

**TITLE 237**

**JUVENILE RULES**

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**Subpart A. DELINQUENCY MATTERS**

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**Source**

The provisions of this Subpart A issued April 1, 2005, effective October 1, 2005, with the exception of Chapter 1, Part D, Rules 185, 187, 190, 191, and 192, which shall be effective April 1, 2006, 35 Pa.B. 2214, unless otherwise noted.

**Note**

The Supreme Court of Pennsylvania has adopted the Rules of Juvenile Court Procedure. The Rules will secure uniformity and simplicity in procedure throughout juvenile courts in this Commonwealth.

**CHAPTER 1. GENERAL PROVISIONS**

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**Rule 100. Scope of Rules.**

A. These rules shall govern delinquency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to domestic relations proceedings and dependency proceedings.

B. Each of the courts exercising juvenile jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may adopt local rules of procedure in accordance with Rule 121.

**Comment**

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100—1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100—2099).

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Juvenile Court. *See* 42 Pa.C.S. §§ 6321 and 6302. These rules do not govern summary offense proceedings unless: 1) the summary offense(s) was committed with a delinquent act, as defined by 42 Pa.C.S. § 6302, during the same episode or transaction, as provided in 42 Pa.C.S. § 6303(a)(5), and has been properly alleged in a delinquency petition; or 2) a juvenile has failed to comply with a lawful sentence imposed for the summary offense(s), as provided in 42 Pa.C.S. § 6302.

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to delinquency proceedings commenced pursuant to Rule 200 and 42 Pa.C.S. § 6301 *et seq.*

The Rules of Criminal Procedure apply in cases involving juveniles in summary and court cases, as defined by Pa.R.Crim.P. 103, to the extent that the Juvenile Act does not apply to these proceedings. *See, e.g.*, Pa.R.Crim.P. 100 and 400. *See also* 42 Pa.C.S. §§ 6302 and 6303.

Each judicial district may promulgate local rules that follow the requirements of Rule 121 and Pa.R.J.A. 103.

**Official Note:** Rule 100 adopted April 1, 2005, effective October 1, 2005. Amended May 12, 2008, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 100 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

**Source**

The provisions of this Rule 100 amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360. Immediately preceding text appears at serial page (332713).

**Rule 101. Purpose and Construction.**

A. These rules are intended to provide for the just determination of every delinquency proceeding.

B. These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, and shall be construed to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

C. These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

D. To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.

**Official Note:** Rule 101 adopted April 1, 2005, effective October 1, 2005.

**Rule 102. Citing the Juvenile Court Procedural Rules.**

All juvenile court procedural rules adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968, shall be known as the Pennsylvania Rules of Juvenile Court Procedure and shall be cited as “Pa.R.J.C.P.”

**Comment**

The authority for rule-making is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution, which states in part, “[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts ... if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.”

**Official Note:** Rule 102 adopted April 1, 2005, effective October 1, 2005.

**Rule 105. Search Warrants.**

The Pennsylvania Rules of Criminal Procedure, Rules 200 through 211 and Rule 212(B), shall apply to search warrants in juvenile delinquency matters.

**Comment**

Search warrants for juvenile cases are not available for public inspection. The search warrant is to be treated as a juvenile record and the provisions of Rule 160(A) apply. Once a search warrant is executed, it is filed with the Court of Common Pleas and becomes a part of the official court record. Also, information contained in the affidavit of probable cause attached to the search warrant is a part of law enforcement records, which is also confidential. *See* 42 Pa.C.S. §§ 6307 & 6308 and Rule 160.

**Official Note:** Rule 105 adopted April 1, 2005, effective October 1, 2005. Amended August 11, 2016, effective October 1, 2016.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 105 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 46 Pa.B. 5533 (August 27, 2016).

**Source**

The provisions of this Rule 105 amended August 11, 2016, effective October 1, 2016, 46 Pa.B. 5533. Immediately preceding text appears at serial page (373796).

**PART A. BUSINESS OF COURTS**

**Rule 120. Definitions.**

**ADULT** is any person, other than a juvenile, eighteen years old or older.

**ADVANCED COMMUNICATION TECHNOLOGY** is any communication equipment that is used as a link between parties in physically separate locations and includes, but is not limited to, systems providing for two-way simultaneous audio-visual communication, closed circuit television, telephone and facsimile equipment, and electronic mail.

**AFFIANT** is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

**CLERK OF COURTS** is that official in each judicial district who has the responsibility and function under state law or local practice to maintain the official court record and docket, without regard to that person's official title. A party to the proceedings shall not function as the clerk of courts.

**COPY** is an exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means and includes, but is not limited to, copies reproduced by a photocopier, transmission using facsimile equipment, or by scanning into and printing out of a computer.

**COUNTY AGENCY** is the county children and youth social service agency established pursuant to the County Institution District Law, 62 P. S. § 2305 (1937), or established by the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P. S. §§ 2161 and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 P. S. § 901 *et seq.*

**COURT** is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include juvenile court hearing officers when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

**DESTROY** or **DESTRUCTION** is to erase permanently or the process of permanent erasure of an item leaving no trace or indication that it ever existed.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care. Detention facility shall not include any county jail or state prison.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases juvenile court action on a case.

EDUCATIONAL DECISION MAKER is a responsible adult appointed by the court to make decisions regarding a juvenile's education when the juvenile has no guardian or the court has limited the guardian's right to make such decisions for the juvenile. The educational decision maker acts as the juvenile's representative concerning all matters regarding education unless the court specifically limits the authority of the educational decision maker.

EXPUNGE or EXPUNGEMENT is to erase legally or the process of legal erasure of the juvenile record or the sealing of the record making it permanently unavailable to the public but where some information may be retained only by a juvenile justice agency for limited purposes as provided in Rule 173.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

HEALTH CARE is care related to any medical need including physical, mental, and dental health. This term is used in the broadest sense to include any type of health need.

INSPECTION is the official examination of a document or evidence as authorized by Rules 160 and 161.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

INTELLIGENCE INFORMATION is information concerning the habits, practices, characteristics, possessions, associations, or financial status of any juvenile compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute delinquent activity.

INVESTIGATIVE INFORMATION is the information assembled as result of the performance of any inquiry, formal or informal, into delinquent activity or an allegation of a delinquent act and may include *modus operandi* information.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, an arraignment court magistrate, or a Magisterial District Judge.

JUDGE is a judge of the Court of Common Pleas.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have, upon or after the juvenile's tenth birthday, 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.

JUVENILE COURT HEARING OFFICER is an attorney with delegated authority to preside over and make recommendations for delinquency matters.

Juvenile court hearing officer has the same meaning as master as used pursuant to 42 Pa.C.S. § 6301 *et seq.*

JUVENILE JUSTICE AGENCY is any court, including the minor judiciary, or any other governmental agency specifically authorized to perform the administration of juvenile justice as its function. Juvenile justice agencies include, but are not limited to, organized State and municipal police departments, probation agencies, district or prosecuting attorneys, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts, or any such persons, agencies, or departments as determined by the court to be juvenile justice agencies.

JUVENILE PROBATION FILES are those records formally maintained by the juvenile probation office and its officers, including, but not limited to, copies of information contained in the official juvenile court record; social studies; school records and reports; health evaluations, screenings, assessments, records, and reports, including psychological and psychiatric evaluations and reports, drug and alcohol testing, evaluations, and reports; placement reports and documents; employment records; and probation reports.

JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

JUVENILE RECORD is the information collected and retained by juvenile justice agencies concerning juveniles, and arising from the initiation of delinquency proceedings, consisting of identifiable descriptions, dates and notations of arrest, written allegations, petitions, other formal charging documents, official court records, and any dispositions arising from those records. The juvenile record does not include intelligence information or investigative information that is maintained separately by law enforcement agencies.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

MINOR is any person, other than a juvenile, under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances

that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation, or program description, to receive delinquent juveniles or which otherwise provides treatment to juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure. Placement facility shall not include any county jail or state prison.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

SERVICE PROVIDER is any entity that provides services to juveniles pursuant to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*

SOCIAL STUDY is a pre-dispositional report, which summarizes important information concerning the juvenile to aid the court in determining the disposition.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

#### Comment

A party to the proceedings is not to function as the clerk of courts. Because the clerk of courts maintains the official court record, this person is to remain neutral and unbiased by having no personal connection to the proceedings.

"Clerk of courts" is the person given the power under state law or local practice to maintain the official court record. *See* Rule 166 for additional responsibilities of the clerk of courts.

The county institution districts, as used in the definition of "county agency," in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P. S. § 2161. It is the county commissioners' duties in the counties of those classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. *See* 16 P. S. § 2168.



Under the term “court,” to determine if juvenile court hearing officers are permitted to hear cases, see Rule 187. *See* Rule 210 for the power of magisterial district judges to issue arrest warrants.

“Destroy” and “expunge” do not have the same meaning. “Destroy” is to erase *permanently*, whereas “expunge” is to erase *legally* or seal the record. Unless authorized by rule or otherwise provided by law, no person is to have access to expunged items. Only in extraordinary circumstances would a record be opened by a court order, such as to retrieve specific information not clarified or documented correctly pursuant to Rule 173. However, specific information from juvenile records could be retained for limited purposes. *See* Rule 173 and its Comment.

“Detention facility” is not to include any county jail, state prison, penal institution, or other facility used primarily to detain adults who have not been released on bail and who are alleged to have committed a criminal offense. However, nothing in this rule precludes the use of a county jail or state prison for minors when criminal proceedings have been commenced. For example, a minor may be detained in a county jail for a direct-file case when it is alleged a criminal offense has been committed.

The term “disposition” includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case “with prejudice” prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

An “educational decision maker” is to be appointed by court order. The scope of the appointment is limited to decisions regarding the juvenile’s education. The educational decision maker acts as the juvenile’s spokesperson on all matters regarding education unless the court specifically limits the authority of the educational decision maker. The educational decision maker holds educational and privacy rights as the juvenile’s guardian for purposes of 20 U.S.C. § 1232g and 34 C.F.R. § 99.3. *See also* Rule 147(C) for the duties and responsibilities of an educational decision maker.

“Health care” includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the juvenile.

The term “intelligence information” may include information on prescribing, dispensing, selling, obtaining, or using a controlled substance as defined in Controlled Substance, Drug, Device and Cosmetic Act, 35 P. S. § 780-101 *et seq.*

The term “judge” refers to a judge of the Court of Common Pleas, including senior judges when they are properly certified. It does not include juvenile court hearing officers or magisterial district judges. Magisterial district judges, however, are included within the definition of “court” when they have the power to issue arrest warrants pursuant to Rule 210. *See* discussion *supra* under definition of “court.” Arrest warrants are distinguished from bench warrants pursuant to Rules 140 and 141. Only judges of the Court of Common Pleas may issue bench warrants if the juvenile: 1) fails to appear at a hearing; or 2) absconds from the court’s supervision.

A “juvenile” must be at least ten years old and must not have reached the age of eighteen at the time of the commission of a delinquent act for a delinquency petition to be filed. If a child is under the age of ten at the time of the commission of a delinquent act, a dependency petition may be filed pursuant to Pa.R.J.C.P. 1100 *et seq.*, and the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* “Juvenile” not only includes any person who is at least ten years of age and under twenty-one years of age if the commission of the alleged delinquent act occurred prior to the juvenile’s eighteenth birthday, but also includes any person who is under the juvenile court’s jurisdiction until termination of court supervision pursuant to Rules 631 and 632, which is to end no later than the juvenile’s twenty-first birthday.

A “juvenile probation officer” is an officer of the court. “Properly commissioned” as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. *See also* 23 Pa.C.S. § 6315.

“Juvenile records,” as used in these Rules, do not include investigative and intelligence information kept separately by law enforcement agencies or the attorney for the Commonwealth. Those documents kept separately by law enforcement agencies are not subject to Rules 170 and 172. *See* 18 Pa.C.S. §§ 9105 & 9106. *See also* Rule 173 for retention of specific information from juvenile records.

Neither the definition of “law enforcement officer” nor the definition of “police officer” gives the power of arrest to any person who is not otherwise given that power by law.

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation files unless they are made a part of the official court record by being filed with the clerk of courts.

A “petition” and a “written allegation” are two separate documents and serve two distinct functions. A “written allegation” is the document that initiates juvenile delinquency proceedings. Usually, the “written allegation” will be submitted by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a “probable cause affidavit,” “complaint,” “police paper,” “charge form,” “allegation of delinquency,” or the like. Once this document is submitted, a preliminary determination of the juvenile court’s jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

“Placement facility” is not to include any county jail, state prison, penal institution, or other facility used primarily for the execution of sentences of adults convicted of a crime. *See* 42 Pa.C.S. § 6352(b) for disposition of a delinquent juvenile.

A “pre-dispositional report” or “social study” includes, but is not limited to, the compilation of the juvenile’s family history and demographics; school record and educational issues; job history; talents and extra-curricular activities; prior delinquency or dependency involvement with the court; health care issues; psychological or psychiatric history, examinations, and reports; drug and alcohol examinations, treatments, and reports; needs regarding disability; and any other relevant information concerning the juvenile to help the court understand any issues relating to the juvenile.

