

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 10]

Order Amending Rules 115 and 1012 of the Pennsylvania Rules of Criminal Procedure; No. 522 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 3rd day of August, 2020, upon the recommendation of the Criminal Procedural Rules Committee; the proposal not having been published before adoption in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Criminal Procedure 115 and 1012 are amended, in the following form.

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

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 115. Recording and Transcribing Court Proceedings.

(A) In court cases, after a defendant has been held for court, proceedings in open court shall be recorded.

(B) **[Upon the motion of any party, upon its own motion, or as required by law, the court shall determine and designate those portions of the record, if any, that are to be transcribed] The transcript shall be requested in accordance with Pa.R.J.A. No. 4007.**

(C) At any time before an appeal is taken the **[court may correct or modify the record] transcript may be corrected, and the record may be corrected or modified**, in the same manner as is provided by **[Rule] Rules 1922(c) and** 1926 of the Pennsylvania Rules of Appellate Procedure.

Comment

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and an adequate effective appellate review. *See, e.g.*, Pa.Rs.A.P. 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). No substantive change in law is intended by this rule, rather it is intended to provide a mechanism to insure appropriate recording and transcribing of court proceedings. For repeal of statutory provisions on this subject, see Judiciary Act Repealer Act § 2(a); 42 P.S. §§ 20002(a) (897), (944).

The rule is intended also to apply to proceedings that occur after the action that is the functional equivalent of

holding a defendant for court in those cases in which it is permissible to proceed without a preliminary hearing and, therefore, without specifically holding the defendant for court. *See* Pa.Rs.Crim.P. 541, 550(D), 561, 565, 1010. In addition, the rule is intended to apply to *de novo* proceedings in the common pleas courts on appeals in summary cases. For application of the rule to proceedings in the Philadelphia Municipal Court, see Pa.R.Crim.P. 1012(A).

The rule is not intended to preclude adoption of local rules of court providing that arraignment need not be recorded, see Pa.R.Crim.P. 571, nor it is intended to modify any Rules of Criminal Procedure that specifically prohibit the recording or transcribing of all or part of a proceeding. *See* Pa.R.Crim.P. 313. In addition, the rule is not meant to preclude the use of recording devices for the preservation of testimony under Pa.Rs.Crim.P. 500 and 501.

[Paragraph (B) of the rule is intended to authorize courts to require transcription of only such portions of the record, if any, as are needed to review claims of error] Paragraph (B) is not intended to preclude the court from ordering a transcript in the absence of a request.

Paragraph (C) provides a method for correcting **[and modifying] transcripts and correcting or modifying the record** before appeal by incorporating Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926, which otherwise **[applies] apply** only after an appeal has been taken. **[It is intended that the same standards and procedures apply both before and after appeal.]**

Official Note: Rule 9030 adopted April 24, 1981, effective July 1, 1981; Comment revised March 22, 1989, effective July 1, 1989; renumbered Rule 115 and amended March 1, 2000, effective April 1, 2001; **amended August 3, 2020, effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 3, 2020 amendment regarding requests for transcripts pursuant to Pa.R.J.A. No. 4007 published with the Court's Order at 50 Pa.B. 4124 (August 15, 2020).

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA MUNICIPAL COURT TRAFFIC DIVISION

PART A. Philadelphia Municipal Court Procedures

Rule 1012. Recording and Transcribing Municipal Court Proceedings; Admissibility of Testimony at Trial *De Novo*.

(A) Rule 115 and Pa.R.J.A. No. 4007, relating to the recording and transcribing of court proceedings, shall apply to Municipal Court case proceedings after the preliminary arraignment or, when a defendant appears pursuant to a summons, after the defendant's first appearance.

(B) No testimony produced at the Municipal Court trial or at any pretrial hearing in the Municipal Court shall be admissible at the trial *de novo* except in those cases in which the defendant was represented by counsel and had

the opportunity to cross examine, and the witness afterwards dies, or is out of the jurisdiction so that the witness cannot be effectively served with a subpoena, or cannot be found, or becomes incompetent to testify for any legally sufficient reason properly proven.

