

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES**PART A. SUMMONS AND NOTICE**

- Rule
600. Summons and Notice of the Commitment Review, Dispositional Review, and Probation Revocation Hearing.

PART B. MODIFICATIONS AND REVIEWS

605. Detaining Juvenile for Modification of the Dispositional Order or Violation of Probation.
610. Dispositional and Commitment Review.
612. Modification or Revocation of Probation.
616. Post-Dispositional Procedures; Appeal (Reserved).
617. Release of Juvenile Pending Appeal (Reserved).

PART C. MOTIONS AND *NUNC PRO TUNC* RELIEF

620. Post-Dispositional Motions.
622. Motion for *Nunc Pro Tunc* Relief.
625. Hearing and Findings on Motion for *Nunc Pro Tunc* Relief.
628. Order of Court on Motion for *Nunc Pro Tunc* Relief.

PART D. CESSATION OF COURT JURISDICTION OR SUPERVISION

630. Loss of Court Jurisdiction.
631. Termination of Court Supervision.
632. Early Termination of Court Supervision by Motion.

PART A. SUMMONS AND NOTICE**Rule 600. Summons and Notice of the Commitment Review, Dispositional Review, and Probation Revocation Hearing.**

A. *Summons*. The court shall issue a summons compelling the juvenile and the juvenile's guardian to appear for the commitment review, dispositional review, or probation revocation hearing.

B. *Notice*. Notice of the hearing shall be given to:

- 1) the attorney for the Commonwealth;
- 2) the juvenile's attorney;
- 3) the juvenile probation office;
- 4) the placement facility staff, if the juvenile is in placement; and
- 5) the educational decision maker, if applicable.

C. *Requirements*. The general summons and notice procedures of Rule 124 shall be followed.

Comment

Section 6335(a) of the Juvenile Act provides that the court shall direct the issuance of a summons to the juvenile, guardian, and any other persons as appears to the court to be proper and necessary for the proceedings. 42 Pa.C.S. § 6335(a).

The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the dispositional and commitment review hearings. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed.

Official Note: Rule 600 adopted April 1, 2005, effective October 1, 2005. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 600 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the provisions of Rule 600 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Source

The provisions of this rule 600 amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180. Immediately preceding text appears at serial pages (357313) to (357314).

PART B. MODIFICATIONS AND REVIEWS**Rule 605. Detaining Juvenile for Modification of the Dispositional Order or Violation of Probation.**

A. A juvenile may be detained for a modification of a dispositional order or a violation of probation by:

- 1) the filing of a motion for modification of the dispositional order;
- 2) the anticipated filing of a motion for modification of the dispositional order within twenty-four hours of the juvenile's detention; or
- 3) the filing of a motion alleging probation violations.

B. The court shall adhere to the detention, notice, time, and manner of hearing provisions of Rules 240, 241 and 242.

Official Note: Rule 605 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 605 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 610. Dispositional and Commitment Review.

A. *Dispositional Review Hearing.* The court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juve-

nile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

- 1) In all cases, the court shall conduct dispositional review hearings at least every six months.
- 2) In all cases, the juvenile shall appear in person at least once a year.
- 3) The court may schedule a review hearing at any time.

B. *Modification of Dispositional Order.* Whenever there is a motion for a modification of the dispositional order, other than a motion to revoke probation as provided in Rule 612, notice and an opportunity to be heard shall be given to the parties and the victim. Any outstanding restitution amounts may not be reduced by modification of the dispositional order without specific notice to the victim prior to the hearing that a modification may be ordered.

- 1) The juvenile may be detained pending a court hearing.
- 2) A detention hearing shall be held within 72 hours of the juvenile's detention, if detained.
- 3) The juvenile shall be given a statement of reasons for the discharge from a placement facility or motion for modification of the dispositional order.
- 4) A review hearing shall be held within 20 days of the discharge from the placement facility or motion for modification of the dispositional order.

C. *Advanced Communication Technology.* A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

D. *Post-Dispositional Rights.* A colloquy and inquiry of post-dispositional rights shall be conducted when a juvenile is aggrieved by a modification of the dispositional order.

Comment

At any hearing, if it is determined that the juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147.

Under paragraph (A), the court is to conduct dispositional review hearings as frequently as necessary to ensure that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met. *See* Rule 800.