The definition of “proceeding” includes all formal stages when a written allegation has been submitted, including all subsequent proceedings until supervision is terminated pursuant to Rules 631 or 632. A hearing on a motion alleging probation violations is one of these subsequent stages. *See* Rule 612 for revocation of probation.

For definition of “delinquent act,” see 42 Pa.C.S. § 6302.

**Official Note:** Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended September 7, 2011, effective immediately. Amended September 20, 2011, effective November 1, 2011. Amended May 21, 2012, effective August 1, 2012. Amended June 24, 2013, effective January 1, 2014. Amended June 28, 2013, effective immediately.

Amended March 10, 2014, effective immediately. Amended July 28, 2014, effective September 29, 2014. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendment to Rule 120 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. 5062 (September 24, 2011).

Final Report explaining the amendments to Rule 120 with the Court's Order at 41 Pa.B. 5355 (October 8, 2011).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 43 Pa.B. 3941 (July 13, 2013).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 44 Pa.B. 1868 (March 29, 2014).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 120 amended December 30, 2005, effective immediately, 36 Pa.B. 186; amended March 23, 2007, effective August 1, 2007, 37 Pa.B. 1483; amended February 28, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended July 28, 2009, effective immediately, 39 Pa.B. 4743; amended December 24, 2009, effective immediately, 40 Pa.B. 222; 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 20, 2011, effective July 1, 2011, 41 Pa.B. 2839; amended September 7, 2011, effective immediately, 41 Pa.B. 5062; amended September 20, 2011, effective November 1, 2011, 41 Pa.B. 5355; amended May 21, 2012, effective August 1, 2012, 42 Pa.B. 3203; amended June 24, 2013, effective January 1, 2014, 43 Pa.B. 3941; amended June 28, 2013, effective immediately, 43 Pa.B. 3938; amended March 10, 2014, effective immediately, 44 Pa.B. 1868; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (373443) to (373449).

**Rule 121. Local Rules.**

The requirements for the promulgation and amendment of local procedural rules for delinquency proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

**Comment**

Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa.R.J.C.P. 121 for the promulgation and amendment of local procedural rules for delinquency proceedings were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of Pa.R.J.C.P. 121 prior to rescission of this rule remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

**Official Note:** Rule 121 adopted April 1, 2005, effective October 1, 2005. Amended December 12, 2008, effective immediately. Amended January 11, 2010, effective March 1, 2010. Rescinded and replaced June 28, 2016, effective August 1, 2016.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 121 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 38 Pa.B. 7080 (December 27, 2008).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 40 Pa.B. 518 (January 23, 2010).

Final Report explaining the rescission and replacement of Rule 121 published with the Court's Order at 46 Pa.B. 3808 (July 16, 2016).

**Source**

The provisions of this Rule 121 amended December 12, 2008, effective immediately, 38 Pa.B. 7080; amended January 11, 2010, effective March 1, 2010, 40 Pa.B. 518; rescinded and replaced June 28, 2016, effective August 1, 2016, 46 Pa.B. 3808. Immediately preceding text appears at serial pages (347937) to (347940).

**Rule 122. Continuances.**

A. *Generally.* In the interests of justice, the court may grant a continuance on its own motion or the motion of either party. On the record, the court shall identify the moving party and state its reasons for granting or denying the continuance.

B. *Notice and rescheduling.* If a continuance is granted, all persons summoned to appear shall be notified of the date, place, and time of the rescheduled hearing.

**Comment**

A party seeking a continuance should notify the court and opposing counsel as soon as possible. Whenever possible, given the time constraints, notice should be written.

Under paragraph (B), if a person is summoned to appear and the case is continued, the party is presumed to be under the scope of the original summons and a new summons is not necessary.

*See* Rule 344 and 345 for motion procedures.

**Official Note:** Rule 122 adopted April 1, 2005, effective October 1, 2005.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 122 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

**Rule 123. Subpoenas.**

- A. *Contents.* A subpoena in a delinquency case shall:
- 1) order the witness named to appear before the court at the date, time, and place specified;
  - 2) order the witness to bring any items identified or described;
  - 3) state on whose behalf the witness is being ordered to testify; and
  - 4) state the identity, address, and phone number of the person who applied for the subpoena.
- B. *Service.*
- 1) *Method of Service.* A subpoena shall be served upon a witness by:
    - a) in-person delivery;
    - b) registered or certified mail, return receipt requested, or
    - c) by first class mail.
  - 2) *Proof of Service.* The following shall be prima facie evidence of service of the subpoena:
    - a) A completed return receipt;
    - b) Hand signed receipt of personal delivery; or
    - c) Affidavit of in-person delivery signed by a process server.
- C. *Duration.* A subpoena shall remain in force until the end of a proceeding.
- D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 140.
- E. *Parental notification.*
- 1) *Generally.* If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.
    - a) notified that the minor has been subpoenaed; and
    - b) provided with a copy of the subpoena.
  - 2) *Exception.* Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained *ex parte*.

**Comment**

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. *See* Rule 140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. *See In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishing juveniles for contempt.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

**Official Note:** Rule 123 adopted April 1, 2005, effective October 1, 2005. Amended February 26, 2008, effective June 1, 2008. Amended May 12, 2008, effective immediately. Amended September 16, 2009, effectively immediately.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 123 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 123 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 123 published with the Court's Order at 39 Pa.B. 5544 (September 26, 2009).

**Source**

The provisions of this Rule 123 amended February 26, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended September 16, 2009, effective immediately, 39 Pa.B. 5544. Immediately preceding text appears at serial pages (342282) and (335179).

**Rule 124. Summons and Notice.**

- A) *Requirements of the summons.* The summons shall:
- 1) be in writing;
  - 2) set forth the date, time, and place of the hearing;
  - 3) instruct the juvenile about the juvenile's right to counsel, and if the juvenile cannot afford counsel, the right to assigned counsel; and
  - 4) give a warning stating that the failure to appear for the hearing may result in arrest.
- B) *Method of Service.* Summons or notice shall be served:
- 1) in-person; or
  - 2) by first-class mail.
- C) *Bench Warrant.* If any summoned person fails to appear for the hearing and the judge finds that sufficient notice was given, the court may issue a bench warrant pursuant to Rule 140.

**Comment**

See Rules 360(A), 500(A), and 600(A) for service of the guardian for a proceeding. Nothing in these rules gives the guardians of juveniles legal standing in the matter being heard by the court or creates a right for juveniles to have their guardians present. See 42 Pa.C.S. § 6310(e). See Rule 140 for procedures on bench warrants.

**Official Note:** Rule 124 adopted April 1, 2005, effective October 1, 2005; amended February 26, 2008, effective June 1, 2008.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 124 published with the Court's Order at 38 Pa.B. 1145 (March 8, 2008).

**Source**

The provisions of this Rule 124 amended February 28, 2008, effective June 1, 2008, 38 Pa.B. 1142. Immediately preceding text appears at serial pages (310555) to (310556).

**Rule 125. Habeas Corpus.**

A. The petition for writ of habeas corpus challenging the legality of the juvenile's detention or placement shall be filed with the clerk of courts of the judicial district in which the order directing the juvenile's detention or placement was entered.

B. The clerk of courts shall forward the petition immediately to the presiding juvenile court judge for review and shall identify the petition as time sensitive.

**Comment**

*See* Rules 344 and 345 for motion procedures.

*See In re Crouse*, 4 Whart. 9 (Pa. 1839).

**Official Note:** Rule 125 adopted April 1, 2005, effective October 1, 2005.

**Rule 126. Defects in Form, Content, or Procedure.**

A juvenile shall not be discharged, nor shall a case be dismissed, because of a defect in the form or content of the petition, written allegation, or warrant, or a defect in the procedures of these rules, unless the juvenile raises the defect prior to the commencement of the adjudicatory hearing, and the defect is prejudicial to the rights of the juvenile.

**Comment**

Nothing in this rule prevents the amendment of a written allegation or petition or the filing of a new written allegation, a new petition, or the reissuance of process.

*See* Rule 334 for amendment of a petition.

**Official Note:** Rule 126 adopted April 1, 2005, effective October 1, 2005.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 126 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

**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.* 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 transcript may be corrected, and the record may be corrected or modified, in the same manner as is provided by 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) is not intended to preclude the court from ordering a transcript in the absence of a request.

Paragraph (C) provides a method for correcting 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 apply only after an appeal has been taken.

**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).

**Source**

The provisions of this Rule 127 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended August 3, 2020, effective October 1, 2020, 50 Pa.B. 4128. Immediately preceding text appears at serial pages (387329) to (387330).

**Rule 128. Presence at Proceedings.**

A. *General rule.* The juvenile shall be present at all proceedings unless the exceptions of paragraph (B) apply.

B. *Exceptions.*

1) *Absence from proceedings.* The court may proceed with a hearing in the absence of the juvenile if the court finds that the juvenile was properly subpoenaed or summoned to appear and has willfully failed to attend, and the juvenile's attorney is present.

2) *Exclusion from proceedings.* The juvenile may be excluded from a proceeding only for good cause shown. If the juvenile is so excluded, the juvenile's attorney shall be present.

C. *Advanced communication technology.* A juvenile may appear utilizing advanced communication technology pursuant to Rule 129.

D. *Order appearance.* The court may order the guardian to bring the juvenile and to attend the proceeding.



**Comment**

The court has discretion whether to proceed if the court finds that the juvenile received proper notice of the hearing and has willfully failed to appear.

Pursuant to paragraph (B)(2), a juvenile may be excluded only for good cause shown. For example, a juvenile may be removed from the courtroom after repeated warnings for disruptive behavior.

Requiring the juvenile's attorney to be present protects the juvenile's interest if the proceeding is conducted in the juvenile's absence. However, unless good cause is shown, a juvenile should appear in court.

*Cf. Commonwealth v. Ford*, 650 A.2d 433 (Pa. 1994); *Commonwealth v. Sullens*, 619 A.2d 1349 (Pa. 1992).

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

**Official Note:** Rule 128 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 128 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 128 published with the Court's Order at 41 Pa.B. 2327 (May 7, 2011).

**Source**

The provisions of this Rule 128 amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial page (332722).

**Rule 129. Appearance by Advanced Communication Technology.***A. Generally.*

1) The juvenile or a witness may appear at a proceeding by utilizing advanced communication technology pursuant to Rule 140, 141, 242, 394, 406, 512, and 610.

2) At a minimum, the juvenile shall appear in person at least once a year.

*B. Counsel.*

1) The juvenile shall be permitted to confer with counsel before entering into an agreement to appear utilizing advanced communication technology.

2) The juvenile shall be permitted to communicate fully and confidentially with counsel immediately prior to and during the proceeding.

**Comment**

Paragraph (A) requires that every juvenile is to appear in person at least once a year. This includes juveniles who are not removed from their homes but who are under the court's supervision.

This rule is not intended to compel the use of advanced communication technology but rather permit appearance by telephone or by a system providing two-way simultaneous audio-visual communication. Advanced communication technology may be utilized for the convenience of witnesses; efficient use of resources; or when a party or witness has an illness, is incarcerated, or is otherwise in a

remote location. *See* Rules 140, 141, 242, 394, 406, 512, and 610 for specific requirements for the use of advanced communication technology.

Additionally, special care is to be taken when utilizing advanced communication technology to prevent disclosure of sensitive information to unauthorized persons or entities and to prevent a breach of confidentiality between the juvenile and the juvenile's attorney.

Pursuant to paragraph (B)(1), the juvenile is to be permitted to confer with counsel prior to agreeing to a proceeding utilizing advanced communication technology. Pursuant to paragraph (B)(2), the juvenile is permitted to confer with counsel privately prior to and during the proceedings. The juvenile is to be afforded all the same rights as if the hearing was held with all parties present in the courtroom.

**Official Note:** Rule 129 adopted April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 129 published with the Court's Order at 41 Pa.B. 2327 (May 7, 2011).

**Source**

The provisions of this Rule 129 adopted April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial page (332722).

**Rule 130. Court Fees Prohibited for Advanced Communication Technology.**

The court shall not impose any fees upon the juvenile or witness for utilizing advanced communication technology.

**Comment**

*See* March 13, 2002 Order of the Supreme Court of Pennsylvania (No. 241 Judicial Administration; Doc. No. 1) which provides that no fees shall be imposed against a defendant in a criminal proceeding for the utilization of advanced communication technology.

**Official Note:** Rule 130 adopted April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 130 published with the Court's Order at 41 Pa.B. 2327 (May 7, 2011).

**Source**

The provisions of this Rule 130 adopted April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial page (332722).

**Rule 131. Guardian's Presence.**

The court may, when the court determines that it is in the best interest of the juvenile, order a guardian of a juvenile to be present at and to bring the juvenile to any proceeding. The court shall insure timely notice of the proceeding to the guardian.

**Comment**

Nothing in these rules gives the guardian legal standing in the matter being heard by the court or creates a right of a juvenile to have his or her guardian present. *See* 42 Pa.C.S. §§ 6310, 6335(b), 6336.1.