Official Note: Rule 6012 adopted December 30, 1968, effective January 1, 1969; amended April 24, 1981, effective July 1, 1981; renumbered Rule 1012 and amended March 1, 2000, effective April 1, 2001; **amended August 3, 2020, effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 3, 2020 amendment regarding requests for transcripts pursuant to Pa.R.J.A. No. 4007 published with the Court's Order at 50 Pa.B. 4124 (August 15, 2020).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 115 and 1012

REQUEST FOR TRANSCRIPTS

On August 3, 2020, effective October 1, 2020, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules 115 (Recording and Transcribing Court Proceedings) and 1012 (Recording and Transcribing Municipal Court Proceedings; Admissibility of Testimony at Trial *De Novo*) to correct the reference to the procedures for requesting transcripts that are now contained in Pennsylvania Rule of Judicial Administration 4007.

On August 12, 2016, the Uniform Rules Governing Court Reporting and Transcripts contained in the Pennsylvania Rules of Judicial Administration, Pa.Rs.J.A. 4001—4016 were amended. The Committee identified two Rules of Criminal Procedure that were impacted by these amendments. Foremost was Rule 115(B), which provides for the motions to transcribe court proceedings and has been superseded by Pa.R.J.A. 4007 (Requests for Transcripts).

Rule 115 (originally Rule 9030) was promulgated in 1981, following the repeal, under JARA, of statutory provisions regarding the transcribing of court proceedings. The stated purpose of the rule was to provide a mechanism for recording, transcription, and correction at the trial court level “before or in the absence of an appeal, and to control the amount of transcription in criminal cases.”² The concern at the time was that the Appellate Rules provided only for the transcription of testimony for appeal.

With the amendment to Pa.R.J.A. 4007, there is no longer a requirement for a formal motion to request a transcript but rather the request procedure contained in Pa.R.J.A. 4007 would apply. Therefore, paragraph (B) of Rule 115 has been amended to reflect this change. Additionally, the language in the Comment to Rule 115 regarding the use of the terms “record” and “transcript” has been modified for consistency.

Paragraph (C) of Rule 115 permitted correction or modification of the record prior to appeal, as provided by Pa.R.A.P. 1926. Effective October 1, 2019, Pa.R.A.P. 1922(c) was amended to allow the court and the parties to

correct or supplement the transcript after an appeal has been taken. Accordingly, Rule 115(C) has been amended to permit correction of transcripts pursuant to Pa.R.A.P. 1922(c), together with permitted correction or modification of the record pursuant to Pa.R.A.P. 1926, prior to appeal. Additional revisions have also been incorporated to add consistency and improve the readability of the rules.

The other Rule of Criminal Procedure implicated was Rule 1012 that governs transcripts in the Philadelphia Municipal Court. Rule 1012 provides that Rule 115 shall apply to the recording and transcribing of Municipal Court case proceedings. Since Rule 115(A), regarding recording of proceedings, remains unchanged, the Committee concluded that the cross-reference to that rule should remain in Rule 1012. An additional cross-reference to Pa.R.J.A. 4007 has been added to Rule 1012 to direct readers to the procedures for requesting transcripts.

[Pa.B. Doc. No. 20-1096. Filed for public inspection August 14, 2020, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

Order Amending Rule 576.1 of the Pennsylvania Rules of Criminal Procedure; No. 521 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 3rd day of August, 2020, upon the recommendation of the Criminal Procedural Rules Committee; the proposal not having been published before adoption in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Criminal Procedure 576.1 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 October 1, 2020.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART G(1). Motion Procedures

Rule 576.1. Electronic Filing and Service of Legal Papers.

(A) The president judge of a judicial district by local rule promulgated pursuant to Rule 105 and Rule of Judicial Administration 103 may authorize electronic filing of legal papers with the clerk of courts in cases in the courts of common pleas and in the Philadelphia Municipal Court through the statewide electronic filing system as provided in this rule.

¹ The Committee's Final Reports 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.

² See 11 Pa.B. 396 (January 24, 1981).

(B) *Local Rule*

(1) The local rule required under this rule shall include the following provisions:

(a) subject to the provisions in paragraph (B)(2), a statement that the electronic filing system is permissive and specify the legal papers subject to the rule, but in no case shall legal papers prohibited from being filed electronically by this rule be permitted to be filed electronically;

(b) a provision for the procedures to ensure that any party who declines to participate in the system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the system, at a minimum, shall be able to file legal papers in a physical paper format and be served legal papers in a physical format which were electronically filed;

(c) any additional provisions as the court may deem necessary to provide a full and complete procedure for the use of the system within the judicial district; and

(d) a notation that the Administrative Office of Pennsylvania Courts and the judicial district have agreed upon an implementation plan for PACFile in the judicial district.