When conducting a dispositional review hearing, the court is to ensure that the disposition continues to provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community. A change in the plan of rehabilitation may result in the adjustment of financial obligations imposed pursuant to Rule 515. An "adjustment" is not intended to invite the imposition of increased fines, fees, or costs after disposition.

Nothing in this rule prohibits the juvenile from requesting an earlier review hearing. The juvenile may file a motion requesting a hearing when there is a need for change in treatment or services.

Additionally, nothing in this rule is intended to prohibit the emergency transfer of a juvenile from a placement facility to a detention facility pending reconsideration of the dispositional order, and this rule is not intended to preclude a motion for modification of a dispositional order after the juvenile has been detained.

Under paragraph (B), the attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the review hearing. Prior to ordering the modification of the dispositional order, the court is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses. *See* Victims Bill of Rights, 18 P.S. §§ 11.201 *et seq.* Whenever a motion seeks a reduction of outstanding restitution, the victim should be given specific notice of the relief sought prior to the hearing. A court may not order a downward adjustment of outstanding restitution without first ensuring that notice was given to the victim of the possibility that such an adjustment was specifically being considered at the dispositional review hearing.

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

Some placement facilities are hours away from the dispositional court. Paragraph (C) allows a hearing to be conducted via teleconferencing, two-way simultaneous audio-visual communication, or similar method. The juvenile is to be afforded all the same rights and privileges as if the hearing was held with all present in the courtroom.

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

For the colloquy and inquiry of post-dispositional rights, *see* Rule 512(C). If a change in disposition results in an out-of-home placement, then the court should also explain to the juvenile the availability of review of the out-of-home placement pursuant to Pa.R.A.P. 1612.

Official Note: Rule 610 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended June 28, 2013, effective immediately. Amended May 11, 2017, effective October 1, 2017. Amended October 22, 2021, effective April 1, 2022.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 610 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 610 published with the Court’s Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 47 Pa.B. 2969 (May 27, 2017).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 51 Pa.B. 6905 (November 6, 2021).

Source

The provisions of this Rule 610 amended December 30, 2005, effective immediately, 36 Pa.B. 186; amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319; amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180; amended June 28, 2013, effective immediately, 43 Pa.B. 3938; amended May 11, 2017, effective October 1, 2017, 47 Pa.B. 2969; amended October 22, 2021, effective April 1, 2022, 51 Pa.B. 6905. Immediately preceding text appears at serial pages (387928) to (387930).

Rule 612. Modification or Revocation of Probation.

A. *Filing.* A motion to modify or revoke probation shall be filed in accordance with Rule 345.

B. *Time of Hearing on the Motion.*

1) If the juvenile is detained, the hearing on the motion shall be held within ten days of the detention hearing.

2) If the juvenile is not detained, the hearing on the motion shall be held promptly.

C. *Modification.* If the court modifies the dispositional order, the court shall state the grounds for the modification and shall issue a new dispositional order in accordance with Rule 515.

D. *Advanced Communication Technology.* A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

E. *Post-Dispositional Rights.* A colloquy and inquiry of post-dispositional rights shall be conducted when a juvenile is aggrieved by a change in the dispositional order.

Comment

A juvenile should be afforded due process before probation can be revoked. *Cf. Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471 (1972). A juvenile's probation cannot be revoked simply on the grounds of hearsay evidence. *In re Davis*, 586 A.2d 914 (Pa. 1991).

If a juvenile is over the age of eighteen, under the age of twenty-one, and is alleged to have violated the terms of probation, the juvenile, if detained, is to be placed in a detention facility. *See* Rule 120 and its Comment for definitions of "detention facility," which does not include a county jail or state prison, and "juvenile," which includes a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age or who is alleged to have violated the terms of juvenile probation prior to termination of juvenile court supervision.

For detention procedures, see Rules 240 through 243.

For dispositional orders, see Rule 515.

Whenever a motion seeking to modify probation also seeks a reduction of outstanding restitution, the victim should be given specific notice of the relief sought prior to the hearing. A court may not order a downward adjustment of outstanding restitution without first ensuring that notice was given to the victim of the possibility that such an adjustment was specifically being considered at the hearing. *See* Pa.R.J.C.P. 610(B).

For the use of advanced communication technology, see Rule 129.

For the colloquy and inquiry of post-dispositional rights, see Rule 512(C). If a change in disposition results in an out-of-home placement, then the court should also explain to the juvenile the availability of review of the out-of-home placement pursuant to Pa.R.A.P. 1612.