**Official Note:** Rule 131 adopted April 1, 2005, effective October 1, 2005.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 131 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

**Rule 132. Victim's Presence.**

The victim, counsel for the victim, and other persons accompanying a victim for his or her assistance shall be permitted to attend the proceedings, except as provided in Rule 311.

**Comment**

*See* 42 Pa.C.S. § 6336(d) and 18 P.S. § 11.201 et seq.

The court has discretion to maintain confidentiality of mental health, medical, or juvenile institutional documents or juvenile probation reports. *See* 42 Pa.C.S. § 6336(f).

**Official Note:** Rule 132 adopted April 1, 2005, effective October 1, 2005.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 132 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

**Rule 135. Captions.**

All court documents and orders shall contain a caption that includes the following:

- 1) "In the interest of (the juvenile's name);"
- 2) the juvenile's case docket number; and
- 3) the name of the court.

**Official Note:** Rule 135 adopted April 1, 2005, effective October 1, 2005.

**Rule 136. Ex Parte Communication.**

A) Unless otherwise authorized by law, no person shall communicate with the court in any way regarding matters pending before the court unless all parties:

- 1) are present or have been copied if the communication is written or in electronic form; or
- 2) have waived their presence or right to receive the communication.

B) If the court receives any *ex parte* communication, the court shall inform all parties of the communication and its content.

**Comment**

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. *See* Rules of Professional Conduct Rule 3.5(b). Judges are bound by the Code of Judicial Conduct. *See* Code of Judicial Conduct Rule 2.9.

Attorneys and judges understand the impropriety of *ex parte* communications regarding matters pending before the court but many participants, such as probation officers and service providers, are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Administrative matters are not considered *ex parte* communications.

**Official Note:** Rule 136 adopted April 29, 2011, effective July 1, 2011. Amended April 29, 2016, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 136 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendment of Rule 136 published with the Court's Order at 46 Pa.B. 2411 (May 14, 2016).

**Source**

The provisions of this Rule 136 adopted April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended April 29, 2016, effective immediately, 46 Pa.B. 2411. Immediately preceding text appears at serial page (357275).

**Rule 137. Public Discussion by Court Personnel of Pending Matters.**

All court personnel including, among others, juvenile probation officers, court clerks, bailiffs, tipstiffs, sheriffs, and court stenographers, are prohibited from disclosing to any person, without authorization from the court, information relating to a pending juvenile case that is not part of the court record otherwise available to the public or not part of the record in an open proceeding. This rule specifically prohibits the divulgence of information concerning arguments and proceedings that are closed proceedings, held in chambers, or otherwise outside the presence of the public.

**Official Note:** Rule 130 adopted April 1, 2005, effective October 1, 2005. Renumbered Rule 137 and amended April 21, 2011, effective July 1, 2011.

*Committee Explanatory Report:*

Final Report explaining the renumbering of 130 to 137 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

**Source**

The provisions of this Rule 137 renumbered from Rule 130 and amended April 21, 2011, effective July 1, 2011. Immediately preceding text appears at serial page (332722).

**Rule 138. Citation of Authorities.**

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

**Comment**

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

**Source**

The provisions of this Rule 138 added February 13, 2023, effective April 1, 2023, 53 Pa.B. 1055.

**Rule 139. Use of Restraints on the Juvenile.**

Restraints shall be removed prior to the commencement of a proceeding unless the court determines on the record, after providing the juvenile an opportunity to be heard, that they are necessary to prevent:

- 1) physical harm to the juvenile or another person;
- 2) disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or
- 3) the juvenile, evidenced by an escape history or other relevant factors, from fleeing the courtroom.



**Comment**

The use of any restraints, such as handcuffs, chains, shackles, irons, or straitjackets, is highly discouraged. The routine use of restraints on juveniles is a practice contrary to the philosophy of balanced and restorative justice and undermines the goals of providing treatment, supervision, and rehabilitation to juveniles. Therefore, restraints should not be used in most instances. However, there are some circumstances when juveniles need to be restrained to protect themselves and others and to maintain security in the courtroom. *See* 42 Pa.C.S. § 6301 for purposes of the Juvenile Act.

**Official Note:** Rule 139 adopted April 26, 2011, effective June 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 139 published with the Court's Order at 41 Pa.B. 2429 (May 14, 2011).

**Source**

The provisions of this Rule 139 adopted April 26, 2011, effective June 1, 2011, 41 Pa.B. 2429.

**Rule 140. Bench Warrants for Failure to Appear at Hearings.****A. Issuance of warrant.**

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

**B. Entry of warrant information.** Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

**C. Juvenile.**1) *Where to take the juvenile.*

a) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall be taken without unnecessary delay to the judge who issued the warrant or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

b) If the juvenile is not brought before a judge or juvenile court hearing officer, the juvenile shall be released unless:

i) the warrant specifically orders detention of the juvenile; or

ii) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

c) If a juvenile is detained, the juvenile shall be detained in a detention facility or other facility designated in the bench warrant by the judge pending a hearing.

2) *Prompt hearing.*

a) If a juvenile is detained, the juvenile shall be brought before the judge who issued the warrant, a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants, or an out-of-county judge or juvenile court hearing officer pursuant to paragraph (C)(4) within seventy-two hours.

b) If the juvenile is not brought before a judge or juvenile court hearing officer within this time, the juvenile shall be released.

3) *Notification of guardian.* If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the juvenile shall be made immediately.

c) If transportation cannot be arranged immediately, then the juvenile shall be taken without unnecessary delay to a judge or juvenile court hearing officer of the county where the juvenile is found.

d) The judge or juvenile court hearing officer will identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order or recommend that arrangements be made to transport the juvenile to the county of issuance.

5) *Time requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

D. *Witnesses.*

1) *Where to take the witness.*

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge or juvenile court hearing officer, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order or the juvenile court hearing officer may recommend detention of the witness pending a hearing.

1) *Minor.* If a detained witness is a minor, the witness shall be detained in a detention facility.

2) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt hearing.*

a) If a witness is detained pursuant to paragraph (D)(1)(c) or brought back to the county of issuance pursuant to paragraph (D)(4)(f), the witness shall be brought before the judge or juvenile court hearing officer by the next business day.

b) If the witness is not brought before a judge or juvenile court hearing officer within this time, the witness shall be released.

3) *Notification of guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.



4) *Out-of-county custody.*

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge or juvenile court hearing officer of the county where the witness is found.

c) The judge or juvenile court hearing officer will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order or recommend that arrangements be made to transport the witness to the county of issuance.

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) *Minor.* If the witness is a minor, the witness may be detained in an out-of-county detention facility.

ii) *Adult.* If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

E. *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.

F. *Return & execution of the warrant for juveniles and witnesses.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the juvenile probation officer or other court designee shall remove or request that a law enforcement officer remove the bench warrant in all appropriate registries.

**Comment**

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. This rule, however, does not prohibit probation from recommending detention for a juvenile. The normal rules of procedure in these rules are to be followed if a juvenile is detained. *See* Chapter Two, Part D.

Pursuant to paragraph (C), the “juvenile” is the subject of the delinquency proceedings. When a witness is a child, the witness is referred to as a “minor.” This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. *See* paragraph (C) for alleged delinquents and paragraph (D) for witnesses. *See also* Rule 120 for definition of “juvenile” and “minor.”

Pursuant to paragraph (C)(1)(a), the juvenile is to be taken immediately to the judge who issued the bench warrant or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, the adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the juvenile. If taken into custody on the same day, the juvenile is to be brought immediately before the court for the hearing. However, pursuant to paragraph (C)(1)(b), if a bench warrant specifically provides that the juvenile may be detained in a detention facility, or there are circumstances apparent at the time of the surrender or apprehension that merit detention of the juvenile, the juvenile may be detained without having to be brought before the judge or juvenile court hearing officer until a hearing within seventy-two hours under paragraph (C)(2)(a). The juvenile is not to languish in a detention facility. Pursuant to this paragraph, if a hearing is not held promptly, the juvenile is to be released. *See* paragraph (C)(2)(b).

At the seventy-two hour hearing, the judge or juvenile court hearing officer may determine that the juvenile willfully failed to appear and may continue the detention of the juvenile until the rescheduled hearing. If the juvenile is detained, the rescheduled hearing is governed by the time requirements provided elsewhere in these rules. *See* Rules 240, 391, 404, 510 and 605.

Under paragraphs (C)(2) and (C)(4), a juvenile taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the juvenile is found. *See* Rule 240(C).

Pursuant to paragraph (C)(4), the juvenile may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (C)(5), the time requirements of all other rules are to apply to juveniles who are detained. *See, e.g.*, Rules 240, 391, 404, 510, and 605.

Pursuant to paragraph (D)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, an adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the witness. The witness is to be brought immediately before the court for the hearing. However, pursuant to paragraph (D)(1)(b), if the judge or juvenile court hearing officer is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (D)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (D)(2) is to be held by the next business day or the witness is to be released. *See* paragraph (D)(2)(b).

At the hearing pursuant to paragraph (D)(2)(a), the judge or juvenile court hearing officer may determine that the witness willfully failed to appear and find or recommend that the witness is in contempt of court, or that the witness is in need of protective custody. If the judge or juvenile court hearing officer has made one of these findings, the judge may continue the detention of the witness until the rescheduled hearing. The judge or juvenile court hearing officer should schedule the hearing as soon as possible. In any event, if the witness is detained, the rescheduled hearing must be conducted by the specific time requirements provided elsewhere in these rules. *See* Rules 240, 391, 404, 510 and 605.

Pursuant to paragraph (D)(4)(b), a witness is to be brought before an out-of-county judge or juvenile court hearing officer by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the court by the next business day. *See* paragraph (D)(4)(f).

Pursuant to paragraph (F)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge or juvenile court hearing officer designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (F)(3).

Pursuant to paragraph (F)(4), the bench warrant is to be vacated after the return of the warrant is executed. “Vacated” is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (F)(5), once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

*See* 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.

If there is a bench warrant issued, juvenile court hearing officers may hear cases in which the petition alleges only misdemeanors. *See* Rule 187(A)(2) and (3). The purpose of the hearing for juveniles pursuant to paragraph (C)(2)(a) or the hearing for witnesses pursuant to paragraph (D)(2)(a) is to determine if the juvenile or witness willfully failed to appear and if continued detention is necessary.

Pursuant to Rule 191, the juvenile court hearing officer is to submit his or her findings and recommendation to the court. In bench warrant cases, the juvenile court hearing officer should immediately take his or her recommendation to the judge so the judge can make the final determination of whether the juvenile or witness should be released. *See* Rule 191(D).

If the findings and recommendation are not taken immediately to the judge, the juvenile court hearing officer is to submit the recommendation within one business day. *See* Rule 191(C).

**Official Note:** Rule 140 adopted February 26, 2008, effective June 1, 2008. Amended September 30, 2009, effective January 1, 2010. Amended April 21, 2011, effective July 1, 2011. Amended September 20, 2011, effective November 1, 2011. Amended April 6, 2017, effective September 1, 2017. Amended May 4, 2018, effective July 1, 2018.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 140 published with the Court’s Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendments to Rule 140 with the Court’s Order at 39 Pa.B. 6029 (October 17, 2009).

Final Report explaining the amendments to Rule 140 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 140 with the Court’s Order at 41 Pa.B. 5355 (October 8, 2011).

Final Report explaining the amendments to Rule 140 published with the Court’s Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 140 published with the Court’s Order at 48 Pa.B. 2939 (May 19, 2018).

**Source**

The provisions of this Rule 140 adopted February 26, 2008, effective June 1, 2008, 38 Pa.B. 1142; amended September 30, 2009, effective January 1, 2010, 39 Pa.B. 6029; amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319; amended September 20, 2011, effective November 1, 2011, 41 Pa.B. 5355; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended May 4, 2018, effective July 1, 2018, 48 Pa.B. 2939. Immediately preceding text appears at serial pages (387335) to (387339).

**Rule 141. Bench Warrants for Absconders.**

A. *Issuance of warrant.* The juvenile probation officer shall immediately notify the court upon notification or recognition that a juvenile has absconded from the supervision of the court. The court may issue a bench warrant for the juvenile.

B. *Entry of warrant information.* Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

C. *Where to take the juvenile.* The juvenile shall be detained in a detention facility or other facility designated in the bench warrant pending a hearing pursuant to paragraph (D).

D. *Prompt hearing.*

1) The juvenile shall have a detention hearing within seventy-two hours of the placement in detention.

2) A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

E. *Time requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

F. *Notification of guardian.* When the juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

G. *Return and execution of the warrant.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the court shall order the probation officer or other court designee to remove or request that a law enforcement officer remove the warrant from all appropriate registries.

**Comment**

Pursuant to paragraph (A), when a juvenile: 1) escapes from a placement facility, detention facility, shelter care facility, foster-care, or other court-ordered program or placement; 2) fails to report to juvenile probation; 3) cannot be located by juvenile probation; or 4) otherwise leaves the jurisdiction of the court, the court may issue a warrant for the juvenile.

Pursuant to paragraph (B), the court is to notify the juvenile probation officer or another court designee to enter or request that a law enforcement officer enter the bench warrant in all appropriate registries, such as JNET, CLEAN, PCIC, and NCIC.