(2) Any judicial district that authorized electronic filing for a period of two years thereafter may amend their local rule, subject to the requirements of Rule 105 and Rule of Judicial Administration 103, to make participation in electronic filing mandatory.

(C) As used in this rule, the following words shall have the following meanings:

“electronic filing,” the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;

“filing party,” an attorney, defendant, or other person who files a legal paper by means of electronic filing;

“legal paper,” a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, **copies of** exhibits, and attachments, but excluding

- (1) applications for search warrants,
- (2) applications for arrest warrants,
- (3) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,
- (4) submissions filed *ex parte* as authorized by law, **[and]**
- (5) submissions filed or authorized to be filed under seal **[;], and**

(6) exhibits offered into evidence, whether or not admitted, in a court proceeding;

“original document,” a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and

“the system,” the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

(D) *Participation*

(1) The system shall permit attorneys and defendants proceeding without counsel to file electronically.

(a) In order to participate in the system, an attorney shall establish an account in the system by procedures established by the Administrative Office of Pennsylvania Courts.

(b) A defendant who is proceeding without counsel shall be permitted to utilize the system through an authorization process established by the Administrative Office of Pennsylvania Courts.

(2) Establishment of an account by an attorney or authorization **[by] of** a defendant proceeding without counsel in the system, **to the extent so authorized by the Administrative Office of Pennsylvania Courts pursuant to paragraph (D)(1)**, shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed on the system in any judicial district that permits electronic filing.

(3) An attorney or defendant participating in the system is permitted to file a legal paper either in an electronic format or in a physical paper format. Service upon an attorney or defendant participating in the system shall be done electronically.

(E) *Filing*

(1) When a legal paper is to be electronically filed, it shall be submitted to the system at the Unified Judicial System web portal at <http://ujportal.pacourts.us>, in accordance with this rule, any local rule adopted pursuant to this rule, and any filing instructions as may be otherwise provided at the web portal site.

(2) Electronic filings may be submitted at any time, except during times of periodic maintenance. The electronic submission must be completed by 11:59:59 p.m. EST/EDT to be considered filed that day.

(3) The time and date on which a legal paper is submitted to the system shall be recorded by the system. The system shall provide an acknowledgement to the filing party that the legal paper has been submitted.

(4) The time and date on which the legal paper is accepted by the clerk of courts office also shall be recorded by the system. The system shall provide an acknowledgement to the filing party that the legal paper has been accepted.

(5) A legal paper shall be considered filed upon submission of the legal paper to the system and acceptance of the filing by the clerk of courts. If the clerk of courts determines that the requirements for filing have been met, the time and date of filing shall be the time and date that the legal paper was submitted to the system. If the clerk of courts finds that the requirements for filing are not met, the clerk may reject the filing.

(6) A filing party shall be responsible for any delay, disruption, and interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the system’s website.

(7) The system shall attribute the filing of an electronic legal paper to the party whose account is used to log onto the system and file the legal paper.

(8) Legal papers shall be presented for filing in portable document format (“.pdf”).

(9) All legal papers electronically filed shall be maintained and retained by the clerk of courts in an electronic

format. Neither the clerk of courts nor the court is required to maintain in a physical paper format any legal paper filed electronically as provided in this rule.

(10) Any legal paper submitted for filing to the clerk of courts in a physical paper format shall be accepted by the clerk of courts in that format and shall be retained by the clerk of courts as may be required by applicable rules of court and record retention policies. The clerk of courts shall convert such legal paper in a physical paper format to .pdf and add it to the system. However, those submissions that are excluded from the definition of “legal paper” under paragraph (C) shall not be converted and added to the system.

(11) No legal paper that complies with the Pennsylvania Rules of Criminal Procedure shall be refused for filing by the clerk of courts or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

(F) *Signature*

(1) Except as provided in paragraph (F)(3), an electronic signature of the filer as provided for in the system is permitted on electronic filings in the following form: /s/ John L. Doe.