Official Note: Rule 612 adopted April 1, 2005, effective October 1, 2005. Amended March 5, 2013, effective immediately. Amended June 28, 2013, effective immediately. Amended May 11, 2017, effective October 1, 2017. Amended October 22, 2021, effective April 1, 2022.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 612 published with the Court's Order at 43 Pa.B. 1551 (March 23, 2013).

Final Report explaining the amendments to Rule 612 published with the Court's Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 612 published with the Court's Order at 47 Pa.B. 2969 (May 27, 2017).

Final Report explaining the amendments to Rule 612 published with the Court's Order at 51 Pa.B. 6905 (November 6, 2021).

Source

The provisions of this Rule 612 amended March 5, 2013, effective immediately, 43 Pa.B. 1551; amended June 28, 2013, effective immediately, 43 Pa.B. 3938; amended May 11, 2017, effective October 1, 2017, 47 Pa.B. 2969; amended October 22, 2021, effective April 1, 2022, 51 Pa.B. 6905. Immediately preceding text appears at serial pages (387930) and (393109).

Rule 616. Post-Dispositional Procedures; Appeal (Reserved).

Rule 617. Release of Juvenile Pending Appeal (Reserved).

PART C. MOTIONS AND *NUNC PRO TUNC* RELIEF

Rule 620. Post-Dispositional Motions.

A. *Optional Post-Dispositional Motion.*

1) A party shall have the right to file a post-dispositional motion. All requests for relief from the court shall be stated with specificity and shall be consolidated in the post-dispositional motion.

2) Claims properly raised before or during the adjudicatory hearing shall be deemed issues preserved for appeal whether or not the party elects to file a post-dispositional motion on those claims.

B. *Timing.*

1) If a post-dispositional motion is filed, it shall be filed within ten days of the date of entry of the dispositional order.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed within thirty days of the date of entry of the post-dispositional order:

- a) deciding the motion;
- b) denying the motion by operation of law in a case when the judge fails to decide the motion; or

c) memorializing the withdrawal in a case when a party withdraws the motion.

3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the date of entry of the dispositional order.

C. *Court Action.*

1) *Briefing Schedule and Argument.* Within ten days of the filing of the post-dispositional motion, the court shall:

a) determine if briefs, memoranda of law, or oral arguments are required; and

b) set the briefing schedule and dates for oral argument, if necessary.

2) *Failure to Set Schedule.* If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.

3) *Transcript.* If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments concerning the post-dispositional motion shall be delayed for transcript preparation.

D. *Time Limitations for Decision on Motion.* The judge shall not vacate the disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within thirty days of the filing of the motion. If the judge fails to decide the motion within thirty days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.

2) Upon motion of a party and good cause shown, prior to the expiration of the 30-day decision period of paragraph (D)(1), the judge may grant one 30-day extension to decide the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court. Pursuant to Rule 167, the clerk of courts shall serve a copy of the order upon each attorney and the juvenile, if unrepresented, that states the post-dispositional motion is deemed denied. This order is not subject to reconsideration.

4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order. The order shall be filed and served as provided in Rule 167.

5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal. The order shall be filed and served as provided in Rule 167.

E. *Contents of Order.* An order denying a post-dispositional motion or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

1) the right to appeal;

- 2) the time limitations for filing the appeal; and
- 3) the right to counsel for the appellate process.

F. *After-Discovered Evidence.* A motion for a new adjudicatory hearing on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

Comment

For the definition of “disposition,” see Rule 120 and its Comment.

When properly raised before or during a hearing, a claim will be deemed preserved for appeal and the party need not file a post-dispositional motion solely for the purpose of preservation. To raise a claim that a ruling on the offense or an adjudication of delinquency was against the weight of the evidence, see Rule 415. Nothing in this rule is intended to address Pa.R.A.P. 1925(b) or the possible waiver of appellate issues for non-compliance with the Pennsylvania Rules of Appellate Procedure once an appeal is filed. *See, e.g., Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998) (any issues not raised in a 1925(b) statement will be deemed waived).

See Rule 622 and *In re Brandon Smith*, 573 A.2d 1077 (Pa. Super. 1990), for motions concerning ineffective assistance of counsel.

TIMING

Supplemental post-dispositional motions may be filed, but the time requirements of paragraph (B)(1) are to be followed.

For the date of entry of an order, see Pa.R.A.P. 108(a)(1) (“[T]he day of entry shall be the day the clerk of the court . . . mails or delivers copies of the order to the parties. . .”).

