementation of the continuity of operations plan established pursuant to Rule of Judicial Administration No. 1951; and

(S) request additional emergency judicial orders from the Supreme Court as the needs of justice require.

* * * * *

Rule 1954. Judicial security.

(a) The president judge of each judicial district shall establish a local [**standing**] court security committee **that shall meet at least twice per year. The president judge or designee shall chair the local court security committee.** The duties of the local [**standing**] court security committee shall be to:

(1) **develop, review and** make recommendations to the president judge on protocols, policies and procedures necessary to protect the public, court personnel and court facilities in the event of an emergency, **including the continuity of operations plan and emergency action plans;**

(2) communicate the approved protocols, policies and procedures identified in [**Rule of Judicial Administration No. 1954(A)(1)**] **paragraph (1)** to all court employees;

(3) review and assess [**all**] **the judicial district's** security incident reports specified in [**Rule of Judicial Administration No. 1954(B)**] **subdivision (B)** and recommend to the president judge appropriate actions; and

(4) develop and recommend to the president judge training programs for court employees on safety and security awareness.

Official Note: When forming local [**standing**] court security committees, president judges should consider a variety of court and county employees as well as public officials whose positions, experience and authority would benefit court security decisions. **At a minimum, the president judge shall include a member of the county executive branch, the district court administrator and a magisterial district judge.** While not an exhaustive list, the president judge **also** may consider [**a member of the county executive branch, the district court administrator, a magisterial district**

judge,] including: an individual responsible for county and court records, an individual responsible for courthouse security, a courthouse facility or risk manager, **representatives of the other county offices housed in the court facility, a representative from the county information technology office,** and a member of county or local law enforcement.

(b) The president judge shall ensure that all reporting requirements of the Pennsylvania Judicial Incident Reporting System (“PAJIRS”) are completed by the district court administrator or his or her designee no later than the close of business on the day that any reportable action occurs.

(c) The president judge shall ensure the completion of court facility security assessments as identified in the Unified Judicial System Court Safety and Security Manual and as prescribed by the Court Administrator.

(d) The president judge shall establish court security protocols, policies and procedures to be implemented in the event of an emergency, including, but not limited to: fire, natural disaster, “white powder” or other human-made emergency or disaster, and escaped prisoner and hostage situations. The president judge shall ensure that all employees receive training on how and when to implement such protocols, policies and procedures. All policies and procedures identified in this Rule shall be reviewed and updated annually.

Comment

Rule 1954 addresses court security and formalizes the creation of local [**standing**] court security committees. These committees, which have existed in every judicial district since at least 2005, are appointed by the president judges. They make recommendations to the president judge on protocols, policies and procedures which should be implemented to protect the public, court personnel and court facilities in the event of an emergency, and the president judge must establish such security protocols, policies and procedures for the judicial district. In addition, each local [**standing**] court security committee is charged with reviewing court security incident reports collected through PAJIRS, which was implemented in 2005 for magisterial district courts and 2007 for common pleas courts, and making appropriate recommendations to the president judge based on those reports. Finally, Rule 1954 directs the president judges of Pennsylvania’s judicial districts to complete and annually update court facility security assessments.

It is hoped that [**a significant natural or man-made emergency never impacts Pennsylvania. However,]** through the framework provided in Rules 1950—1954[**, should an emergency occur,]** the Pennsylvania [**Courts**] courts will be prepared to provide at least minimum services, including all essential court functions,

both during and after the emergency, to better protect and serve Pennsylvania’s citizens, **should an emergency occur.**

[Pa.B. Doc. No. 20-1441. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 540 Judicial Administration Doc.

Order

Per Curiam

And Now, this 7th day of October, 2020, *It Is Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2019 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

§ 29.401a. Consumer Price Index—costs and fines.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2019 as required by Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 540 Judicial Administration Docket.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2019 was 2.3% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, January 26, 2020.)

[Pa.B. Doc. No. 20-1442. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 541 Judicial Administration Doc.

Order

Per Curiam

And Now, this 7th day of October, 2020, It Is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The costs outlined in the Financial Regulations are effective as of January 1, 2021.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

§ 29.401. Scope.

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized by Administrative Order, the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, and judges and staff of all divisions of the Philadelphia Municipal Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under 42 Pa.C.S. § 3502(a) of the Judicial Code, the following regulations are adopted to implement Act 96 of 2010, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

§ 29.402. 42 Pa.C.S. § 1725.1. Costs.