(2) The electronic filing of a motion or answer that includes an electronic signature constitutes a certification pursuant to Pa.R.Crim.P. 575 that the filing party or attorney has read the legal paper, that to the best of the filing party’s or attorney’s knowledge, information and belief there is good ground to support the motion or answer, and that it is not interposed for delay.

(3) Any motion that, pursuant to Rule 575(A)(2)(g), avers facts not of record and requiring a sworn affidavit must be created in a physical paper form, have a physical signature placed on it, and then be converted into a .pdf before it may be electronically filed.

(4) The original of a sworn or verified legal paper that is an electronic filing or is contained within an electronic filing shall be maintained by the electronic filer in either electronic or paper format and made available upon direction of the court or reasonable request of the signatory or opposing party.

(G) The court by local rule shall provide for the maintenance by the clerk of courts of an electronic file only, or of such electronic and physical paper format files as set forth in the local rule. Those legal papers that are not permitted to be electronically filed pursuant to paragraph (C) shall be maintained in a physical paper format only.

(H) *Service*

(1) Upon the submission of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 114(B) and 576(B) on any attorney or party who has established a system account.

(2) Upon the acceptance by the clerk of courts office of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been accepted.

(3) Service of electronic filings on any attorney or party who has not established a UJS web portal account or who

is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 114(B) and 576(B).

Comment

This rule, adopted in 2018, permits as a local practice the electronic filing of legal papers. This rule does not require the implementation of electronic filing by a local court. To provide a uniform system for electronic filing, the Administrative Office of Pennsylvania Courts has developed the PACFile electronic filing system. This is the only authorized system for electronic filing of legal documents in criminal court cases in the courts of common pleas and Philadelphia Municipal Court.

Paragraph (B) requires that a judicial district that desires to participate in the electronic filing system must adopt a local rule to that effect. As part of the initial “opting into” electronic filing, this local rule must provide that participation is voluntary. Once a judicial district has allowed electronic filing for two years, participation may be made mandatory. Paragraph (B)(1)(b) requires that all judicial districts in which electronic filing is allowed must make accommodations for those parties who are unable to participate. In no event shall access to the court filing be precluded solely on the basis of participation in the electronic filing system.

This rule is applicable to cases in courts of record. See Rule 103 for the definition of a “court.”

The UJS Portal contains other automated services beside PACFile. There may be circumstances when an attorney, who has registered as a user on another service of the UJS Portal, may have an established account that would be usable for PACFile. Any questions about the requirements of registration or accessibility to PACFile should be referred to the Administrative Office of Pennsylvania Courts.

The system permits a user to designate other users as proxies on individual cases. These proxies all receive notice of any filing in the case. It is anticipated that offices such as those of a district attorney or public defender would be able to establish general user accounts with particular attorneys assigned and their supervisors or back-ups listed as proxies in individual cases.

An attorney is responsible for the actions of other individuals whom the attorney authorizes to use the attorney’s account.

The local rule required by this rule must conform to the requirements of Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules).

A file in physical paper format is not required by this rule. If the local rule requires a file in physical paper format, the requirement may extend to all cases or only to certain specified cases. For example, the court may require files in physical paper format for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.

Upon submission of the electronic filing of a legal paper, the electronic filing system shall automatically send notice of the filing to all parties who have agreed to service by electronic transmission **[or whose e-mail address is included on an appearance or prior legal paper filed in connection with the case], see paragraph (D)**. If the electronic filing system sends notice of such filing, the party filing the legal paper only need serve those parties who are not served by the electronic

filing system. An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

Nothing in this rule is intended to prohibit the use of advanced communication technology to submit an application for search warrant as provided in Rule 203(A) or to submit an application for an arrest warrant using advanced communications technology as provided in Rule 513(B)(1).

In addition to the filing fees now applicable, an online payment convenience fee for use of the PACFile system may be imposed. *See* 204 Pa. Code § 207.3.

See Rule 114(B) providing for the clerk of courts to serve orders and court notices by facsimile transmission or other means.

Legal papers filed electronically should be consistent with the formatting requirements of Rule 575(C).

See Rule 576(B) governing service of motions and any written answers, and any notices or documents for which filing is required by facsimile transmission or other means.

See Rule 1002, for the applicability of this rule to summary cases filed in the Philadelphia Municipal Court.