BRIEFS; TRANSCRIPTS; ARGUMENT

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. The judge may order that a concise summary of the relevant law and facts is sufficient. Any local rule requiring briefs or oral argument in every case is inconsistent with this rule. *See* Pa.R.J.A. No. 103(d)(2).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony are to be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to ensure timely resolution of the motion. Nothing in this rule precludes the judge from ordering the transcription of the notes of testimony or portions of it immediately after the conclusion of the adjudicatory, dispositional, or revocation hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see Pa.R.J.A. Nos. 4001—4016. The requirements for the record and the writing of an opinion for an appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be held for every post-dispositional motion. When oral argument is held concerning the post-dispositional motion, the juvenile need not be present.

DISPOSITION

Under paragraph (D), the judge may not vacate the order imposing the disposition pending decision on the post-dispositional motion. However, the judge may vacate or change the disposition once there has been a decision on the motion if the motion was decided within the time limitations of this rule.

Paragraph (D)(2) permits one 30-day extension of the 30-day time limitation upon motion of a party and good cause shown. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for the decision: a congested court calendar or other judicial delay does not constitute “good cause” under this rule.

The possibility of an extension is not intended to suggest that thirty days are required for a decision in most cases. The time limitations for resolution of the post-dispositional motion are the outer limits. Uncomplicated issues, such as a modification of the disposition or an admission challenge, ordinarily should be decided in a much shorter time period.

If the judge decides the motion within the time limitations of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision of the post-dispositional motion. The time limitations imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The judge’s reconsideration, there-

fore, is to be resolved within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court decides the motion, or the date when the motion is denied by operation of law pursuant to paragraph (D)(3), the judgment becomes final for the purposes of appeal. *See* 42 Pa.C.S. §§ 102, 722, 742, 5105(a), Pa.R.A.P. 341, and *Commonwealth v. Bolden*, 373 A.2d 90 (Pa. 1977).

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enter an order denying the motion on behalf of the court and immediately notify the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This notice is intended to protect the party's right to appeal. The clerk of courts also is to comply with the filing, service, and docket entry requirements of Rule 167.

CONTENTS OF ORDER

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain a written notice of the party's appellate rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice provided at the dispositional hearing and the resolution of the post-dispositional motion. *See also Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. 1998), concerning the contents of the order memorializing the withdrawal of a post-dispositional motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should enter an oral order memorializing the withdrawal. The judge is to give the party notice of the information required by paragraph (E). *See Commonwealth v. Miller, supra*.

AFTER-DISCOVERED EVIDENCE

Pursuant to paragraph (F), a motion for a new adjudicatory hearing on the grounds of after-discovered evidence may be filed with the court. If the motion is filed, it is to be in writing after such discovery is made if there is no appeal pending. *See* Rule 622 for filing a motion for *nunc pro tunc* relief. If an appeal is pending, the judge may grant the motion only upon remand of the case.

If there is after-discovered evidence concerning the dispositional hearing, a motion for a change in the dispositional order may be filed with the court. The motion may allege a need for a change in the dispositional order pursuant to Rule 610(B). If this motion is made, notice and an opportunity to be heard is to be given to the parties and the victim. *See* Rule 610(B) and 42 Pa.C.S. § 6353.

MISCELLANEOUS

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with specificity. Motions alleging insufficient evidence, for example, are to specify the reasons why the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence are to specify why the findings were against the weight of the evidence.

Because the post-dispositional motion is optional, the failure to raise a claim with specificity in the post-dispositional motion will not constitute a waiver of the issue on appeal if the claim was properly raised. *See* paragraph (A)(2).

Claims properly preserved at the dispositional hearing need not, but may, be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify the disposition, counsel should carefully consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. *See Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995). As a general rule, the motion to modify the disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders any time before an appeal or upon remand by the appellate court. *See, e.g., Commonwealth v. Holmes*, 933 A.2d 57 (Pa. 2007) (court has inherent power to correct patent and obvious mistakes despite the absence of traditional jurisdiction); *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (court can, *sua sponte*, correct an illegal sentence even after the defen-

dant has begun probation or placement); *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify the disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify the disposition in order to preserve an issue for appeal if the issue was properly preserved when the disposition was modified or reimposed. *See* paragraph (B)(2).