(a) Civil cases.—In calendar year 2021, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

- (1) Actions involving \$500 or less \$56.00
(2) Actions involving more than \$500 but not more than \$2,000 \$75.00
(3) Actions involving more than \$2,000 but not more than \$4,000. \$93.50
(4) Actions involving between \$4,001 and \$12,000 \$140.00
(5) Landlord-tenant actions involving \$2,000 or less \$84.00
(6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 \$102.50
(7) Landlord-tenant actions involving more than \$4,000 but not more than \$12,000 \$140.00
(8) Order of execution \$42.00
(9) Objection to levy \$19.00
(10) Reinstatement of complaint \$9.50
(11) Entering Transcript on Appeal or Certiorari \$5.00

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) Custody cases.—In calendar year 2021, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

- (1) Custody cases, except as provided in section 1725(c)(2)(v) \$8.50

(b) Criminal cases.—In calendar year 2021, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) Summary conviction, except motor vehicle cases \$53.50
(2) Summary conviction, motor vehicle cases, other than paragraph (3) \$42.00
(3) Summary conviction, motor vehicle cases, hearing demanded \$51.00
(4) Misdemeanor \$61.00
(5) Felony \$70.00

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2021, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- (1) Entering transcript of judgment from another member of the minor judiciary\$9.50
- (2) Marrying each couple, making record thereof, and certificate to the parties \$47.00
- (3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) \$19.00
- (4) Issuing a search warrant (except as provided in subsection (d)) \$19.00
- (5) Any other issuance not otherwise provided in this subsection \$19.00

§ 29.403. 42 Pa.C.S. § 3571.

In calendar year 2021, Commonwealth portion of fines, etc.

* * * * *

(c) *Costs in magisterial district judge proceedings.*

(2) Amounts payable to the Commonwealth:

- (i) Summary conviction, except motor vehicle cases \$18.80
- (ii) Summary conviction, motor vehicle cases other than subparagraph (iii) \$18.80
- (iii) Summary conviction, motor vehicle cases, hearing demanded \$18.80
- (iv) Misdemeanor \$24.40
- (v) Felony \$37.30
- (vi) Assumpsit or trespass involving:
 - (A) \$500 or less \$23.30
 - (B) More than \$500 but not more than \$2,000 \$37.50
 - (C) More than \$2,000 but not more than \$4,000 \$56.10
 - (D) Between \$4,001 and \$12,000 \$93.30
- (vii) Landlord-tenant proceeding involving:
 - (A) \$2,000 or less \$37.30
 - (B) More than \$2,000 but not more than \$4,000 \$46.60
 - (C) More than \$4,000 but not more than \$12,000 \$65.35
- (viii) Objection to levy \$9.50
- (ix) Order of execution \$28.00
- (x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)) \$13.30
- (xi) Order of possession \$15.00
- (xii) Custody cases (except as provided in section 1725(c)(2)(v)) \$6.80

(Editor’s Note: Ellipses refer to the text of 42 Pa.C.S. § 3571.)

[Pa.B. Doc. No. 20-1443. Filed for public inspection October 23, 2020, 9:00 a.m.]

**Title 210—APPELLATE
PROCEDURE**

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 3]

**Order Amending Rule 302 of the Pennsylvania
Rules of Appellate Procedure; No. 290 Appellate
Procedural Rules Doc.**

Order

Per Curiam

And Now, this 7th day of October, 2020, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published for public comment at 50 Pa.B. 303 (January 18, 2020):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 302 of the Penn-

sylvania Rules of Appellate Procedure is amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

**CHAPTER 3. ORDERS FROM WHICH APPEALS
MAY BE TAKEN**

IN GENERAL

Rule 302. Requisites for Reviewable Issue.

(a) *General rule.*—Issues not raised in the [lower] trial court are waived and cannot be raised for the first time on appeal.

(b) *Charge to jury*.—A general exception to the charge to the jury will not preserve an issue for appeal. Specific exception shall be taken to the language or omission complained of.

Official Note: [This rule sets forth a frequently overlooked requirement. See, e.g. *Commonwealth v. Piper*, 458 Pa. 307, 328 A.2d 845 (1974), as to Subdivision (a). See, e.g. *Dilliaine v. Lehigh Valley Trust Co.*, 457 Pa. 255, 322 A.2d 114 (1974); *Commonwealth v. Light*, 458 Pa. 328, 326 A.2d 288 (1974) as to Subdivision (b). Rule 2117(c) (statement of place of raising or preservation of issues) and Rule 2119(e) (statement of place of raising or preservation of issues) require that the brief expressly set forth in both the statement of the case and in the argument reference to the place in the record where the issue presented for decision on appeal has been raised or preserved below.