Official Note: New Rule 576.1 adopted January 25, 2018, effective May 1, 2018; **amended August 3, 2020, effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining new Rule 576.1 providing for electronic filing published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).

Final Report regarding the August 3, 2020 amendments clarifying the definition of "legal papers" and correcting a Comment reference to the initiation of electronic service published with the Court's Order at 50 Pa.B. 4127 (August 15, 2020).

FINAL REPORT¹

Amendment to Pa.R.Crim.P. 576.1

TECHNICAL CORRECTION TO THE ELECTRONIC FILING RULE

On August 3, 2020, effective October 1, 2020, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 576.1 (Electronic Filing and Service of Legal Papers) to clarify provisions regarding the definition of "legal paper" in the rule and the description in the Comment to the rule regarding how individual participation in electronic filing is initiated. This issue was brought to the Committee's attention after the Juvenile Court Procedural Rules Committee ("Juvenile Rules Committee") had developed electronic filing rules that were subsequently adopted by the Court. These rules were based in large part on Rule 576.1 (Electronic Filing and Service of Legal Papers). The Juvenile Rules Committee's proposed rules, Pa.Rs.J.C.P. 205 and 1205, were published for comment and subsequently two concerns were identified from the Administrative Office of Pennsylvania Courts Information Technology department ("AOPC IT"). The first regarded the definition of the term "legal papers." Like Rule 576.1, the juvenile rules, as published, defined "legal papers" as a pleading or other submission to the court, including motions, answers,

notices, or other documents, of which filing is required or permitted, including orders, exhibits, and attachments, . . ."

It was suggested that inclusion of the word "exhibits" without modification could be interpreted to permit originals of exhibits to be filed electronically, as a means of evidence storage. It is the Committee's understanding that AOPC's policy is that the PACFile system is not to be used as storage system for evidentiary exhibits. It was reported to the Juvenile Rules Committee that certain jurisdictions' Family Courts were reducing documentary exhibits in juvenile cases to electronic form and storing them on the PACFile system. As a result of this comment, the Juvenile Rules Committee modified the definition of "legal paper" to include "copies of exhibits", but not the original exhibits offered into evidence. This revision was intended to reinforce the prohibition against using the PACFile system to be used for the storage of evidence. They also included in the list of documents that may not be filed electronically "exhibits offered into evidence, whether or not admitted, in a court proceeding. . ." These provisions were part of the rules that were adopted by the Court.

Because Rule 576.1 is identical in many ways with Pa.Rs.J.C.P. 205 and 1205, the Committee considered that it would be beneficial to modify Rule 576.1 consistent with the changes recommended by the Juvenile Rules Committee to their electronic filing rules. To that end, the phrase "copies of" has been added to the word "exhibits" in the definition of "legal papers" contained in Rule 576.1(C). Additionally, the phrase "exhibits offered into evidence. . ." has been added to the list of items that may not be filed electronically, consistent with the similar provision in Pa.Rs.J.C.P. 205 and 1205.

During the development of Pa.Rs.J.C.P. 205 and 1205, AOPC IT expressed a concern regarding Comment language describing the way in which individual participation in electronic filing is initiated. Participation requires that a user establish an account in the PACFile system. For *pro se* parties, there is a requirement for an authorization process. The establishment of an account constitutes consent to participate in electronic filing including receipt of service of filed documents. The extent to which this consent may include other cases the participant may also be involved with is subject to the authorization of AOPC.

While the rules generally provide that participation in electronic filing is voluntary (except in those counties that choose to make it mandatory), a party who has agreed to participate in electronic filing is permitted to file legal papers in a physical paper format. However, any party that agrees to participate in electronic filing must accept service electronically. Pa.Rs.J.C.P. 205 and 1205 contain language identical to paragraph (D)(3) of Rule 576.1 that permits a participating party to file either in a physical paper format or electronically. The Comment to Pa.Rs.J.C.P. 205 and 1205 contained the following language regarding participation which was identical to that contained in Rule 576.1:

Upon submission of the electronic filing of a legal paper, the electronic filing system shall automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose e-mail address is included on an appearance or prior legal paper filed in connection with the case.