Official Note: Rule 520 adopted May 17, 2007, effective August 20, 2007. Amended July 28, 2009, effective immediately. Amended January 11, 2010, effective March 1, 2010. Renumbered Rule 620 on February 23, 2012, effective April 1, 2012. Amended May 23, 2018, effective October 1, 2018.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 520 published with the Court's Order at 37 Pa.B. 2506 (June 2, 2007).

Final Report explaining the amendment to Rule 520 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the renumbering of Rule 520 to 620 published with the Court's Order at 42 Pa.B. 1214 (March 10, 2012).

Final Report explaining the amendments to Rule 620 published with the Court's Order at 48 Pa.B. 3407 (June 9, 2018).

Source

The provisions of this Rule 520 adopted May 17, 2007, effective August 20, 2007, 37 Pa.B. 2506; amended July 28, 2009, effective immediately, 39 Pa.B. 4743; amended January 11, 2010, effective March 1, 2010, 40 Pa.B. 518; reserved and renumbered as 237 Pa. Code Rule 620 February 23, 2012, effective April 1, 2012, 42 Pa.B. 1214; amended May 23, 2018, effective October 1, 2018, 48 Pa.B. 3407. Immediately preceding text appears at serial pages (387931) and (360635) to (360639).

Rule 622. Motion for *Nunc Pro Tunc* Relief.

A. *Timing.* A motion for *nunc pro tunc* relief shall be filed by the juvenile with the clerk of courts in the court in which the alleged error occurred as soon as possible but no later than sixty days after the date that the error was made known.

B. *Counsel.* If alleged ineffective assistance of counsel is the basis for the motion, counsel is to withdraw pursuant to Rule 150(C) and the judge shall assign new counsel.

C. *Contents of Motion.* A motion for relief under this rule shall include:

- 1) the name of the juvenile and case docket number;
- 2) the location of the juvenile;
- 3) the delinquent act(s) for which the juvenile was adjudicated delinquent;
- 4) if ineffective assistance of counsel is alleged, the name of counsel who allegedly rendered ineffective assistance;
- 5) the relief requested;
- 6) a statement that one of the following requirements for the relief has been met:
 - a) there is a need for correction of an error to accurately reflect the court's findings; or
 - b) allegations that:
 - 1) the juvenile has been adjudicated delinquent and is under the court's supervision;

- 2) there is a legitimate basis for the relief requested; and
- 3) there are sufficient facts upon which to conclude the delay was justified and should be overlooked in the interest of justice;
- 7) the facts supporting the grounds for relief and sufficient facts to support any delay in filing the motion for relief that:
 - a) appear in the record, and the place in the record where they appear; and
 - b) do not appear in the record, and an identification of any affidavits, documents, and other evidence showing such facts;
- 8) whether the grounds for the relief requested were raised before, and if so, at what stage of the proceedings;
- 9) a verification that the facts set forth in the motion are true and correct to the best of the movant's personal knowledge or information and belief and that any false statements are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 10) if applicable, any request for an evidentiary hearing, including:
 - a) a signed certification by counsel as to each intended witness, stating the:
 - i) witness's name;
 - ii) witness's address;
 - iii) witness's date of birth; and
 - iv) the substance of the witness's testimony; and
 - b) any documents material to the witness's testimony, attached to the motion; and
- 11) if applicable, any request for discovery.

D. Answer.

- 1) The Commonwealth may answer the motion. If the Commonwealth chooses to respond to the motion, such response shall:
 - a) be submitted within ten days of receipt of the motion; and
 - b) include a verification that the facts set forth in the answer are true and correct to the best of the attorney's personal knowledge or information and belief and that any false statements are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 2) The court may order the Commonwealth to file an answer within a timeframe established by the court.

Comment

A motion for relief under this rule is to be filed with the clerk of courts in the court in which the alleged error occurred. Rule 120 defines "court" as the Court of Common Pleas. *See* Rule 120. Because the court has continual supervision over a juvenile until court supervision is terminated pursuant to Rules 631 or 632, the juvenile court is the appropriate forum for such a motion.