See Rule 1551 (Scope of Review) as to requisites for reviewable issue on petition for review.]

Paragraph (a)—See *Commonwealth v. Piper*, 328 A.2d 845, 847 (Pa. 1974) (“[I]ssues not raised in the court below are waived and cannot be raised for the first time on appeal. . .”).

Paragraph (b)—In the civil context, the Supreme Court held in *Jones v. Ott*, 191 A.3d 782, 791 n.13 (Pa. 2018), that “in order to preserve a jury-charge challenge under Pa.R.C.P. 227.1 by filing proposed points for charge with the prothonotary, a party must make requested points for charge part of the record pursuant to Pa.R.C.P. 226(a), obtain an explicit trial court ruling upon the challenged instruction, and raise the issue in a post-trial motion. See Pa.R.A.P. 302(a); Pa.R.C.P. 226(a), 227, 227.1.” See *Dilliaine v. Lehigh Valley Trust Co.*, 322 A.2d 114 (Pa. 1974) (specific exception to trial court’s jury instruction must be made in order to preserve a point for appellate review).

In the criminal context, the procedure for raising and preserving objections to a jury charge is found in Pa.R.Crim.P. 647(B) and (C). See also *Commonwealth v. Pressley*, 887 A.2d 220, 225 (Pa. 2005) (“[M]ere submission and subsequent denial of proposed points for charge that are inconsistent with or omitted from the instructions actually given will not suffice to preserve an issue, absent a specific objection or exception to the charge or the trial court’s ruling respecting the points.”); *Commonwealth v. Light*, 326 A.2d 288 (Pa. 1974) (plurality opinion) (failure to take a specific exception to the language complained of in a jury charge forecloses review by the appellate court).

Failure to follow the appropriate procedure may result in waiver of this issue.

Cross references—Pa.R.A.P. 2117(c) (statement of place of raising or preservation of issues) and Pa.R.A.P. 2119(e) (statement of place of raising or preservation of issues) require that the brief, in both the statement of the case and in the argument, expressly refer to the place in the record where the issue presented for decision on appeal has been raised or preserved below. See Pa.R.A.P. 1551 (scope of review) as to requisites for reviewable issues on petition.

[Pa.B. Doc. No. 20-1444. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 11]

Order Approving the Amendment of Rule 1128 of the Pennsylvania Rules of Juvenile Court Procedure; No. 851 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 14th day of October, 2020, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1128 of the Pennsylvania Rules of Juvenile Court Procedure is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on January 1, 2021.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1128. Presence at Proceedings.

A) *General Rule*. All parties, including the child, shall be present at any proceeding unless the exceptions of paragraph (B) apply.

B) *Exceptions*.

1) *Absence from [proceedings] Proceedings*. The court may proceed in the absence of a party upon good cause shown except that in no case shall a hearing occur in the absence of a child’s attorney. If a child has a guardian *ad litem* and legal counsel, both attorneys shall be present.

2) *Exclusion from [proceedings] Proceedings*. A party may be excluded from a proceeding only for good cause shown. If a party is so excluded, counsel for the party shall be permitted to be present.

C) *Advanced [communication technology] Communication Technology*. A child or guardian may appear by utilizing advanced communication technology pursuant to Rule 1129.

D) *[Order appearance] Court-Ordered Appearance*. The court may order any person having the physical custody or control of a child to bring the child to any proceeding.

Comment

In no case is a proceeding to occur in the absence of the child’s attorney. The court has discretion whether to proceed if the court finds that a party received proper notice of the hearing and has willfully failed to appear.

Requiring the child’s attorney to be present pursuant to paragraph (B)(2) protects the child’s interest if the proceeding is conducted in the child’s absence. However, unless good cause is shown by individual circum-

stances, a child should [appear] be present in court. **See also Pa.R.J.C.P. 1129(A)(2) (child shall appear in person at least every six months unless presence is excused).** It is important that all children, including infants, appear in court so the court can observe the interaction between the caregiver and child and observe the child's development and health. **Because a child may feel uncomfortable while attending proceedings, the court should take measures to ensure that the child understands the courtroom to be a place of safety and security.**

Ensuring a child appears in court on a regular basis is critical because the court oversees the child and is to ensure his or her care, protection, safety, and wholesome mental and physical development. However, the court may ask that the child be removed from the courtroom during sensitive testimony.

See In re Adoption of S.B.B. and E.P.R., [372 Pa. Super. 456,] 539 A.2d 883 (Pa. Super. 1988).

Nothing in these rules creates a right of a child to have his or her guardian present. *See* 42 Pa.C.S. §§ 6310, 6335(b), 6336.1.