AOPC IT believed that this language was inaccurate in that it suggest that electronic service may be initiated

¹ The Committee's Final Reports 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.

simply by including an email address in a previous case filing. As a result, the Juvenile Rules Committee recommended replacing the phrase “or whose e-mail address is included on an appearance or prior legal paper filed in connection with the case” with a cross-reference to the requirements for participation contained in paragraph (D) in order to eliminate the possibility of confusion.

Since the language in the Rule 576.1 Comment is identical to the language originally contained in the juvenile rules, the Committee concluded that it would be beneficial to make a similar change. This has been incorporated in the ninth paragraph of the Comment.

The Juvenile Rules Committee made one additional change from the published version regarding participation. This is a modification of paragraph (D)(2) of Pa.Rs.J.C.P. 205 and 1205 to include the additional phrase marked in bold and underlined below:

2) Establishment of an account by an attorney or authorization of a non-attorney in the system, **to the extent so authorized by the Administrative Office of Pennsylvania Courts pursuant to paragraph (D)(1)**, shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed on the system in any judicial district that permits electronic filing.

This phrase was added to the juvenile rule text at the request of AOPC IT to address an issue regarding dependency cases. The parties in a delinquency and a criminal proceeding don't differ much aside from the juvenile probation office being involved. However, dependency proceedings will involve parents and a separate dependency case is opened for each child. It appears that the intent of this additional language was to prevent permission in one case from bleeding over into other cases. Instead, authorization would be on a case-by-case basis for the parents. While the Committee concluded that this concern was not present in criminal cases, the language has been included in the changes to Rule 576.1 for consistency.

[Pa.B. Doc. No. 20-1097. Filed for public inspection August 14, 2020, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Amending Rules 127 and 1127 of the Pennsylvania Rules of Juvenile Court Procedure; No. 846 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 3rd day of August, 2020, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication in the interests of justice and efficient administration 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 Pennsylvania Rules of Juvenile Court Procedure 127 and 1127 are 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 October 1, 2020.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 127. Recording and Transcribing Juvenile Court Proceedings.

A. *Recording.* There shall be a recording of all juvenile delinquency proceedings, including proceedings conducted by juvenile court hearing officers, except as provided in Rule 242(B)(2).

B. *Transcribing.* **[Upon the motion of any party, upon its own motion, or as required by law, the court shall order the record to be transcribed] The transcript shall be requested in accordance with Pa.R.J.A. No. 4007.**

C. *Correcting or Modifying.* At any time before an appeal is taken, the **[court may correct or modify the record] transcript may be corrected, and the record may be corrected or modified,** in the same manner as is provided by **[Rule 1926 of the Pennsylvania Rules of Appellate Procedure] Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926, respectively.**

Comment

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. *See, e.g.,* Pa.R.A.P. 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). No substantive change in law is intended by this rule; rather it is intended to provide a mechanism to ensure appropriate recording and transcribing of court proceedings. Under Rule 800, 42 Pa.C.S. § 6336(c) was suspended only to the extent that proceedings are to be recorded, except as provided in Rule 242(B)(2). Full minutes are not recordings. This change was to effectuate effective appellate review.

The rule is intended to apply to all juvenile delinquency proceedings and to ensure all proceedings are recorded, including proceedings before juvenile court hearing officers, with the exception of detention hearings.

[Paragraph (B) of the rule is intended to authorize courts to require transcription of only such portions of the record, if any, as are needed to review claims of error] Paragraph (B) is not intended to preclude the court from ordering a transcript in the absence of a request.

Paragraph (C) provides a method for correcting **[and modifying]** transcripts **and correcting or modifying the record** before an appeal is taken by incorporating **Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926**, which otherwise **[applies] apply** only after an appeal has been taken. **[It is intended that the same standards and procedures apply both before and after appeal.]**

Official Note: Rule 127 adopted April 1, 2005, effective October 1, 2005. Amended April 6, 2017, effective September 1, 2017. **Amended August 3, 2020; effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 127 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 127 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 127 published with the Court's Order at 50 Pa.B. 4128 (August 15, 2020).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1127. Recording and Transcribing Juvenile Court Proceedings.

A. *Recording.* There shall be a recording of all dependency proceedings, including proceedings conducted by juvenile court hearing officers, except as provided in Rule 1242(B)(2).