This process allows the juvenile court to accept late motions when there is a sufficient basis for the delay. *See* paragraph (C)(6) for requirement of the grounds for the motion. Because the court is providing relief *nunc pro tunc*, the requirements of 42 Pa.C.S. § 5505 do not apply. *See City of Philadelphia Police Dep't v. Civil Service Comm'n of City of Philadelphia*, 702 A.2d 878 (Pa. Commw. Ct. 1997) (absent specific rule, only technical errors may be corrected after 30-day period); *see also Justice v. Justice*, 417 Pa. Super. 581, 612 A.2d 1354 (1992) (after a 30-day period the order can be opened or vacated if there is fraud or some other circumstance so grave or compelling as to constitute

extraordinary cause which justifies intervention by the court); *Com., Dep't of Transp., Bureau of Driver Licensing v. Duncan*, 144 Pa. Commw. 261, 601 A.2d 456 (1991) (after a 30-day period order can be opened or vacated upon extraordinary cause).

Pursuant to paragraph (A), the motion is to be filed as soon as possible but no later than sixty days after the date the error was made known or discovered. It is best practice to file the motion within thirty days.

Pursuant to paragraph (B), counsel is to remain in the case unless ineffective assistance of counsel is alleged. *See* Rule 150(B). If ineffective assistance of counsel is alleged, counsel is to withdraw and the court is to appoint new counsel. *See* Rule 150(C).

Pursuant to paragraphs (C)(6) & (7), the juvenile is to aver the basis for relief and allege facts to support the grounds for the relief upon which the court may conclude the delay was justified and should be overlooked in the interest of justice.

Second or subsequent motions will not be entertained unless a strong *prima facie* showing is offered to demonstrate that a miscarriage of justice may have occurred. See *Commonwealth v. Szuchon*, 534 Pa. 483, 633 A.2d 1098 (1993) (citing *Commonwealth v. Lawson*, 519 Pa. 504, 549 A.2d 107 (1988)). This standard is met if the juvenile can demonstrate either: 1) the proceedings resulting in the juvenile's disposition were so unfair that a miscarriage of justice occurred which no civilized society can tolerate; or 2) the juvenile is innocent of the delinquent acts petitioned. See *Szuchon*, *supra*.

Official Note: Rule 622 adopted February 23, 2012, effective April 1, 2012.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 622 published with the Court's Order at 42 Pa.B. 1214 (March 10, 2012).

Source

The provisions of this Rule 622 adopted February 23, 2012, effective April 1, 2012, 42 Pa.B. 1214.

Rule 625. Hearing and Findings on Motion for *Nunc Pro Tunc* Relief.

A. *Hearing.*

- 1) The judge may grant an evidentiary hearing to resolve material questions of fact.
- 2) The hearing shall be conducted as soon as possible but no later than thirty days after the filing of the motion for *nunc pro tunc* relief unless, upon good cause shown, the judge determines more time is necessary for investigation and preparation.

B. *Grant with No Hearing.* If sufficient facts exist in the record to warrant relief, the judge may grant the motion without a hearing. If the judge grants the motion, it shall be granted within thirty days of the filing of the motion unless an extension is granted.

C. *Dismiss with No Hearing.*

- 1) The judge shall give notice to the parties of the intention to dismiss the motion, stating the reasons for the dismissal in the notice upon conclusion that:
 - a) there are no genuine issues concerning any material fact;
 - b) the juvenile is not entitled to relief; or
 - c) no purpose would be served by any further proceedings.
- 2) The juvenile may respond to the proposed dismissal within twenty days of the date of the notice.
- 3) The judge thereafter shall order the motion dismissed, grant leave to file an amended motion, or direct that the proceedings continue.
- 4) The judge may dispose of only part of a motion without a hearing by ordering dismissal of or granting relief on only some of the issues raised, while ordering a hearing on other issues.

- D. *Findings.* The judge shall:
- 1) state the findings and conclusions of law for all material issues raised:
 - a) on the record when there is a hearing; or
 - b) in the order when there is no hearing; and
 - 2) issue an order denying relief or granting a specific form of relief, and issue any supplementary orders or modification of dispositional orders appropriate to the proper disposition of the case.
- E. *Dismissed by Operation of Law.* If the judge fails to decide the motion or grant an extension within thirty days:
- 1) the motion shall be deemed denied by operation of law and not subject to reconsideration; and
 - 2) the clerk of courts shall forthwith:
 - a) enter an order on behalf of the court; and
 - b) as provided pursuant to Rule 167, shall serve a copy of the order on each attorney and the juvenile, if the juvenile has waived counsel, that the motion is deemed denied.
- F. *Appellate Rights.*
- 1) If the judge disposes of the case in open court at the conclusion of the hearing, the judge shall advise the juvenile on the record of the right to appeal from the final order disposing of the motion and of the time within which the appeal must be taken.
 - 2) If the case is taken under advisement or the judge denies the motion without a hearing, the judge shall notify the juvenile of the right to appeal pursuant to Rule 628.