Pursuant to paragraph (C), the juvenile is to be detained in a detention facility or any other facility designated in the bench warrant. If a juvenile is taken into custody pursuant to the bench warrant in a county other than the county of issuance, the juvenile is to be transported back to the county of issuance prior to the seventy-two-hour detention hearing mandated pursuant to paragraph (D)(1).

Pursuant to paragraphs (D)(1) and (E), the time requirements of the Rules of Juvenile Court Procedure are to apply, including the seventy-two hour detention hearing. *See, e.g.,* Rules 240, 391, 404, 510, and 605.

The arresting officer is to notify the juvenile's guardian of the arrest, the reasons for the arrest, and the juvenile's whereabouts under paragraph (F).

Pursuant to paragraph (G)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. *See* paragraph (G)(3).

Pursuant to paragraph (G)(4), the bench warrant is to be vacated after the return of the warrant is executed. "Vacated" is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (G)(5), once the warrant is vacated, the juvenile probation officer or other court designee is to remove the warrant or request that a law enforcement officer remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

**Official Note:** Rule 141 adopted September 30, 2009, effective January 1, 2010. Amended April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 141 published with the Court's Order at 39 Pa.B. 6029 (October 17, 2009).

Final Report explaining the amendments to Rule 141 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

**Source**

The provisions of this Rule 141 adopted September 30, 2009, effective January 1, 2010, 39 Pa.B. 6029; amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial pages (346243) to (346245).

**PART B(1). EDUCATION AND HEALTH OF JUVENILE**

**Rule 147. Educational Decision Maker.**

A. *Generally.* At any proceeding or upon motion, the court shall appoint an educational decision maker for the juvenile if it determines that:

- 1) the juvenile has no guardian; or
- 2) the court, after notice to the guardian and an opportunity for the guardian to be heard, has made a determination that it is in the juvenile's best interest to limit the guardian's right to make decisions regarding the juvenile's education.

B. *Notice of hearings.* The educational decision maker shall receive notice of all proceedings.

C. *Duties and responsibilities.* The educational decision maker shall:

- 1) make appropriate inquiries and take appropriate actions to ensure that:
  - a) issues concerning school discipline matters are addressed;
  - b) the juvenile is receiving appropriate education that will allow the juvenile to meet state standards, including any necessary services concerning special education in the least restrictive environment, or remedial services;
  - c) the juvenile, who is receiving services concerning special education, is engaged in transition planning with the school entity beginning no later than the school year in which the juvenile turns fourteen;

- d) the juvenile approaching discharge from a delinquency placement will be promptly enrolled in an appropriate program of instruction that addresses the juvenile's educational needs; and
  - e) any other educational matters, as appropriate in the juvenile's best interest, are addressed.
- 2) address the juvenile's educational needs by:
- a) meeting with the juvenile at least once and as often as necessary to make decisions regarding education that are in the juvenile's best interests;
  - b) participating in special education and other meetings, and making decisions regarding all matters affecting the juvenile's educational needs in a manner consistent with the juvenile's best interests;
  - c) making any specific recommendations to the court relating to:
    - i) the timeliness and appropriateness of the juvenile's educational placement; and
    - ii) services necessary to address the juvenile's educational needs;
  - d) appearing and testifying at court hearings when necessary; and
  - e) having knowledge and skills that ensure adequate representation of the juvenile.

#### Comment

A juvenile is to have a clearly identified, legally authorized educational decision maker. This is a particular concern for juveniles who are adjudicated delinquent, may be returning from delinquency placements, and may not have a parent available and able to perform this function. An educational decision maker's responsibilities may include, but are not limited to: ensuring that the juvenile is promptly enrolled in an appropriate educational program while in placement and upon discharge; see 42 Pa.C.S. § 6301(b)(2) and 55 Pa. Code § 3130.87; ensuring educational stability as applicable pursuant to 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; facilitating access to a full range of school programs; advocating for the juvenile in school discipline matters; ensuring meaningful transition planning as required by 42 Pa.C.S. § 6351 and 42 U.S.C. § 675(5)(H); and for a juvenile eligible for special education, ensuring access to appropriate services including transition planning beginning no later than age fourteen. *See* 24 P. S. §§ 13-1371, 13-1372 and 20 U.S.C. § 1400 *et seq.* *See* paragraphs (A) and (C).

An educational decision maker appointed pursuant to this rule who represents a juvenile who is also adjudicated dependent is to review Rule 1147 for additional information concerning educational laws and entitlements applicable to children in dependent care.

A court is not to appoint an educational decision maker if there is a parent, guardian, or other authorized person (*e.g.*, foster parent, relative with whom the juvenile lives or surrogate parent appointed under the IDEA) who is competent, willing, and available to make decisions regarding the juvenile's education and who is acting in the juvenile's best interest regarding all educational matters. *See* Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.* (2004). A court should limit the authority of a parent to make decisions regarding the juvenile's education only to the extent necessary to protect the juvenile's interest and can reinstate the parent or change the educational decision maker at any time.

Unless limited by the court in its appointment order, an educational decision maker: 1) is responsible for making all decisions concerning education, including special education, for the juvenile; and 2) can consent to or prohibit the release of information from the juvenile's school records as a parent

in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 C.F.R. § 99.3 (1974). The educational decision maker may be a family member, a family friend, a mentor, a foster parent, a former foster parent, a Court Appointed Special Advocate, or, if an educational decision maker for special education is not needed, a child welfare professional. Except as otherwise provided by the IDEA, it is within the discretion of the court to appoint an educational decision maker and whom to appoint. In all cases, however, an educational decision maker appointed by the court should be familiar with a juvenile's educational rights or is to agree to be trained regarding these issues.

If the juvenile is or may be eligible for special education, an educational decision maker is to be appointed in accordance with the standards and procedures set forth in federal and state laws concerning special education. *See* IDEA, 20 U.S.C. §§ 1400, 1401(23), and 1415(b)(2); 34 C.F.R. §§ 300.30, 300.45, and 300.519. The IDEA recognizes a court's authority to appoint persons to make decisions concerning special education for a juvenile. However, such decision makers cannot be the State or employees of any agency that is involved in the education or care of the juvenile. 34 C.F.R. § 300.519(c), (d)(2)(i).

The authority of the court to appoint an educational decision maker is derived from the broad powers of the court to issue orders that "provide for the care, protection, safety, and wholesome mental and physical development of children." 42 Pa.C.S. § 6301 (b)(1.1). The IDEA also requires that each juvenile who is eligible for special education has an active parent or other identified person who can participate in the process concerning special education. *See* IDEA, 20 U.S.C. §§ 1401(23) and 1415(b)(2); 34 C.F.R. §§ 300.30, 300.45, and 300.519.

**Official Note:** Rule 147 adopted April 29, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 147 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

**Source**

The provisions of this Rule 147 adopted April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413.

**Rule 148. Educational Stability and Removal From Home.**

(A) *General Rule.* Any order resulting in the removal of the juvenile from home or a change in placement shall address the educational stability of the juvenile.

(B) *School of Origin.* Subject to statute, a juvenile removed from home shall remain in their school of origin unless the court finds remaining in the school of origin is not in the juvenile's best interest or protective of the community. If the court finds that it is not in the best interest for the juvenile or protective of the community to remain in the school of origin, then the court may order the juvenile to be enrolled in another school that best meets the juvenile's needs.

(C) *Another School.* Subject to statute, if a court orders the juvenile to be enrolled in another school pursuant to paragraph (B), then the juvenile shall attend a public school unless the court finds that a public school is not in the best interest of the juvenile or protective of the community.

**Comment**

This rule is intended to apply at any point in a delinquency proceeding when the juvenile is removed from home, including pre-dispositional detention placement and post-dispositional modification resulting in the juvenile's out of home placement or a change to that placement. This rule is intended to complement rather than supersede the requirements of Rule 512(D)(6).

In paragraph (B), the best interest determination should be based on factors including the appropriateness of the current educational setting considering the juvenile's needs, the proximity of the

school of origin relative to the placement location, and the protection of the community. This paragraph is intended to facilitate educational stability while the juvenile remains under the jurisdiction of the Juvenile Court and to codify the presumption that a juvenile is to remain in their school of origin absent evidence that it is not in the best interest of the juvenile or protective of the community to do so.

In paragraph (C), circumstances indicating that it may not be in the best interest for the juvenile to attend a public school includes the security and safety of the juvenile and treatment needs. Paragraph (C) is intended to codify the presumption that a juvenile is to attend public school while in placement absent evidence demonstrating that it is not in the best interest of the juvenile or protective of the community to do so. The bundling of residential services and educational services should not be permitted without a court order authorizing such.

The application of paragraphs (B) and (C) is subject to statute governing the enrollment of a juvenile adjudicated of certain sexual assault acts committed upon another student enrolled in the same public school entity. *See* 24 P.S. § 13-1318.1; 18 Pa.C.S. §§ 3121, 3122.1, 3123, 3124.1, 3125, 3126.

For release of information to school, see Rule 163.

**Official Note:** Rule 148 adopted December 21, 2018, effective May 1, 2019. Amended November 30, 2021, effective April 1, 2022.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 148 published with the Court's Order at 49 Pa.B. 208 (January 12, 2019).

Final Report explaining the provisions of Rule 148 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

Final Report explaining the amendments to Rule 148 published with the Courts' Order at 51 Pa.B. 7627 (December 11, 2021).

**Source**

The provisions of this Rule 148 adopted December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610; amended November 30, 2021, effective April 1, 2022, 51 Pa.B. 7627. Immediately preceding text appears at serial pages (395837) to (395838).

**PART B(2). COUNSEL**

**Rule 150. Attorneys—Appearances and Withdrawals.**

**A. Appearances.**

1) Counsel for the juvenile shall file an entry of appearance with the clerk of courts promptly after being retained, and serve a copy on the attorney for the Commonwealth and the juvenile probation office.

a) If a firm name is entered, the name of the individual lawyer who is designated as being responsible for the conduct of the case shall be entered.

b) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

2) When counsel is appointed pursuant to Rule 151 (Assignment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

**B. Duration.** Once an appearance is entered or the court assigns counsel, counsel shall represent the juvenile until final judgment, including any proceeding upon direct appeal and dispositional review, unless permitted to withdraw pursuant to paragraph (C).



C. *Withdrawals.*

- 1) Upon motion, counsel shall be permitted to withdraw only:
  - a) by order of the court for good cause shown; or
  - b) if new counsel has entered an appearance in accordance with paragraph (A).
- 2) A motion to withdraw shall be:
  - a) filed with the clerk of courts, and a copy concurrently served on the attorney for the Commonwealth and the juvenile; or
  - b) made orally on the record in open court in the presence of the juvenile.

**Comment**

Under paragraph (C), withdrawal is presumed when a court's jurisdiction is terminated because the juvenile reaches the age of twenty-one. *See* 42 Pa.C.S. §§ 6302, 6352.

Under paragraph (C)(1)(a), a court can terminate an attorney's representation if there is good cause shown. The court should allow an attorney to withdraw from a case for good cause if the standards for termination of representation are met, as provided for in Pa.R.P.C. 1.16.

Under paragraph (C)(1)(b), because the attorney for the Commonwealth and the juvenile probation officer will be on notice of the identity of the new attorney, they should comply with the discovery requirements of Rule 340.

Under paragraph (C)(2), counsel is to file a motion to withdraw in all cases. Counsel's obligation to represent the juvenile, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. *See, e.g., Commonwealth v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). The court is to make a determination of the status of the case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine if new counsel needs to be appointed, and that the change in attorneys will not delay the proceedings or prejudice the juvenile, particularly concerning time limits.

*See also* Rule 631 for termination of court supervision.

Under Rule 800, the Public Defender Act, 16 P.S. § 9960.1 *et seq.*, was suspended only to the extent that the Public Defender Act conflicts with this rule and that separate counsel is to be appointed for juveniles when there is a conflict of interest. *See* Pa.R.P.C. Rules 1.7 and 1.9.

For admission *pro hac vice*, see Pa.B.A.R. 301.

**Official Note:** Rule 150 adopted April 1, 2005, effective October 1, 2005. Amended February 26, 2008, effective April 1, 2008. Amended December 10, 2013, effective February 10, 2014.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 150 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 150 published with the Court's Order at 38 Pa.B. 1146 (March 8, 2008).

Final Report explaining the amendments to Rule 150 published with the Court's Order at 43 Pa.B. 7547 (December 28, 2013).

**Source**

The provisions of this Rule 150 adopted February 26, 2008, effective April 1, 2008, 38 Pa.B. 1146; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7547. Immediately preceding text appears at serial pages (357285) to (357286).



**Rule 151. Assignment of Counsel.**

All juveniles are presumed indigent. If a juvenile appears at any hearing without counsel, the court shall appoint counsel for the juvenile prior to the commencement of the hearing.

**Comment**

Although this rule contemplates a presumption of indigency which may be rebutted, the guardian's income and resources are not to be utilized. There is an inherent risk that the legal protections afforded juveniles could be eroded by making legal representation dependent upon the limited financial resources of their guardians, particularly where guardians have an income just above the poverty guidelines. Additionally, the unwillingness of guardians to expend their resources should not determine the juvenile's opportunity to have counsel. There is also a risk that the attorneys hired by guardians might rely upon the guardians for decision making in a case rather than upon the juvenile as the law requires. The juvenile is the client.