B. *Transcribing.* **[Upon the motion of any party, upon its own motion, or as required by law, the court shall order the record to be transcribed] The transcript shall be requested in accordance with Pa.R.J.A. No. 4007.**

C. *Correcting or Modifying.* At any time before an appeal is taken, the **[court may correct or modify the record] transcript may be corrected, and the record may be corrected or modified,** in the same manner as is provided by **[Rule 1926 of the Pennsylvania Rules of Appellate Procedure] Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926, respectively.**

Comment

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. *In re J.H.*, 788 A.2d 1006 (Pa. Super. 2001). *See, e.g.*, Pa.R.A.P. 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). This rule is intended to provide a mechanism to ensure appropriate recording and transcribing of court proceedings. Pursuant to Rule 1800, 42 Pa.C.S. § 6336(c) was suspended only to the extent that all proceedings are to be recorded, except as provided in Rule 1242(B)(2). Full minutes are not recordings. This change was to effectuate effective appellate review.

The rule is intended to apply to all dependency proceedings and to ensure all proceedings are recorded, including proceedings before juvenile court hearing officers, except for shelter care hearings.

[Paragraph (B) of the rule is intended to authorize courts to require transcription of only such portions of the record, if any, as are needed to review claims of error] Paragraph (B) is not intended to preclude the court from ordering a transcript in the absence of a request.

Paragraph (C) provides a method for correcting **[and modifying]** transcripts **and correcting or modifying the record** before an appeal is taken by incorporating **Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926**, which otherwise **[applies]** apply only after an appeal has been taken. **[It is intended that the same standards and procedures apply both before and after appeal.]**

Official Note: Rule 1127 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017. **Amended August 3, 2020; effective October 1, 2020.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1127 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1127 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 1127 published with the Court's Order at 50 Pa.B. 4128 (August 15, 2020).

FINAL REPORT¹

Amendment of Pa.R.J.C.P. 127 and 1127

On August 3, 2020, the Supreme Court amended Rules of Juvenile Court Procedure 127 and 1127, concerning transcript requests and the correction or modification of transcripts and records, effective October 1, 2020.

On August 12, 2016, the Court amended the Uniform Rules Governing Court Reporting and Transcripts to bring them to their current form in Pa.R.J.A. No. 4001—4016. One aspect of those rules is that requests for full or partial transcripts may now be made using a form submitted to the district court administrator. *See* Pa.R.J.A. No. 4007(B). The Pennsylvania Rules of Juvenile Court Procedure contain provisions for requesting transcripts by motion of a party. *See* Pa.R.J.C.P. 127(B) & 1127(B). With Pa.R.J.A. No. 4007(B), motion practice to obtain a transcript is no longer necessary.

Paragraph (C), in both Pa.R.J.C.P. 127 and 1127, permitted correction or modification of the record prior to appeal, as provided by Pa.R.A.P. 1926. Effective October 1, 2019, Pa.R.A.P. 1922(c) was amended to allow the court and the parties to correct or supplement the transcript after an appeal has been taken. Accordingly, Pa.R.J.C.P. 127(C) and 1127(C) have been amended to permit correction of transcripts pursuant to Pa.R.A.P. 1922(c), together with permitted correction or modification of the record pursuant to Pa.R.A.P. 1926, prior to appeal. Additional revisions have also been incorporated to add consistency and improve the readability of the rules.

[Pa.B. Doc. No. 20-1098. Filed for public inspection August 14, 2020, 9:00 a.m.]

SUPREME COURT

Extending March 27, 2020, Order Regarding Timing and Means for Holding Hearings Before the Board of Law Examiners; No. 845 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 30th day of July, 2020, upon the recommendation of the Board of Law Examiners ("the Board"),

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.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Paragraphs 2 and 3 of the Court's Order of March 27, 2020, are extended and modified as follows:

2. Pennsylvania Bar Admission Rule 213(b)'s requirement that the Board hold a hearing within 30 days after receipt of an applicant's request for a hearing is suspended; any such hearing shall be held on or before December 31, 2020, or such other date as the Court may direct by further order.

3. In the discretion of the Board, and with the consent of the applicant, hearings pursuant to Pennsylvania Bar Admission Rule 213(b) may be held by telephone or videoconference through December 31, 2020, or such other date as the Court may direct by further order.

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

[Pa.B. Doc. No. 20-1099. Filed for public inspection August 14, 2020, 9:00 a.m.]