Official Note: Rule 1128 adopted August 21, 2006, effective February 1, 2007; **amended April 21, 2011, effective July 1, 2011; amended October 14, 2020, effective January 1, 2021.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1128 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1128 published with the Court's Order at 41 Pa.B. [2327] 2326 (May 7, 2011).

Final Report explaining the amendments to Rule 1128 published with the Court's Order at 50 Pa.B. 5841 (October 24, 2020).

FINAL REPORT¹

Amendment of Pa.R.J.C.P. 1128

On October 14, 2020, the Supreme Court amended Rule of Juvenile Court Procedure 1128 to clarify requirements for the presence of children at dependency proceedings.

Upon request, the Committee reviewed Pa.R.J.C.P. 1128 (Presence at Proceedings) to consider whether the rule invited a practice whereby children of a certain age were categorically excused from being present in court. While the rule did not encourage excusing children, the Committee recommended the rule be refined to emphasize the importance of a child's appearance and the need to consider a child's individual circumstances when deciding whether to excuse the child from a proceeding.

Pa.R.J.C.P. 1128(A) generally requires all parties to be present at dependency proceedings. This paragraph is amended to specifically include children under the general requirement. Pa.R.J.C.P. 1120 (Definitions) defines a "party" as "a person or the county agency who has standing to participate in the proceedings but nothing in these Rules confers standing upon a person." Under this definition, a child is a party because the child has standing to participate. *See, e.g.*, Pa.R.J.C.P. 1151 (providing for appointment of guardian *ad litem* or counsel to represent a child). Specifically including the child in

paragraph (A) reinforces the importance of the child's presence and eliminates the need for readers to rely upon a definition to understand the scope of the requirement.

The Comment is also revised to emphasize that exceptions to a child's presence at dependency proceedings are to be based on individual circumstances. Moreover, the Comment references the requirement of Pa.R.J.C.P. 1129(A)(2) that the child be physically present in court at least every six months. Finally, the Comment indicates that a child's unease while attending should be mitigated by the court.

The amendment will become effective January 1, 2021.

[Pa.B. Doc. No. 20-1445. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Philadelphia Court of Common Pleas Criminal Rule *700; President Judge General Court Regulation No. 60 of 2020

Order

And Now, this 25th day of September, 2020, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on September 17, 2020, to adopt Philadelphia Court of Common Pleas Criminal Rule *700, 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 rule, has determined that Rule *700 is not inconsistent with applicable statewide rules, and has authorized its promulgation.

Now, therefore, it is hereby *Ordered* and *Decreed* that Philadelphia Court of Common Pleas Criminal Rule *700 is adopted, as follows, 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-*

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

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

Philadelphia Criminal Rule *700.

(A) The judge who presided at the trial or who received the plea of guilty or nolo contendere shall impose sentence unless there are extraordinary circumstances which preclude the judge's presence. In such event, another judge shall be assigned to impose sentence.

(B) The supervision of a defendant serving a sentence may be transferred to a judge other than the original sentencing judge in any of the following situations:

(1) The original sentencing judge has been transferred out of the Criminal Division and consents in writing to the transfer of the supervision;

(2) The case has been accepted into a First Judicial District reentry program and, after a hearing or in writing, the defendant and the original sentencing judge consent to supervision being transferred to a judge presiding over the reentry program;

(3) The defendant is facing a new sentencing in front of a different judge on a separate case and, after a hearing or in writing, the defendant and the original sentencing judge consent to supervision being transferred to the other judge; or

(4) There exist extraordinary circumstances, including death, incapacitation or retirement, which preclude the presence of the original sentencing judge.

Comment:

Local Rule 700(A) tracks Pa.R.Crim.P. 700(A).

Pa.R.Crim.P. 700 also governs sentencings that result from a violation of probation or parole. See *Comm. v. McNeal*, 120 A.3d 313 (Pa. Super. 2015). Accordingly, Local Rule 700(B) flows from Pa.R.Crim.P. 700(B), which invites promulgation of local rules to expand the circumstances under which transfers from one judge to another may be made. Local Rule 700(B) reflects the recognition that transfers are appropriate under a variety of circumstances, including where a defendant has the opportunity to enter one of the First Judicial District's reentry programs or in order to consolidate a violation hearing in front of the "back judge" with the sentencing for a new case in front of a different judge.