Comment

The judge is permitted, pursuant to paragraph (C), to summarily dismiss a motion in certain cases. To determine whether a summary dismissal is appropriate, the judge should review the motion, the answer, if any, and all other relevant information included in the record. If, after this review, the judge determines that the motion is patently frivolous and without support in the record, or that the facts alleged would not, if proven, entitle the juvenile to relief, or that there are no genuine issues of fact, the judge may dismiss the motion.

A summary dismissal would also be authorized under this rule if the judge determines that a previous motion involving the same issue or issues was filed and determined adversely to the juvenile. See Comment to Rule 622 for second or subsequent motions.

Additionally, relief may be granted without a hearing pursuant to paragraph (D)(2) after an answer has been filed.

Official Note: Rule 625 adopted February 23, 2012, effective April 1, 2012.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 625 published with the Court's Order at 42 Pa.B. 1214 (March 10, 2012).

Source

The provisions of this Rule 625 adopted February 23, 2012, effective April 1, 2012, 42 Pa.B. 1214.

Rule 628. Order of Court on Motion for *Nunc Pro Tunc* Relief.

A. *Order by court.* The court order shall:

- 1) state the judge's findings and conclusions of law;
- 2) provide for appropriate relief and supplementary orders or modifications of the dispositional order as to:
 - a) the detention of the juvenile;
 - b) whether a new adjudicatory hearing is granted;
 - c) correction of the adjudication of delinquency;
 - d) correction of the disposition;
 - e) termination of court supervision; and/or
 - f) other matters that are appropriate.
- 3) include a statement explaining the right to appeal from the final order disposing of the motion, and of the time within which the appeal must be taken.

B. *Order by clerk of courts for deemed denied by operation of law.* When the clerk of courts has entered an order providing that the motion for *nunc pro tunc* relief is deemed denied by operation of law pursuant to Rule 625(E), the court order shall:

- 1) state that the motion is denied by operation of law pursuant to Rule 625(E); and
- 2) include a statement explaining the right to appeal from the final order disposing of the motion, and of the time within which the appeal must be taken.

Official Note: Rule 628 adopted February 23, 2012, effective April 1, 2012.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 628 published with the Court's Order at 42 Pa.B. 1214 (March 10, 2012).

Source

The provisions of this Rule 628 adopted February 23, 2012, effective April 1, 2012, 42 Pa.B. 1214.

PART D. CESSATION OF COURT JURISDICTION OR SUPERVISION**Rule 630. Loss of Court Jurisdiction.**

When the juvenile has attained the age of twenty-one, the court shall enter an order terminating court supervision of the juvenile.

Comment

The Juvenile Court has jurisdiction of a delinquent child if the child is under twenty-one years and committed an act of delinquency prior to reaching the age of eighteen. *See* 42 Pa.C.S. §§ 6302 and 6303.

Official Note: Rule 630 adopted February 26, 2008, effective April 1, 2008.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 630 published with the Court's Order at 38 Pa.B. 1146 (March 8, 2008).

Rule 631. Termination of Court Supervision.

A. *Notice.* The juvenile probation officer shall promptly notify the court when the conditions of probation have been satisfied. The court shall decide if supervision should be terminated. The notice shall set forth:

- 1) The juvenile has completed the terms of the court's dispositional order;
- 2) Restitution, fines, and costs have been paid in full; and
- 3) The juvenile has not committed any new offenses in which a criminal proceeding or proceeding governed by the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may be commenced.

B. *Objection.* Any party may object to the notice under paragraph (A) and request a hearing. Such objection shall be made within thirty days of receipt of the notice; otherwise, objections are deemed waived.

C. *Hearing.* If objections have been made under paragraph (B), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

D. *Termination.* When the requirements of paragraphs (A) through (C) have been met and the court is satisfied that the juvenile has carried out the terms of the dispositional order, the court may discharge the juvenile from its supervision.

Comment

For procedures on filing and service of the notice under paragraph (A), see Rule 345. For procedures on the dispositional order, see Rule 515. *See also*, 42 Pa.C.S. § 6352.