Generally pursuant to this rule, the court is to assign counsel in every case in which the juvenile has appeared without counsel. However, the court may give the juvenile a reasonable opportunity to retain a private attorney of the juvenile's choosing if the juvenile so desires.

Counsel may be present at an intake conference or participate in the decision to place the juvenile on informal adjustment with the probation office.

*See also* 42 Pa.C.S. § 6337 and *In re A.M.*, 766 A.2d 1263 (Pa. Super. Ct. 2001).

Under Rule 800, the Public Defender Act, 16 P.S. § 9960.1 *et seq.*, was suspended only to the extent that the Public Defender Act conflicts with this rule and that separate counsel is to be appointed to juveniles when there is a conflict of interest. *See* Pa.R.P.C. Rules 1.7 and 1.9.

**Official Note:** Rule 151 adopted April 1, 2005, effective October 1, 2005. Amended May 16, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 151 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 151 published with the Court's Order at 41 Pa.B. 2684 (May 28, 2011).

**Source**

The provisions of this Rule 152 amended May 16, 2011, effective July 1, 2011, 41 Pa.B. 2684. Immediately preceding text appears at serial pages (356675) and (347579).

**Rule 152. Waiver of Counsel.**

A. *Waiver requirements.* A juvenile who has attained the age of fourteen may only waive the right to counsel if:

- 1) the waiver is knowingly, intelligently, and voluntarily made;
- 2) the court conducts a colloquy with the juvenile on the record; and
- 3) the proceeding for which waiver is sought is not one of the following:
  - a) detention hearing pursuant to Rule 242;
  - b) transfer hearing pursuant to Rule 394;
  - c) adjudicatory hearing pursuant to Rule 406, including the acceptance of an admission pursuant to Rule 407;
  - d) dispositional hearing pursuant to Rule 512; or
  - e) a hearing to modify or revoke probation pursuant to Rule 612.

B. *Stand-by counsel.* The court may assign stand-by counsel if the juvenile waives counsel at any proceeding or stage of a proceeding.

C. *Notice and revocation of waiver.* If a juvenile waives counsel for any proceeding, the waiver only applies to that proceeding, and the juvenile may revoke the waiver of counsel at any time. At any subsequent proceeding, the juvenile shall be informed of the right to counsel.

**Comment**

Because of the ramifications of a juvenile record, it is important that every safeguard be taken to ensure that all constitutional and procedural guarantees and rights are preserved. Juveniles should not feel pressured to waive counsel or be the subject of any proactive pursuit for obtaining a waiver.

In determining whether the waiver of counsel is knowingly, intelligently, and voluntarily made, the court, on the record, is to ask the juvenile questions to elicit: 1) the reasons why the juvenile wants to waive counsel; 2) information regarding the juvenile's: a) age; b) maturity; c) education; d) mental health issues, if any; and e) any current alcohol or drug issues that may impair the juvenile's decision-making skills; 3) the juvenile's understanding of the: a) right to an attorney, including the provisions of Rule 151; b) juvenile's role when proceeding *pro se*; c) allegations in the petition against the juvenile; and d) possible consequences if the juvenile is found delinquent; 4) whether the juvenile consulted with the juvenile's guardian; and 5) whether the juvenile consulted with an attorney.

If it is determined that the juvenile has not knowingly, intelligently, and voluntarily waived counsel, the court immediately is to appoint counsel for the juvenile. If it is determined that the juvenile has made a knowing, intelligent and voluntary waiver, the court may appoint stand-by counsel for all proceedings.

This rule is not meant to preclude the guardian's presence at any hearing. Indeed, the presence and active participation of a guardian should be welcomed. During the colloquy which is the subject of this rule, the court should feel free to elicit information from the guardian. As provided in Rule 131 and the Juvenile Act, 42 Pa.C.S. §§ 6310, 6335(b), and 6336.1, the court can order the guardian's presence if the court determines that it is in the best interest of the juvenile. When conducting the colloquy, the court should also keep in mind the age, maturity, intelligence, and mental condition of the juvenile, as well as the experience of the juvenile, the juvenile's ability to comprehend, the guardian's presence and consent, and the juvenile's prior record.

This rule requires the juvenile to waive the right to counsel. A guardian may not waive the juvenile's right to counsel. To implement this rule, Rule 800 suspends 42 Pa.C.S. § 6337 only to the extent that the right to waiver of counsel belongs to the juvenile and the guardian may not waive the right for the juvenile.

Additionally, Rule 150(B) provides that once an appearance is entered or the court assigns counsel, counsel is to represent the juvenile until final judgment, including any proceeding upon direct appeal and dispositional review, unless permitted to withdraw. *See* Pa.R.J.C.P. 150(B).

Pursuant to paragraph (C), if waiver of counsel is revoked, the court is to appoint counsel before proceeding.

**Official Note:** Rule 152 adopted April 1, 2005, effective October 1, 2005. Amended January 11, 2012, effective March 1, 2012. Amended February 6, 2017, effective April 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 152 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 152 published with the Court's Order at 42 Pa.B. 547 (January 28, 2012).

Final Report explaining the revision to the Comment to Rule 152 published with the Court's Order at 47 Pa.B. 942 (February 18, 2017).

**Source**

The provisions of this Rule 152 amended January 11, 2012, effective March 1, 2012, 42 Pa.B. 547; amended February 6, 2017, effective April 1, 2017, 47 Pa.B. 941. Immediately preceding text appears at serial pages (382647) to (382648).

## PART C. RECORDS

## PART C(1). ACCESS TO JUVENILE RECORDS

**Rule 160. Inspecting, Copying, and Disseminating the Official Court Record.**

A. *Inspecting.* The official court record is only open to inspection by:

- 1) the judges, juvenile court hearing officers, juvenile probation officers, and staff of the court;
- 2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except at the discretion of the court;
- 3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;
- 4) a court, its probation officers, other officials or professional staff, and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;
- 5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;
- 6) the Administrative Office of Pennsylvania Courts;
- 7) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;
- 8) officials of the Department of Corrections, a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;
- 9) a parole board, court, or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;
- 10) the State Sexual Offenders Assessment Board for use in completing assessments; and
- 11) with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. *Copying.* Any person, agency, or department permitted to inspect the record pursuant to paragraph (A) may copy or be provided with a copy of the record.

C. *Disseminating.* Unauthorized dissemination of any information contained in the official court record to a person, agency, or department not permitted to inspect or copy the record pursuant to this rule may result in a finding of contempt of court.

D. *Public availability.* Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

- 1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:
  - a) the juvenile's name;
  - b) the juvenile's age;
  - c) the juvenile's address; and
  - d) the offenses alleged in the juvenile's petition.
- 2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:
  - a) the juvenile's name;
  - b) the juvenile's age;
  - c) the juvenile's address;
  - d) the offenses alleged in the juvenile's petition;
  - e) the adjudication on each allegation; and
  - f) the disposition of the case.

#### Comment

Pursuant to paragraph (A)(11), the court may order that any person, agency, or department receive a copy of all or portions of the record. The court order is to state: 1) the specific information the person, agency or department may receive; 2) that the information received shall not be disseminated to any person, agency, or department not listed in the court order; and 3) that any dissemination of the information received is a violation of the court order.

*See* the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

*See* Rule 120 for definition of the "official court record."

This rule is meant to include the contents of the official court record as described in Rule 166.

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file, which is the official court record, and the disclosure requirements of this rule apply.

Paragraph (C) protects the juvenile from dissemination of information contained in the official court record to unauthorized sources. Nothing in this rule is intended to preclude the juvenile or the juvenile's attorney from discussing the case with others, such as, local newspaper reporters. However, specific information concerning the victim should not be disseminated by the juvenile or the juvenile's attorney.

Under paragraph (D), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as the only document available for inspection by the general public. All other information contained in the official court record is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

*See* Rule 330 for designation of public availability status in the juvenile petition. *See* Rule 515 for designation of public availability status in the dispositional order.

**Official Note:** Rule 160 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1,

2007. Amended May 12, 2008, effective immediately. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 160 amended December 30, 2005, effective immediately, 36 Pa.B. 186; amended August 21, 2007, effective December 1, 2007, 37 Pa.B. 4866; amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended May 21, 2012, effective August 1, 2012, 42 Pa.B. 3203; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (386522), (361553) to (361554) and (373451).

**Rule 161. Inspecting, Copying, and Disseminating Juvenile Probation Files.**

A. *Inspecting and Copying.* Except as provided in paragraph (C), juvenile probation files shall be open to inspection and/or copying only by:

- 1) the juvenile or the juvenile's attorney of record in the instant proceeding;
- 2) the attorney for the Commonwealth;
- 3) the State Sexual Offenders Assessment Board;
- 4) the Juvenile Court Judges' Commission; or
- 5) any other person, agency, or department by order of court.

B. *Juvenile Probation Information.*

1) Information maintained by juvenile probation offices other than juvenile probation files shall be subject to inspection and/or copying only pursuant to court order.

2) Each juvenile probation office shall create a document, which describes the information that is maintained by the juvenile probation office concerning each juvenile. This document shall be open to inspection and copying pursuant to paragraph (A).

C. *Contents of Order.* The order shall:

- 1) specify who shall be permitted to inspect the file, information, or any portion thereof;
- 2) specify who shall be permitted to copy the file or information;
- 3) state that the file or information received shall not be disseminated to any person, agency, or department not listed in the court order; and
- 4) state that dissemination of any file or information received is a violation of the court order.

**D. Disseminating.**

1) The juvenile probation office has discretion to disseminate portions of its files or information to the juvenile, service providers, placement facilities, and courts and courts' professional staff of other jurisdictions when facilitating placement, the delivery of services, treatment, or transfer of the case to, or supervision by another jurisdiction consistent with applicable Federal or state law.

2) Unauthorized dissemination of any file or information to a person, agency, or department not permitted to inspect or copy the file pursuant to this rule may result in a finding of contempt of court.

**Comment**

Documents contained in the juvenile probation files are not a part of the official court record unless the juvenile probation office officially files the documents in the official court record. Those documents placed in the official court record are governed by Rule 160 and 42 Pa.C.S. § 6307.

Juvenile probation files containing a juvenile's disclosures for the purpose of treatment should be reviewed for potentially privileged communications prior to dissemination. *See, e.g., Commonwealth v. Carter*, 821 A.2d 601 (Pa. Super. 2003).

The notes of a juvenile probation officer, which describe the officer's impressions or personal observations but which are not included in a report to the court or other report, are not considered a component of a juvenile probation file that is open to inspection or copying under paragraph (A). "Juvenile probation files," as used in paragraph (A) and defined in Rule 120, is intended to include files existing in whole or in part in either paper or digital form.

Nothing in this rule is intended to preclude the juvenile probation office from sharing information with the juvenile.

**Official Note:** Rule 161 adopted May 21, 2012, effective August 1, 2012. Amended August 23, 2012, effective immediately. Amended March 15, 2019, effective July 1, 2019.

**Committee Explanatory Reports:**

Final Report explaining the provisions of Rule 161 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 161 published with the Court's Order at 42 Pa.B. 5734 (September 8, 2012).

Final Report explaining the amendments to Rule 161 published with the Court's Order at 49 Pa.B. 1512 (March 30, 2019).

**Source**

The provisions of this Rule 161 adopted May 21, 2012, effective August 1, 2012, 42 Pa.B. 3203; amended August 23, 2012, effective immediately, 42 Pa.B. 5734; amended March 15, 2019, effective July 1, 2019, 49 Pa.B. 1512. Immediately preceding text appears at serial pages (387349) to (387350).

**Rule 163. Release of Information to School.**

A. *Generally.* Upon finding a juvenile to be a delinquent, the court shall, through the juvenile probation office, provide the following information to the building principal or his or her designee of any public, private, or parochial school in which the juvenile is enrolled:

- 1) name and address of the juvenile;
- 2) the delinquent act or acts that the juvenile was found to have committed;
- 3) a brief description of the delinquent act or acts; and
- 4) the disposition of the case.