[Pa.B. Doc. No. 20-1446. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CLINTON COUNTY

Local Rules; No. 29 January Term 1976

Order

And Now, this 2nd day of October, 2020, *It Is Hereby Ordered* as follows:

1. Current Local Rule No. 1301.2 is *Rescinded*.

2. The following Local Rule No. 1301.2 is *Adopted* by this Court and shall be effective thirty (30) days after being published in the *Pennsylvania Bulletin*.

3. The Clinton County Judicial Law Clerk is Ordered and Directed to:

(a) Distribute this Order and the following Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* by emailing a copy of this Order to bulletin@palrb.us and sending two (2) certified copies to:

Legislative Reference Bureau
Pa. Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120-0033

(b) Cause to be removed from this Court's website Local Rule No. 1301.2 and replace said Local Rule on this Court's website with the following Local Rule within thirty (30) days after the publication in the *Pennsylvania Bulletin*.

By the Court

CRAIG P. MILLER,
President Judge

Rule 1301.2. Arbitrators.

(A) All members of the Clinton County Bar unless a member has requested to be removed shall constitute the Board of Arbitrators and all members shall act as arbitrators. No two (2) members from the same firm or office, or related by blood or marriage, shall serve on the same board, unless this requirement is waived in writing by all parties in interest or their counsel.

(B) The Prothonotary shall maintain, in alphabetical order, a list of all members of the Clinton County Bar who have not requested in writing to be removed from the list of the Board of Arbitrators. Upon the filing of a praecipe for arbitration or pursuant to an Order of Court, the Prothonotary shall submit a list of five (5) names to the plaintiff or the attorney for plaintiff. In the event there are additional parties to the proceeding, the Prothonotary shall add an additional name for each additional party. This list shall be in the order in which the names are on the list of the Prothonotary, passing those members who are disqualified to the next qualified member. The plaintiff may strike one (1) member from the list and shall return the list to the Prothonotary within thirty (30) days of the Prothonotary forwarding the list the plaintiff. The Prothonotary shall then forward the list to the defendant. The defendant may likewise strike one (1) member from the list and shall return the list to Prothonotary within thirty (30) days of the Prothonotary forwarding the list to the defendant. In the event of an additional party or parties, the Prothonotary shall forward the list to the additional party or parties after the defendant has returned the list to the Prothonotary or waived the right to strike. Each additional party shall return the list to the Prothonotary within thirty (30) days of the Prothonotary forwarding the list to the additional party.

(C) In the event a party does not exercise the right to strike within thirty (30) days of the list being served upon that party's attorney or if proceeding pro se, the party, then the party shall have been deemed to have waived the right to strike and the Prothonotary shall forward the list to next party having the right to strike a member from the list with the Prothonotary noting on the list that

the said party has waived the right to strike pursuant to this local rule due to said party's failure to return the list to the Prothonotary exercising that party's right to strike.

(D) The first three (3) remaining members shall constitute the Board and the first shall be the chairperson. Any stricken member, as well as any disqualified member, shall, in alphabetical order, be at the head of the list for the next and/or subsequent cases.

[Pa.B. Doc. No. 20-1447. Filed for public inspection October 23, 2020, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Orphans' Court Rules; No. 3 of 2020

Administrative Order of Court

And Now, this 29th day of September, 2020, *It Is Hereby Ordered* that Westmoreland County Orphans Rule WO5.17 is hereby rescinded. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

[Pa.B. Doc. No. 20-1448. Filed for public inspection October 23, 2020, 9:00 a.m.]

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Selection of Special Independent Prosecutor's Panel

Under 18 Pa.C.S. § 9511(a) (relating to organization of panel), the Court Administrator of Pennsylvania is required to determine and supervise the procedure for selecting members of a Special Independent Prosecutor's Panel (Panel).

Through a random process conducted in accordance with the statute, the Court Administrator has chosen a Panel composed of one judge of the Superior Court of Pennsylvania and two judges of the Courts of Common Pleas. The judges selected include: the Honorable Mary Jane Bowes, Judge of the Superior Court; the Honorable Margaret A. Bisignani Moyle, Judge of the Court of Common Pleas of Lackawanna County; and the Honorable Jonathan Mark, Judge of the Court of Common Pleas of Monroe County.

As provided by 18 Pa.C.S. § 9511(b), the members of the Panel serve terms of three years. The terms of each member of the Panel commenced with the final selection of the Panel on October 8, 2020.

The Prothonotary of the Superior Court of Pennsylvania serves as the clerk of the Panel. *See* 18 Pa.C.S. § 9511(e).

GEOFF MOULTON,
Court Administrator of Pennsylvania

[Pa.B. Doc. No. 20-1449. Filed for public inspection October 23, 2020, 9:00 a.m.]