If the attorney for the Commonwealth objects pursuant to paragraph (B), the court is to conduct a hearing on the motion. The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the hearing conducted pursuant to paragraph (C). The victim may be present at the hearing and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. *See* Rule 132 and the Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

For collection of restitution, see 42 Pa.C.S. § 9728.

See Rule 632 for early termination of court supervision by motion.

Official Note: Rule 613 adopted April 1, 2005, effective October 1, 2005. Renumbered Rule 631 and amended February 26, 2008, effective April 1, 2008. Amended May 26, 2011, effective July 1, 2011.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 613 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the renumbering of 613 to 631 and amendments to Rule 631 published with the Court's Order at 38 Pa.B. 1146 (March 8, 2008).

Final Report explaining the amendments to Rule 631 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Source

The provisions of Rule 631 amended February 26, 2008, effective April 1, 2008, 38 Pa.B. 1146; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180. Immediately preceding text appears at serial pages (357316) and (332739).

Rule 632. Early Termination of Court Supervision by Motion.

A. *Motion.* Any party may move for early termination of court supervision. The motion shall state with specificity why early termination is sought and why the requirements of Rule 631(A) have not been met.

B. *Notice.*

1) In addition to the service requirements of Rule 345, any party moving for early termination shall serve the motion on the juvenile probation officer.

2) The victim shall be provided notice of the motion for early termination of court supervision.

C. *Objection.*

1) A party or the juvenile probation officer may object to the motion under paragraph (A) and request a hearing.

2) Such objection shall be made within 30 days of the date of the motion; otherwise, objections are deemed waived.

D. *Court's Determination.* The court shall:

1) rule on the motion and any objections without a hearing; or

2) schedule a hearing.

E. *Hearing.* If objections have been made pursuant to paragraph (C) or the court has determined a hearing is necessary, the court shall hold a hearing and give each party, the victim, and the juvenile probation officer an opportunity to be heard before the court enters its final order.

F. *Termination.* When the requirements of paragraphs (A) through (E) have been met and the court is satisfied that there is a compelling reason to discharge the juvenile prior to the completion of the requirements of Rule 631(A), the court may order an early discharge of the juvenile from its supervision.

Comment

If a party has moved for early termination of court supervision of a juvenile pursuant to paragraph (A) or the court has scheduled a hearing pursuant to paragraph (E), the attorney for the Commonwealth or its designee is to notify the victim of the motion for early termination and/or the date, time, place, and purpose of the hearing.

The victim may be present at the hearing and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. *See* Rule 132 and the Victims Bill of Rights, 18 P.S. §§ 11.201 *et seq.*

For the submission of victim-impact statements by victims of personal injury crimes prior to the release or transfer of a juvenile from a placement facility, see Victims Bill of Rights, 18 P.S. § 11.201(8.1)(iii).

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

For procedures on motions, see Rule 344. For filing and service requirements, see Rule 345.

If all parties are in agreement with the termination, the court may terminate court supervision without a hearing.

For procedures on the dispositional order, see Rule 515. *See also*, 42 Pa.C.S. § 6352. For collection of outstanding restitution regardless of court supervision status, see 42 Pa.C.S. § 9728.

“Compelling reason,” as set forth in paragraph (F), should reflect consideration of the statutory goals of protection of the public interest in a manner best suited to the juvenile’s treatment, supervision, rehabilitation and welfare within the framework of balanced and restorative justice, which attends to: 1) the protection of the community; 2) the imposition of accountability for offenses committed; and 3) the development of competencies to enable the juvenile to become a responsible and productive member of the community. *See In the Interest of D.C.D.*, 171 A.3d 727 (Pa. 2017); 42 Pa.C.S. § 6352(a). The court has broad discretion in weighing each goal as appropriate to the individual juvenile. *See id.* at 742.

Official Note: Rule 632 adopted February 26, 2008, effective April 1, 2008. Amended May 26, 2011, effective July 1, 2011. Amended October 22, 2021, effective April 1, 2022.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 632 published with the Court’s Order at 38 Pa.B. 1146 (March 8, 2008).

Final Report explaining the amendments to Rule 632 published with the Court’s Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 632 published with the Court’s Order at 51 Pa.B. 6905 (November 6, 2021).

Source

The provisions of Rule 632 adopted February 26, 2008, effective April 1, 2008, 38 Pa.B. 1146; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180; amended October 22, 2021, effective April 1, 2022, 51 Pa.B. 6905. Immediately preceding text appears at serial pages (360645) to (360646).

[Next page is 8-1.]