B. *Notice to school.* In addition to the information provided in paragraph (A), the juvenile probation office shall provide notice of the following information:

- 1) a statement informing the building principal or his or her designee that information received under this rule:



- a) shall be maintained separately from the juvenile's official school record;
  - b) is for the limited purposes of:
    - i) protecting school personnel and students; and
    - ii) arranging for appropriate counseling and education for the juvenile;
  - c) may not be used for school disciplinary decisions concerning the juvenile unless:
    - i) the juvenile was under the supervision of the board of directors at the time of the incident;
    - ii) the act or acts that were substantiated by the court took place on or within 1,500 feet of the school property; and
    - iii) the school has complied with all other statutory, regulatory, and constitutional provisions relative to the imposition of school discipline; and
  - d) shall be shared with the juvenile's teachers.
- 2) a statement informing the building principal or his or her designee of the requirement to:
- a) maintain a log of all school district employees, or building principals or their designees from other school districts, to whom this information was subsequently provided when a juvenile was transferred to another school; and
  - b) provide a copy of the notice as listed in paragraph (B)(1) to the new school.
- C. *Additional information.*
- 1) If the juvenile is adjudicated delinquent of a felony offense, the court, through the juvenile probation office, shall provide to the building principal or his or her designee relevant information regarding the juvenile contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history, and the supervision plan of the juvenile.
  - 2) The court or the juvenile probation office shall have the authority to share any additional information regarding the juvenile under its jurisdiction with the building principal or his or her designee as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the juvenile.
- D. *Acknowledgement of notice and information.* The building principal or his or her designee shall provide written acknowledgement to the juvenile probation office of the receipt of, and the requirements and restrictions pertaining to, the information provided under this rule.
- E. *Transfers to other schools.*
- 1) Any information provided to and maintained by the building principal or his or her designee under this rule shall be transferred to the building principal or his or her designee of any public, private, or parochial school to which the juvenile transfers enrollment.
  - 2) When this information is transferred to an official from another school district, the building principal or his or her designee shall include a copy of the notice initially provided by the juvenile probation office pursuant to paragraph (B).
  - 3) The building principal or his or her designee shall maintain a log of all individuals from other school districts to whom this information is subse-

quently provided, and shall inform the juvenile probation office upon providing this information to officials from other school districts.

F. *Maintained separately.* Any information provided to the building principal or his or her designee under this rule shall be maintained separately from the juvenile's official school record.

G. *Dissemination.* Unauthorized dissemination of any information contained in the school record to any unauthorized person, agency, or department may result in a finding of contempt of court.

#### Comment

For educational stability of juvenile when removed from home, see Rule 148.

Pursuant to paragraph (B), the juvenile probation office is required to provide notice to the building principal or his or her designee for maintaining court records separately from official school records. Some school districts have established local policies relating to the receipt of this information that requires the information to be provided to a school district official other than a building principal. That individual should be regarded as the building principal's designee with respect to the provisions of this rule.

The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court. In addition, information sent to the school may not be used for disciplinary purposes against the juvenile. The juvenile probation office should send a notice to the school when it sends information to the school concerning the findings of the court. The notice should state that any information received by the school should not be used against the juvenile for disciplinary reasons, including suspensions and expulsions. See 42 Pa.C.S. § 6341(b.1)(4).

The requirements in paragraph (B) are derived from 42 Pa.C.S. § 6341(b.1)(4), 24 P.S. § 5-510; *D.O.F. v. Lewisburg Area School District*, 868 A.2d 28 (Pa. Commw. Ct. 2004) (holding schools do not have the authority to discipline students, even for actions on school property, if they are not currently under school supervision); and *Hoke ex rel. Reidenback v. Elizabethtown Area School District*, 833 A.2d 304 (Pa. Commw. Ct. 2003).

For further dissemination and usage in school, see 42 Pa.C.S. § 6341(b.1).

In paragraph (D), nothing is intended by this rule to preclude acknowledgement by electronic means.

Pursuant to paragraph (F), information provided by the court is to be kept and maintained separately from the juvenile's official school record. If the court has ordered a record to be expunged, the court, concurrently, is to order the destruction of the information provided to the school by the court, including information subsequently provided to another school. The terms "expunged" and "destruction" should not be confused in this Comment. Because the school does not fall within any category for retention of information pursuant to Rule 173, there is no reason for the school to maintain its information. Therefore, the school is to destroy all information received from the court.

**Official Note:** Rule 163 adopted April 1, 2005, effective October 1, 2005. Amended May 21, 2012, effective August 1, 2012. Amended July 28, 2014, effective September 29, 2014. Rule 163 amended December 21, 2018, effective May 1, 2019.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 163 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 163 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 163 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 163 published with the Court's Order at 49 Pa.B. 208 (January 12, 2019).

Final Report explaining the amendments to Rule 163 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

#### Source

The provisions of this Rule 163 amended May 21, 2012, effective August 1, 2012, 42 Pa.B. 3203; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610. Immediately preceding text appears at serial pages (387350) to (387352).

**PART C(2). MAINTAINING RECORDS****Rule 165. Design of Forms.**

The Court Administrator of Pennsylvania, in consultation with the Juvenile Court Procedural Rules Committee, shall design and publish forms necessary to implement these rules.

**Comment**

The purpose of the unified judicial system can be further achieved by creating uniform forms to implement a particular rule.

**Official Note:** Rule 165 adopted April 1, 2005, effective October 1, 2005.

**Rule 166. Maintaining Records in the Clerk of Courts.**

A. *Generally.* The juvenile court file is the official court record and shall contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the official court record and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

- 1) the juvenile's name, last known address, date of birth, if known;
- 2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);
- 3) notations concerning all papers filed with the clerk, including all court notices, appearances, admissions, motions, orders, findings and adjudications, and dispositions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;
- 4) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;
- 5) a notation of every judicial proceeding, continuance, and disposition;
- 6) the location of exhibits made part of the record during the proceedings;
- 7) a) the date of receipt in the clerk's office of the order or court notice;  
b) the date appearing on the order or court notice; and  
c) the date and manner of service of the order or court notice; and
- 8) all other information required by Rule 345.

D. *Electronic Format.* If a judicial district has provided for electronic filing pursuant to Rule 205, the juvenile court file in which electronic filing has been

utilized may be maintained solely in an electronic format as long as copies of the documents maintained in the juvenile court file may be produced in a physical paper format.

#### Comment

This rule sets forth the mandatory contents of the list of docket entries and the official court record. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a juvenile case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by juvenile court hearing officers. Nothing in this rule is intended to preclude the use of automated or other electronic means for timestamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by juvenile court hearing officers, at any stage of the delinquency case.

This rule is not intended to include items contained in the juvenile probation files.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any juvenile in the case. The requirement also ensures that attorneys are served as required by Rules 167 and 345. *See also* Rule 345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(2) is to include the facsimile number or electronic address.

Paragraph (C)(4) recognizes that occasionally resolution of oral motions presented in open court should be reflected in the docket, such as motions and orders related to omnibus motions as provided in Rule 346.

Paragraph (D) permits electronically filed documents to be part of the juvenile court record in an electronic format. Accordingly, the juvenile court record may exist in both paper and electronic form, provided the electronic form can be produced in a paper form.

**Official Note:** Rule 166 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012. Amended April 6, 2017, effective September 1, 2017. Amended December 12, 2019, effective June 1, 2020.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 166 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 49 Pa.B. 7573 (December 28, 2019).

**Source**

The provisions of this Rule 166 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended May 21, 2012, effective August 1, 2012, 42 Pa.B. 3203; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended December 12, 2019, effective June 1, 2020, 49 Pa.B. 7573. Immediately preceding text appears at serial pages (387353) to (387354).

**Rule 167. Filings and Service of Court Orders and Notices.**

A. *Filings.*

1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time stamped promptly with the date of receipt.

2) All orders and court notices shall be filed in the official court record.

B. *Service.*

1) A copy of any order or court notice shall be served promptly on the attorney for the Commonwealth, the juvenile's attorney, the juvenile, the juvenile probation officer, and any other person, service provider, or agency listed in the court order.

2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court administrator or other court designee.

3) *Methods of Service.* Service shall be:

a) by:

i) personal delivery to the party's attorney or the juvenile;

ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;

iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;

iv) sending a copy to the juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement;

v) sending a copy by facsimile transmission or other electronic means if the party's attorney or the juvenile has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case;

vi) delivery to the party's attorney or the juvenile by carrier service;

or

b) orally in open court on the record; or

c) in a judicial district that permits electronic filing pursuant to Rule 205, service of court orders or notices shall be made as provided in Rule 205(D)(2) and (H)(1).

C. *Unified Practice.* Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

#### Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the juvenile's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the juvenile, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time stamping.

**Official Note:** Rule 167 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended July 28, 2014, effective September 29, 2014. Amended December 12, 2019, effective June 1, 2020.

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 167 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 167 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 167 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 167 published with the Court's Order at 49 Pa.B. 7573 (December 28, 2019).

#### Source

The provisions of this Rule 167 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended December 12, 2019, effective June 1, 2020, 49 Pa.B. 7573. Immediately preceding text appears at serial pages (387354) and (396235) to (396236).

### PART C(3). EXPUNGING OR DESTROYING RECORDS, FINGERPRINTS, AND PHOTOGRAPHS

#### Rule 170. Motion to Expunge or Destroy Records.

A. *Motion.* Upon motion, or *sua sponte*, expungement proceedings may be commenced:

- 1) if a written allegation is not approved for prosecution;
- 2) if the petition is dismissed by the court;
- 3) in consent decree and informal adjustment cases:

- a) when six months have elapsed since the final discharge of the juvenile from supervision; and
  - b) if no proceeding seeking adjudication or conviction is pending;
  - 4) when a juvenile has been discharged from court supervision pursuant to Rule 631:
    - a) five years have elapsed;
    - b) the juvenile has not been convicted or adjudicated delinquent for a felony or misdemeanor;
    - c) no court proceeding is pending seeking such conviction or adjudication; and
    - d) the delinquent act is not an act precluded from expungement pursuant to 18 Pa.C.S. § 9123(a.1); or
  - 5) when the attorney for the Commonwealth consents to the expungement.
- B. *Contents of Motion.* A motion, which shall include a proposed court order, shall contain the following information:
- 1) the name of the juvenile;
  - 2) the date of birth of the juvenile, if known;
  - 3) the juvenile's case docket number, if any;
  - 4) the allegations or offenses to which the order pertains;
  - 5) the law enforcement agency that initiated the allegations;





6) the reference number of the police report or written allegation to be expunged or destroyed, including the juvenile offense tracking number (JOTN), if available;

7) the date of arrest;

8) the disposition of the written allegation or petition;

9) the reasons and statutory authority for expunging or destroying the documents, fingerprints, or photographs; and

10) the agencies upon which certified copies of the court order shall be served.

C. *Service of Motion.* In addition to the service required by Rule 345, the movant shall serve the motion on the chief juvenile probation officer.

D. *Answer.*

1) The attorney for the Commonwealth, and any other person upon whom the motion was served, may file an answer to the motion.

2) If objections to the motion are not made within thirty days of the filing of the motion, they shall be deemed waived.

E. *Court's Response to the Motion.* The court shall conduct a hearing or grant or deny the motion after giving consideration to the following factors:

1) the type of offense;

2) the individual's age, history of employment, history of academic or vocational training, delinquent or criminal activity, and drug or alcohol issues;

3) adverse consequences that the individual may suffer if the records are not expunged; and

4) whether retention of the record is required for purposes of public safety.

F. *Inter-County Transfer Cases.*

1) A motion to expunge or destroy records shall be filed in the county in which the adjudication of delinquency was entered.

2) A motion regarding the records of a juvenile whose disposition did not involve an adjudication of delinquency shall be filed in the county in which the disposition occurred.

3) The court entering an order to expunge or destroy records shall direct the order to any other court possessing records pertaining to the case.

#### Comment

Paragraph (A) provides that a motion to expunge or destroy records, files, fingerprints, or photographs, or the court, *sua sponte*, may commence expungement proceedings.

Under paragraphs (A)(1) & (2), the written allegation or petition may be dismissed for several reasons, including, but not limited to, when: 1) a juvenile completes an informal adjustment or diversionary program; 2) the attorney for the Commonwealth declines to prosecute; 3) probable cause is not found at the detention hearing pursuant to Rule 242(C)(1); 4) there is no finding on the offenses pursuant to Rule 408(B); or 5) there is no finding of a need for treatment, supervision, and rehabilitation pursuant to Rule 409(A)(1). Expungement proceedings may be commenced upon these dismissals of the written allegation or the petition.

For expungement of summary offenses heard by a magisterial district court or criminal court, see Pa.R.Crim.P. 490 and 490.1 (truancy). For eligibility for expungement, see 18 Pa.C.S. § 9123(a); 24 P.S. § 13-1333.3(h) (truancy).

Under paragraph (B)(6), any number assigned to police papers helpful in tracking the police report or written allegation that would assist the law enforcement agency in expunging or destroying the document is to be listed. A reference number could be a juvenile offense tracking number, district control number, crime control number, incident number, Philadelphia identification number, or another number assigned by the law enforcement agency to track the document.

Pursuant to paragraph (B)(9), the reasons for expunging the records or destroying fingerprints and photographs are to be included in the motion, specifically citing which provision of paragraph (A) applies.

“Expunge” or “expungement” is defined by Rule 120, which means to erase legally, or the process of legal erasure of an item making it permanently not available to the public but where some information may be retained only for limited purposes by agencies or departments. *See* Rule 173. *See also* Comment to Rule 120.

Rule 173 provides for the retention of certain information that is crucial for: 1) determining compliance with the order to expunge; 2) determining eligibility in a court program, determining the grading or penalty of an offense, or for other purposes as provided by law; 3) maintaining statistical and research information; 4) maintaining intelligence and investigative information; and 5) financial audits.

Pursuant to paragraph (D), the attorney for the Commonwealth is given an opportunity to respond to the motion. The attorney for the Commonwealth should specify its position on whether items should be expunged or destroyed. Expunged items remain available to law enforcement agencies and the attorney for the Commonwealth in limited circumstances, whereas destroyed items are permanently erased. The attorney for the Commonwealth should consent to expunging records unless the attorney for the Commonwealth demonstrates good cause for the retention of records. *See In re A.B.*, 987 A.2d 769 (Pa. Super. 2009).

The reasons for maintaining information pursuant to Rule 173 do not qualify as good cause against expunging records under this rule. Maintenance of specific information is different from the maintenance of the official court record or other official records of the juvenile probation office or a law enforcement agency. Pursuant to Rule 173, a separate document, file, or database is to be created. *See* Rule 173 and its Comment.

If the attorney for the Commonwealth objects to expunging or destroying the records, the court should conduct a hearing on the motion.

Pursuant to paragraph (E)(3), the court is to consider adverse consequences that an individual may suffer if the records are not expunged. Adverse consequences are discussed in The Pennsylvania Collateral Consequences Checklist instituted by Pennsylvania Juvenile Indigent Defense Action Network in conjunction with the initiative the Models for Change System Reform in Juvenile Justice. This checklist may be accessed on the Supreme Court’s website at <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/juvenile-court-procedural-rules-committee/juvenile-court-committee-rules-and-forms>.

The attorney for the Commonwealth in the county in which a motion is filed in an inter-county transfer case pursuant to paragraph (F) should provide notice of the motion to, and communicate with, the attorney for the Commonwealth and the juvenile probation office in the county to which, or from which, the case was transferred.

Notwithstanding this rule, *see* 18 Pa.C.S. § 9123(a.1) for cases that are ineligible for expungement proceedings. *See also* 42 Pa.C.S. § 6341 for destruction of fingerprints and photographs.

**Official Note:** Rule 170 adopted April 1, 2005, effective October 1, 2005. Amended July 28, 2014, effective September 29, 2014. Amended February 12, 2015, effective immediately. Amended March 1, 2019, effective July 1, 2019.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 170 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 170 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 170 published with the Court's Order at 49 Pa.B. 1142 (March 16, 2019).

**Source**

The provisions of this Rule 170 amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended February 12, 2015, effective immediately, 45 Pa.B. 953; amended March 1, 2019, effective July 1, 2019, 49 Pa.B. 1142. Immediately preceding text appears at serial pages (387356) to (387359).

**Rule 172. Order to Expunge or Destroy.**

A. *Contents.* Any order to expunge or destroy the official court record, juvenile probation files, docket entries, law enforcement records, or fingerprints and photographs shall include the following information:

- 1) all items contained in Rule 170(B);
- 2) a directive specifically identifying which items shall be expunged or destroyed, including all law enforcement records, juvenile probation files, official court records, other juvenile records, fingerprints, photographs, and any other information pertaining to the arrest;
- 3) a directive that the keeper of the juvenile records shall expunge or destroy such items;
- 4) a directive that each agency, department, or office, upon request, shall notify the court or its designee, in writing, of the action taken in response to the order to expunge or destroy;
- 5) a directive to a school building principal or his or her designee to destroy information received from the court pursuant to Rule 163;
- 6) the printed name and signature of the judge issuing the order; and
- 7) the date of the court order.

B. *Service.* In addition to the service required by Rule 167, the clerk of courts, court administrator, or other court designee shall serve certified copies of the order on the chief juvenile probation officer, the Pennsylvania State Police, the Juvenile Court Judges' Commission, and any other person or agency as directed by the court.

**Comment**

Pursuant to paragraph (A)(2), the court is to list specifically which items are to be expunged and which items are to be destroyed. Specific information retained pursuant to Rule 173 should be expunged but not destroyed. In most instances, the court should order that the fingerprints and photographs be destroyed and that the remaining records and documents be expunged.

Pursuant to paragraph (A)(4), an agency, department, or office may be requested to produce evidence of compliance with the court order to expunge. Non-compliance may result in a finding of contempt of court.

Pursuant to paragraph (A)(5), the school is to destroy all information received from the court. Because the school is required to store this information separately under Rule 163(F), destruction should not be difficult. *See* Rule 163 and its Comment. The court may also require the school to provide written notice of the action taken.

**Official Note:** Rule 172 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended July 28, 2014, effective September 29, 2014. Amended March 1, 2019, effective July 1, 2019.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 172 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 172 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 172 published with the Court's Order at 49 Pa.B. 1142 (March 16, 2019).

**Source**

The provisions of this Rule 172 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended March 1, 2019, effective July 1, 2019, 49 Pa.B. 1142. Immediately preceding text appears at serial pages (387359) to (387360).

**Rule 173. Retention of Specific Information from Juvenile Records.****A. Maintenance of specific information.**

1) All information retained according to this rule shall be confidential. This information is not eligible for inspection pursuant to Rule 160.

2) If any information maintained according to this rule is disseminated to any unauthorized person, agency, department, or office, the person disseminating the information shall be held in contempt of court.

**B. Compliance with expungement order.** The court or juvenile probation office shall maintain the following information in a separate document, file, or database for the purpose of determining compliance with an expungement order:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) the case docket number;
- 4) a copy of the order to expunge; and
- 5) any compliance letters sent pursuant to Rule 172(A)(4).

C. *Eligibility for court program, the grading or penalty of an offense, or for other purposes as provided by law.* The court, juvenile probation office, or the attorney for the Commonwealth shall maintain the following information in a separate document, file, or database for determining eligibility for a court program, the grading or penalty of an offense, or for other purposes as provided by law:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) the case docket number;
- 4) a list of the delinquent acts alleged or petitioned;
- 5) a list of the delinquent acts found, if applicable; and
- 6) the disposition of the case.

D. *Statistical and research purposes.* The juvenile probation office, the Juvenile Court Judges' Commission, and the Administrative Office of Pennsylvania



Courts may maintain the following information in a separate document, file, or database for statistical and research purposes:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) demographic information;
- 4) a list of the delinquent acts alleged or petitioned;
- 5) a list of the delinquent acts found, if applicable;
- 6) the disposition of the case; and
- 7) any recidivism information.

E. *Intelligence and investigative information.* Law enforcement agencies and the attorney for the Commonwealth may maintain the following information in a separate document, file, or database for intelligence and investigative purposes:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) intelligence information; and
- 4) investigative information.

F. *Financial audits.* The juvenile probation office, placement facilities, service providers, and the county agency shall maintain the necessary information in a separate document, file, or database for financial audits, which may include, but is not limited to:

- 1) the number of juveniles sent to a placement facility;
- 2) the amount of money paid for the court-ordered service; and
- 3) the dates of service.

#### Comment

As used throughout this rule, a separate document, file, or database is to be interpreted as a creation of a new document, file, or database when the original document or file has been expunged pursuant to a court order under Rule 172. This rule provides for the retention of *information* for specific reasons. Original *records* will be expunged but specific *information* contained within those records will be extracted and placed into a new document, file, or database. Only the specific items listed in this rule may be maintained by the specified individuals and entities. All remaining information is to be expunged.

There are several legitimate reasons for retaining specific information relating to a case. As provided in paragraph (A)(1), all information retained according to this rule is to be kept confidential and is not subject to inspection pursuant to Rule 160. If any person does not maintain confidentiality of information, that person is to be held in contempt of court. *See* paragraph (A)(2). However, entities may share information retained pursuant to this rule if the reasons for sharing the information is consistent with this rule and confidentiality is maintained.

Paragraph (B) provides for the maintenance of compliance letters for expunging records. The court may access the document, file, or database to ensure that a court order to expunge a particular record has been followed. This may also be helpful when a juvenile may inquire as to whether the court order was followed.

Paragraph (C) allows specific information concerning a juvenile to be maintained to determine the juvenile's eligibility for a future court program, the grading or penalty of a new offense, and for other purposes as provided by law. There are instances when the grading or penalty for a new offense is

greater because of prior offense(s), for example, retail theft, theft by vehicle, library theft, and driving under the influence of alcohol or other controlled substance. However, offenses cannot be used in a subsequent proceeding unless specifically authorized by law.

Paragraph (D) provides for the retention of specific information for statistical and research purposes. The information gathered under this paragraph is confidential. However, aggregate data compiled may be shared with other persons as statistical and research information. When sharing aggregate data, the juvenile's name or any identifying information cannot be utilized.

Pursuant to paragraph (E), only law enforcement agencies and the attorney for the Commonwealth may retain intelligence and investigative information.

Paragraph (F) provides for the retention of specific information for financial audits. This is important to provide records of service.

**Official Note:** Rule 173 adopted July 28, 2014, effective September 29, 2014. Amended February 12, 2015, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 173 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

**Source**

The provisions of this Rule 173 adopted July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended February 12, 2015, effective immediately, 45 Pa.B. 953. Immediately preceding text appears at serial pages (373461) to (373462) and (373797).

**PART D. JUVENILE COURT HEARING OFFICERS**

**Rule 182. Qualifications of Juvenile Court Hearing Officer**

A. *Education, Experience, and Training.* To preside as a juvenile court hearing officer over cases governed by the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, an individual shall:

- 1) be a member, in good standing, of the bar of this Commonwealth;
  - 2) have been licensed to practice law for at least five consecutive years;
- and
- 3) have completed six hours of instruction, approved by the Pennsylvania Continuing Legal Education Board prior to hearing cases, which specifically addresses all of the following topics:
    - a) the Juvenile Act;
    - b) the Pennsylvania Rules of Juvenile Court Procedure;
    - c) the penal laws of Pennsylvania;
    - d) the Child Protective Services Law;
    - e) evidence rules and methodology;
    - f) child and adolescent development; and
    - g) the collateral consequences of an adjudication of delinquency.

B. *Continuing Education.* Upon meeting the requirements of paragraph (A)(3), a juvenile court hearing officer shall thereafter complete six hours of



instruction from a course(s) designed by the Juvenile Court Judges' Commission, in juvenile delinquency law, policy, or related social science research every two years.

*C. Compliance.*

- 1) A juvenile court hearing officer shall sign an affidavit attesting that he or she has met the requirements of this rule.
- 2) Prior to presiding as a juvenile court hearing officer, the attorney shall send the affidavit to the President Judge or his or her designee of each judicial district where the attorney is seeking to preside as a juvenile court hearing officer.
- 3) After submission of the initial affidavit pursuant to paragraph (C)(2), juvenile court hearing officers shall submit a new affidavit every two years attesting that the continuing education requirements of paragraph (B) have been met.

**Comment**

Pursuant to paragraphs (A)(1) & (2), juvenile court hearing officers are to be in good standing and have at least five consecutive years of experience as an attorney. It is best practice to have at least two years of experience in juvenile law.

Pursuant to paragraph (A)(3), the initial training program(s) is to be approved by the Pennsylvania Continuing Legal Education Board (Board). The program may be one course or multiple courses with at least six hours of instruction, equivalent to at least six CLE credits. When the Board is approving courses designed to address the requirements of this rule, it should consult with the Juvenile Court Judges' Commission to ensure proper course requirements are being met. Additionally, for this initial training course(s), training already provided by the Juvenile Court Judges' Commission or the Office of Children and Families in the Courts may meet the requirements of this Rule.

For continuing education under paragraph (B), juvenile court hearing officers are to attend six hours of instruction from a course or multiple courses designed by the Juvenile Court Judges' Commission. This is to ensure uniform training among juvenile court hearing officers.

These requirements are additional requirements to the Pa.R.C.L.E. because they mandate specific training in juvenile delinquency law. However, the credit hours received do count towards the total maximum required under Pa.R.C.L.E. 105.

Pursuant to paragraph (C), a juvenile court hearing officer is to certify to the court that the requirements of this rule have been met prior to presiding as a juvenile court hearing officer, and submit new affidavits every two years thereafter.

**Official Note:** Rule 182 adopted September 11, 2014, amended July 13, 2015, effective August 1, 2017. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 182 published with the Court's Order at 44 Pa.B. 6087 (September 27, 2014).

Final Report explaining the amendments to Rule 182 published with the Court's Order at 45 Pa.B. 3986 (July 25, 2015).

Final Report explaining the amendments to Rule 182 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 182 adopted September 11, 2014, effective October 1, 2016, 44 Pa.B. 6087; amended July 13, 2015, effective August 1, 2017, 45 Pa.B. 3986; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (377939) to (377940).

**Rule 185. Appointment to Cases.**

A. *Appointment.* If necessary to assist the juvenile court judge, the president judge or his or her designee may appoint juvenile court hearing officers to hear designated juvenile delinquency matters.

B. *Prohibited practice.* Juvenile court hearing officers shall not engage in practice before the juvenile court in the same judicial district where they preside over juvenile matters.

**Official Note:** Rule 185 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 185 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 185 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 185 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (377940) and (310569).

**Rule 187. Authority of Juvenile Court Hearing Officer.**

A. *Cases to be heard by Juvenile Court Hearing Officer.* A juvenile court hearing officer shall have the authority to preside over only the following:

- 1) detention hearings, detention review hearings, or shelter-care hearings;
- 2) discovery, pre-adjudicatory, or preliminary proceedings for misdemeanors;
- 3) any hearing in which the petition alleges only misdemeanors; and
- 4) uncontested dispositional review hearings and uncontested probation revocation hearings.

B. *No authority.* A juvenile court hearing officer shall not have the authority to:

- 1) conduct transfer hearings pursuant to Rule 394;
- 2) issue warrants; and
- 3) hear requests for writs of habeas corpus.

C. *Right to hearing before judge.* Prior to the commencement of any proceeding, the juvenile court hearing officer shall inform the juvenile, the juvenile's guardian(s), if present, the juvenile's attorney, and the attorney for the Commonwealth that the juvenile and the Commonwealth have a right to have the matter

heard by a judge. If the juvenile or the Commonwealth objects to having the matter heard by the juvenile court hearing officer, the case shall proceed before the judge.

**Comment**

A juvenile court hearing officer's authority is limited under paragraph (A) to specifically those types of cases provided. To implement this rule, Rule 800 suspends 42 Pa.C.S. § 6305(b) only to the extent that juvenile court hearing officers may not hear all classes of cases.

Under paragraph (B)(2), nothing is intended to limit the juvenile court hearing officer's ability, in a proper case before the juvenile court hearing officer, to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (C), *see* 42 Pa.C.S. § 6305(b).

*See* Rule 127 for recording of proceedings before a juvenile court hearing officer.

**Official Note:** Rule 187 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 187 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 187 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 187 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial page (310569).

**Rule 190. Admissions Before Juvenile Court Hearing Officer.**

A. *Types of cases.* A juvenile court hearing officer may accept an admission to any misdemeanor.

B. *Requirements.* The admission requirements of Rule 407 shall be followed.

**Official Note:** Rule 190 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 190 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 190 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial page (310570).

**Rule 191. Juvenile Court Hearing Officer's Findings and Recommendation to the Judge.**

A. *Announcement of Findings and Recommendation.* At the conclusion of the hearing, the juvenile court hearing officer shall announce in open court on the record, the juvenile court hearing officer's findings and recommendation to the judge.

B. *Delinquency Recommendation.* If a recommendation includes an adjudication of delinquency:

1) the juvenile shall be advised of the right to challenge the recommendation pursuant to Rule 192, as set forth in paragraph (E); and

2) a colloquy and inquiry of post-dispositional rights shall be conducted pursuant to Rule 512(C).

C. *Submission of Papers and Contents of Recommendation.* Within one business day, the juvenile court hearing officer shall submit a summary of the recommendation to the juvenile court judge. If requested, a copy of the summary shall be given to the juvenile’s attorney, the juvenile, if unrepresented, the attorney for the Commonwealth, and the juvenile probation officer. The summary shall specifically state a recommendation to the judge.

D. *Judicial Action.* The judge shall by order:

- 1) accept the recommendation;
- 2) reject the recommendation and issue an order with a different disposition;
- 3) send the recommendation back to the juvenile court hearing officer for more specific findings; or
- 4) schedule a rehearing under Rule 192 within seven days.

E. *Advisement of Right to Challenge Recommendation of Adjudication of Delinquency.* The hearing officer shall advise the juvenile of the right to challenge the hearing officer’s recommendation substantially in the following form:

**RIGHT TO CHALLENGE RECOMMENDATION OF HEARING OFFICER**

In re : JD  
 (Juvenile) :  
 : Delinquent Act(s):  
 :  
 :  
 :

**ADVISEMENT**

- 1) You can disagree with the hearing officer’s recommendation. You can ask for a new hearing before a judge. If you want a new hearing, you must request a new hearing in writing within three days from today and say why you want a new hearing.
- 2) You have the right to have a lawyer help you file your request. If your lawyer (who is helping you today) cannot or will not file the request for you, the court will appoint a new lawyer to help you.
- 3) Here’s what could happen if you ask for a new hearing:
  - a) the court can deny your request for a new hearing within seven days after you ask for a new hearing; or
  - b) the court can give you a new hearing within seven days after you ask for a new hearing.

**Comment**

The juvenile court may promulgate a form for juvenile court hearing officers to use. The summary of the recommendation may take the form of a court order to be adopted by the court.

The requirements of paragraph (B) are intended to ensure the juvenile is advised of the right to challenge the juvenile court hearing officer's recommendation and post-dispositional rights in the event the judge accepts the recommendation. If a party challenges the juvenile court hearing officer's decision, the copy of the summary may be used as an attachment in a motion for a rehearing in front of the judge.

The juvenile court hearing officer's decision is subject to approval of the judge. When the judge, in rejecting the juvenile court hearing officer's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the juvenile court hearing officer's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. *See In re Perry*, 459 A.2d 789 (Pa. Super. 1983). The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. *See In re Stephens*, 419 A.2d 1244 (Pa. Super. 1980).

Nothing in this rule prohibits the court from modifying conclusions of law made by the juvenile court hearing officer.

The form contained in paragraph (E) is intended to advise juveniles in writing of their right to challenge the recommendation of a delinquency adjudication by a juvenile court hearing officer pursuant to Rule 192 by requesting a rehearing before a juvenile court judge. This form is in addition to the form contained in Rule 512(C) advising a juvenile of post-dispositional rights.

**Official Note:** Rule 191 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017. Amended May 4, 2018, effective July 1, 2018. Amended October 1, 2019, effective January 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 191 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 191 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 191 published with the Court's Order at 48 Pa.B. 2939 (May 19, 2018).

Final Report explaining the amendments to Rule 191 published with the Court's Order at 49 Pa.B. 6066 (October 19, 2019).

**Source**

The provisions of this Rule 191 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended May 4, 2018, effective July 1, 2018, 48 Pa.B. 2939; amended October 1, 2019, effective January 1, 2020, 49 Pa.B. 6066. Immediately preceding text appears at serial pages (392306) and (395843).

**Rule 192. Challenge to Juvenile Court Hearing Officer's Recommendation.**

A. *Time limitation.* A party may challenge the juvenile court hearing officer's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation. The motion shall request a rehearing by the judge and aver reasons for the challenge.

B. *Rehearing.* The judge shall act on the challenge within seven days of the date of the motion. The detention status of the juvenile will remain the same pending the rehearing unless otherwise ordered by the judge.

**Comment**

Under paragraph (A), the petition for a rehearing may be oral or written.

Under paragraph (B), the judge does not have to grant a rehearing. A judge may deny the request based on the petition. If the judge does grant a hearing, it should be held within seven days of the date of the challenge.

The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. *See In re Stephens*, 419 A.2d 1244 (Pa. Super. Ct. 1980).

**Official Note:** Rule 192 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 192 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 192 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 192 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial page (357289).

**PART D(2). JUVENILE PROBATION OFFICERS**

**Rule 195. Powers, Duties, and Training of a Juvenile Probation Officer.**

A. *Powers and Duties of a Juvenile Probation Officer.* Subject to any limitation imposed by the court, a juvenile probation officer shall:

- 1) take children, juveniles, and minors into custody pursuant to:
  - a) the Juvenile Act, 42 Pa.C.S. §§ 6304 and 6324;
  - b) the Child Protective Services Law (CPSL), 23 Pa.C.S. §§ 6301 *et seq.*;
  - c) a bench warrant as set forth in Rules 140, 141, and 1140; or
  - d) Rule 1202;
- 2) authorize detention or shelter care for a juvenile, and the shelter care of a child, pursuant to 42 Pa.C.S. §§ 6304, 6325, or 6331;
- 3) receive and examine written allegations unless the District Attorney has elected to receive and approve all written allegations pursuant to Rule 231(B);
- 4) make appropriate referrals for informal adjustment, consent decree, or other diversionary programs;
- 5) file petitions if diversionary programs are not appropriate unless the District Attorney has elected to file all petitions pursuant to Rule 330(A);
- 6) make investigations, reports, including social studies pursuant to Rule 513, and recommendations to the court;
- 7) make appropriate referrals to private and public agencies, psychological or psychiatric providers, drug and alcohol facilities or programs, or any other necessary treatments or programs;
- 8) communicate to the court and parties, and facilitate any special needs, including health and education, of the juvenile;
- 9) supervise and assist a juvenile placed on probation or a child under the court's protective supervision or care;
- 10) search the person and property of juveniles pursuant to 42 Pa.C.S. § 6304(a.1);
- 11) regularly oversee and visit juveniles in placement facilities;

- 12) report suspected child abuse pursuant to 23 Pa.C.S. § 6311;
- 13) receive allegations that a child has failed to satisfy penalties for violating compulsory school attendance, as permitted by local rule; and
- 14) perform any other functions as designated by the court.

B. *Limitations on Powers and Duties.* The President Judge of each judicial district may limit the power and duties of its juvenile probation officers by local rule.

C. *Training.* Within 180 days after being appointed or employed, a juvenile probation officer shall be trained on:

- 1) the Juvenile Act;
- 2) the Pennsylvania Rules of Juvenile Court Procedure;
- 3) the Child Protective Services Law (CPSL); and
- 4) any local procedures.

#### Comment

Pursuant to paragraph (A)(1), a juvenile probation officer has the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, the CPSL, a bench warrant, or Rule 1202. 23 Pa.C.S. §§ 6301 *et seq.* and 42 Pa.C.S. §§ 6301 *et seq.*

When a juvenile is under the court's supervision, the juvenile probation officer may take a juvenile into custody pursuant to the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1) through (5), and bench warrants as set forth in Rules 140, 141, and 1140.

When a child, juvenile, or minor is not under the court's supervision, the juvenile probation officer, as a duly authorized officer, may take a child, juvenile, or minor into custody pursuant to the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6315 and the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1), (3), and (4).

A properly commissioned juvenile probation officer is vested with all the powers and duties as set forth in 42 Pa.C.S. § 6304 and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to paragraph (B).

The President Judge may adopt a local rule, pursuant to the procedures of Rule 121 and Pa.R.J.A. No. 103(d), limiting the authority granted by the commission to juvenile probation officers. In determining whether to limit the authority of juvenile probation officers, the President Judge should consider the training and experience necessary to perform the various duties as provided in this rule. For example, the President Judge may choose to prohibit juvenile probation officers from taking a child into protective custody who is believed to be in imminent danger from his or her surroundings, but who is not under the court's supervision as a delinquent or dependent child. *See* 42 Pa.C.S. § 6324.

In situations when a juvenile probation officer takes a child into protective custody who is in imminent danger from his or her surroundings pursuant to 42 Pa.C.S. § 6325, 23 Pa.C.S. § 6315, and Rule 1202, the juvenile probation officer should take the appropriate steps to ensure the child's safety, immediately contact the county agency, and document for the county agency the circumstances which necessitated protective custody. *See* Rule 1202 and its Comment.

The juvenile probation officer may also supervise or assist a child placed in his or her protective supervision or care by the court. *See* 42 Pa.C.S. § 6304.

Pursuant to paragraph (A)(3), the juvenile probation officer is to receive written allegations from local law enforcement agencies to determine if a case may proceed to juvenile court. However, pursuant to Rule 231(B), the District Attorney of any county may require initial receipt and approval of written allegations before a delinquency proceeding may be commenced. *See* Rule 231(B).

Pursuant to paragraph (A)(6) and (7), the juvenile probation officer is to prepare reports compiling the juvenile's information for the court and make the necessary referrals to programs supported by a need revealed during the investigation.

Pursuant to paragraph (A)(8), the juvenile probation officer is to communicate the information to all parties before approaching the court. *See* Rule 136 for *ex parte* communication.

Pursuant to paragraph (A)(11), the juvenile probation officer is to oversee all juveniles ordered to placement facilities. Juvenile probation officers should visit all juveniles in placement facilities on a regular basis to determine if: 1) the juvenile is receiving the appropriate treatment; and 2) the facility is meeting the needs of the child. The Juvenile Court Judges' Commission Standards Governing Aftercare Services recommend that all juveniles be visited on a monthly basis. The juvenile probation officer is to report any irregularities or controversies to the court and all parties as soon as they are made known to the juvenile probation officer.

Pursuant to paragraph (A)(13), the President Judge may adopt a local rule to permit the juvenile probation officer to receive allegations that a child has failed to pay fines or costs related to a truancy conviction. *See* 24 P.S. § 13-1333.3(f)(2). Nothing in this paragraph is intended to preclude the use of diversionary programs to address the nonpayment of fines or costs.

Pursuant to paragraph (A)(14), a juvenile probation officer may perform any other function designated by the court to carry out the purposes of the Juvenile Act.

Pursuant to paragraph (C), the juvenile probation officer is to be trained in the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the CPSL, and any local procedures. The training is to occur within 180 days of the juvenile probation officer's appointment or employment. It is best practice for juvenile probation officers to receive training within the first ninety days of employment. It is also best practice that juvenile probation officers receive specialized training and educational updates on a continuing basis.

Specialized training for juvenile probation officers should include delinquency and dependency procedures and areas that address their duties as officers of the court.

**Official Note:** Rule 195 adopted May 20, 2011, effective July 1, 2011. Amended December 21, 2018, effective May 1, 2019.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 195 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

Final Report explaining the amendments to Rule 195 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

**Source**

The provisions of this Rule 195 amended December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610. Immediately preceding text appears at serial pages (392308) to (392310).

[Next page is 2-1.]